

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 110(T_{HC})/2012

And

Original Application No. 73/2014

(M.A. No. 655/2016, M.A. No. 963/2016, M.A. No. 1051/2016, M.A. No. 285/2017, M.A. No. 961/2017, M.A. No. 1010/2017, M.A. No. 536/2018, M.A. No. 537/2018, M.A. No. 549/2018, M.A. No. 550/2018, M.A. No. 551/2018, M.A. No. 552/2018, M.A. No. 589/2018, M.A. No. 638/2018, M.A. No. 695/2018, M.A. No. 738/2018, M.A. No. 790/2018, M.A. No. 1006/2018, M.A. No. 1007/2018, M.A. No. 1008/2018 & M.A. No. 1214/2018)

And

Original Application No. 13/2014

And

Original Application No.186/2014

And

Original Application No. 287/2017

IN THE MATTERS OF:

Threat to Life Arising Out of Coal Mining in South Garo Hills District

Vs.

State of Meghalaya &Ors.

And

All Dimasa Students Union Dima Hasao Dist. Committee

Vs.

State of Meghalaya &Ors.

And

Impulse NGO Network Vs. State of Meghalaya &Ors.

And

Thomas Nongtdu & Anr.Vs. State of Meghalaya &Ors.

And

R.K. Momin Vs. State of Meghalaya &Ors.

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Original Application No. 110(T_{HC})/2012:

Present: Amicus Curie: Mr. Raj Panjwani, Sr. Adv, Mr. Aagney Sail, Adv.
Respondent No. 2: Mr. B. V. Niren and Mr. K. Mudgal, Adv.
MoEF&CC: Mr. Rahul Pratap, Adv.
Meghalaya State PCB: Mr. Tayenjam Momo Singh, Adv.
State of Meghalaya: Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee and Mr. Daniel Stone Lyngdon, Adv.
CGSC: Mr. Ardhendumauli Kr. Prasad, Adv. and Mr. Shashank Saxena, Adv.
Respondent nos. 4 & 5: Mr. P. Yobin and Mr. Saurabh Sharma, Adv.
Mr. Shuvodeep Roy and Mr. Vinayak Gupta, Adv. for State of Assam

Original Application No. 73/2014:

Present: Amicus Curie: Mr. Raj Panjwani, Sr. Adv, Mr. Aagney Sail, Adv.
MoEF&CC: Mr. Rahul Pratap, Adv.
Meghalaya State PCB: Mr. Tayenjam Momo Singh, Adv.
State of Meghalaya: Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee and Mr. Daniel Stone Lyngdon, Adv.
Mr. Raka Bijoy Phookan, Mr. Neha Tandon, Adv. in M.A. Nos. 1006/2018 to 1008/2018
CGSC: Mr. Ardhendumauli Kr. Prasad, Adv. and Mr. Shashank Saxena, Adv.
Mr. Mayank, Adv.
Mr. H. S. Thangkhiew, Sr. Adv., Mr. Philemn Nongbri and Mr. A. Rohen Singh, Adv.
Mr. Shuvodeep Roy and Mr. Vinayak Gupta, Adv. for State of Assam

Original Application No. 13/2014:

Present: Amicus Curie:
Meghalaya State PCB:
State of Meghalaya:

CGSC:

Mr. Raj Panjwani, Sr. Adv, Mr. Aagney Sail, Adv.
Mr. Tayenjam Momo Singh, Adv.
Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee
and Mr. Daniel Stone Lyngdon, Adv.
Mr. Ardhendumauli Kr. Prasad, Adv. and Mr.
Shashank Saxena, Adv.

Original Application No.186/2014:

Present: Applicant:
Meghalaya State PCB:
State of Meghalaya:

CGSC:

Mr. Tayenjam Momo Singh, Adv.
Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee
and Mr. Daniel Stone Lyngdon, Adv.
Mr. Ardhendumauli Kr. Prasad, Adv. and Mr.
Shashank Saxena, Adv.

Original Application No. 287/2017:

Present: Applicant:
MoEF&CC:
Meghalaya State PCB:
State of Meghalaya:

CGSC:

Mr. Yashpal Rangi, Adv. along with Mr. Hariom,
Adv.
Mr. Rahul Pratap, Adv.
Mr. Tayenjam Momo Singh, Adv.
Mr. Ranjan Mukherjee, Ms. Aprajita Mukherjee
and Mr. Daniel Stone Lyngdon, Adv.
Mr. Ardhendumauli Kr. Prasad, Adv. and Mr.
Shashank Saxena, Adv.

	Date and Remarks	Orders of the Tribunal
	<p>Item Nos. 06 to 10</p> <p>August 31, 2018</p> <p>R</p>	<p>1. The proceedings in these matters were initiated initially before the then Bench of Guwahati High Court at Shillong on the basis of news item reports to the effect that on 06.07.2012, 30 coal labourers were trapped inside a coal mine at Nongalbibra in the District of South Garo Hill and 15 of them died inside the coal mine. According to the news item, the incident happened on account of lack of safety norms. Vide order dated 10.12.2012 in <i>PIL (Suo Moto) Number (SH) 3 of 2012</i>, the matter was directed to be transferred to this Tribunal.</p> <p>2. The Tribunal issued notice to the parties on 30.01.2013 and has been, thereafter, dealing with the matter since the last five years.</p> <p>3. It will be appropriate if reference is made to some of the orders passed.</p> <p>4. On 17.04.2014, the Tribunal looked into the validity of the rat-hole mining operation in the light of the scientific studies and by way of interim direction, directed as follows:</p>

	<p>Item Nos. 06 to 10</p> <p>August 31, 2018</p> <p>R</p>	<p><i>“Accordingly, while admitting the application, we direct the Chief Secretary, Government of Meghalaya and the Director General of Police, State of Meghalaya to ensure that rat-hole mining/illegal mining is stopped forthwith throughout the state of Meghalaya and any illegal transport of coal shall not take place until further orders passed by this Tribunal. The Director General of Police, State of Meghalaya is also directed to report to this Tribunal about the compliance of the order by the next date of hearing.”</i></p> <p>5. After the above order was passed, the question was as to what should happen to the already extracted material. The Tribunal, vide order dated 09.06.2014, permitted transportation of already extracted material lying in open near the sites, subject to the supervision and directions of the Committee comprising of Director of Mines, Meghalaya and other officers as per the said order. The Committee was required to quantify the extracted coal and its location and also to assess its value. The Committee was also to prescribe the mode of transportation. The Committee was to fix two check-points <i>en route</i> transportation of the extracted coal from the point of loading to the point of destination. The issue of restoration of damage to the area affected by illegal mining was taken up for consideration on 01.08.2014 and the earlier constituted Committee was substituted to ascertain quantum of extracted coal and to carry out other functions.</p> <p>6. On 07.10.2014, the Tribunal considered the reports of the Committee and directed that check-posts be established apart from setting up of royalty collection counters. It was noted that 6.3 million tonnes of coal of the value of Rs. 3078 crores was lying in the State and the royalty assessed was Rs. 400 crores. The Tribunal</p>
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	<p>Item Nos. 06 to 10</p> <p>August 31, 2018</p> <p>R</p>	<p>also directed making of a mining plan for scientific mining. Direction was also issued on 26.11.2014 to videograph the operations of the weigh bridges. Since there were disputes about the quantum of coal which could be permitted to be transported, the said issue was directed to be gone into with the assistance of the Committee on several occasions.</p> <p>7. On 25.03.2015, it was noted that the State has failed to check illegal mining and the violations. There were no proper guidelines to check such illegal mining. Joint reports of the inspection supported the factum of illegal mining. It was also noted that as per Report of Comptroller and Auditor General of India for the period ending 31st March, 2013 under 07.5.18 of Chapter 7, the invoice value of the coal was taken at Rs. 4850/- per metric tonne. 'Meghalaya Environment Protection and Restoration Fund' (MEPRF) was directed to be constituted to credit an amount of royalty in excess of Rs. 1260 per metric tonne to which the amount of penalty recovered from illegal miner at three time the current royalty rate that is @ Rs. 2025/- was to be credited. This was applicable to 308 cases, registered by the State Government. We are informed that a sum of about Rs. 410 crores up to 31.05.2018 has been credited to this account and deposited in a separate account. There was also a direction on 30.03.2015 that the State Government will collect 10% of the market value of coal per metric tonne in addition to the royalty and the said amount was also be credited to the Meghalaya Environment Protection and Restoration Fund.</p>
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	<p>Item Nos. 6to 10</p> <p>August 31, 2018</p> <p>R</p>	<p>8. On 31.03.2016, the Tribunal directed that except for the coal already transported prior to 2016, the remaining coal shall vest in the State and disposed of in accordance with law and consistent with the norms of environment. The State was to place a plan as to how the coal vested in the State will be dealt with (Order dated 10.05.2016). On 02.01.2018, Restoration Plan filed before this Tribunal on 03.10.2017 by the Ministry of Environment, Forest and Climate Change was noted for consideration.</p> <p>9. On 18.01.2018, there was again issue on un-assessed coal lying at some places.</p> <p>10. At this stage, we may note that following issues are pending before the Hon'ble Supreme Court arising out of orders passed by this Tribunal:</p> <p>i) <i>Civil Appeal No(s). 5272/2016</i> titled as <i>Ka Hima Nongstoin Land Owners, Coal Traders and Producers Association Vs. All Dimasa Students Union, Dima Hasao District Committee and Ors.</i> wherein following order was passed on 21.09.2016:</p> <p><i>“Having heard counsel for the parties, it is directed that the petitioners, as well as the respondents, who have mined the coal, are permitted to transport the coal on payment of royalty and other fees as fixed by the National Green Tribunal (for short, ‘the Tribunal’) and other relevant status. The extracted coal can be transported from 1st October, 2016 till 31st May, 2017. It is further directed that no other extraction shall take place in the meantime.</i></p> <p><i>The finding of the Tribunal that the coal is vested in the State on the ground that it is illegally extracted coal, shall be adverted to at the time of final hearing. The miners shall keep the accounts and if, ultimately, it is held that the coal belongs to the State, they will refund the amount with interest. The quantum of interest shall be determined at the time of final hearing. Needless to say, these observations have been made</i></p>
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	<p>Item Nos. 06 to 10</p> <p>August 31, 2018</p> <p>R</p>	<p><i>without prejudice to the contentions to be raised by the learned counsel for the parties. The tribunal can proceed with regard to the other aspects which are pending before it.”</i></p> <p>The above order shows that question whether coal is vested in the State is to be gone into before the Hon’ble Supreme Court.</p> <p>Thereafter, on 28.03.2018, by the said order, time for transporting already extracted coal was extended up to 31.05.2018 but it was clear that no further extraction shall be allowed.</p> <p>ii) <i>Civil Appeal Diary No. 3067/2018</i> titled as <i>Lber Laloo Vs. All Dimasa Students Union, Dima Hasao District Committee and Ors.</i>, raising the question whether ban on mining can be continued. We are informed that in the said matter, the issue of mining plan has also been raised.</p> <p>11. We have heard learned counsels for the parties present before this Tribunal today.</p> <p>12. Mr. Raj Panjwani, Senior Advocate, appearing as Amicus Curiae has suggested that in view of the orders already passed from time to time, the issue of banning rat-hole mining can be taken as final as far as this Tribunal is concerned, subject to any orders which may be passed in pending proceedings before the Hon’ble Supreme Court. The issue of rehabilitation of the affected victims and the affected areas can be finalized by issuing an appropriate direction. Irrespective of ownership of the already mined coal, a direction can be issued for appointment of a receiver/custodian as no further transportation is permissible after 31.05.2018 in view of</p>
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	<p>Item Nos. 06 to 10</p> <p>August 31, 2018</p> <p>R</p>	<p>orders of the Hon'ble Supreme Court. This can be subjected to further orders of the Hon'ble Supreme Court. We do not find any reason why this suggestion be not accepted.</p> <p>13. Accordingly, we direct that orders of ban of rat-hole mining will continue, subject to further orders of the Hon'ble Supreme Court. Ban of transportation of the already mined material will also continue subject to further orders of the Hon'ble Supreme Court. The State of Meghalaya will be the receiver/custodian of the available extracted coal as on date, subject to further orders of the Hon'ble Supreme Court. If any further coal not so far recorded in the inventory is available, a separate inventory may be made and if it is found that the extraction was illegal, royalty in terms of orders already passed may also be collected. This may be determined by the Secretary of Mining of the State of Meghalaya. While one view is that there is extracted coal and not accounted for, the other view put forward that it is result of illegal mining. This aspect may be gone into by the Secretary of Mining, State of Meghalaya in the first instance. The same be cross-checked by a joint team of representatives of Central Pollution Control Board and Indian School of Mines, Dhanbad.</p> <p>14. Only last question which remains is of restoration of the environment and rehabilitation of the victims for which funds are available. We are of the view that for this task, it will appropriate that we constitute an independent Committee. This Committee will be headed by Justice B.P. Katoki, Former Judge of the Guwahati</p>
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	<p>Item Nos. 06 to 10</p> <p>August 31, 2018</p> <p>R</p>	<p>High Court with representatives from Central Pollution Control Board and Indian School of Mines, Dhanbad.</p> <p>15. The Committee will take the following steps:</p> <ul style="list-style-type: none"> • Take stock of all actions taken so far in this regard. • Prepare time bound action plan to deal with the issue and ensure its implementation. <p>16. The Committee may requisition services of such technical experts as may be necessary and may also carry out visits to sites whenever necessary. They will be entitled to all logistic support for performing these functions which shall be provided under the directions of the Chief Secretary, Meghalaya.</p> <p>17. The Committee may also set up website for receiving and giving information on subject.</p> <p>18. The Committee may also involve educational institutions for awareness and feedback about results.</p> <p>19. All authorities concerned in the State of Meghalaya shall cooperate and coordinate with the Committee. The Committee can seek such technical assistance as may be required from any relevant authority.</p> <p>20. The Chief Secretary, Meghalaya to provide all facilities to said Committee to perform its functions. The Committee may send its periodical reports to the Tribunal by e-mail at filing.ngt@gmail.com.</p> <p>21. The Committee may assume its charge within two weeks from today. The Committee may prepare Action Plan which shall have targets of ensuring compliance. It may meet at such intervals as considered appropriate but twice in every month and fix targets for compliance.</p> <p>22. The Committee will be free to take up all incidental</p>
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	<p>Item Nos. 06 to 10</p> <p>August 31, 2018</p> <p>R</p>	<p>issues. The Committee will be free to seek any further directions from this Tribunal by e-mail.</p> <p>23. The Chief Secretary of State of Meghalaya may determine remuneration of the Chairman in consultation with him and the Chief Secretary of the State of Meghalaya will also provide all logistic support including security if needed for their proper functioning.</p> <p>25. The Committee will be entitled to take the help of the technical experts in execution of this order. The Committee may frame its action plan for implementation within one month from today and implementation may be completed within six months as far as possible. The timelines may be laid down. A copy of the action plan may be sent to this Tribunal by e-mail at filing.ngt@gmail.com. Thereafter, reports may be sent at least once in two months. The Committee may also assess the damage to the environment as well as to the individuals as already suggested in the Report.</p> <p>27. The State of Meghalaya will make available all the relevant records to the Committee for the purpose. The State will also determine the remuneration to be paid to the Chairman of the Committee in consultation with him within one month from today.</p> <p>28. The Committee will be at liberty to take technical assistance from any quarter which may be facilitated by the State of Meghalaya. The Committee may also supervise any issue arising out of receivership/custodianship of the already extracted coal, including any environmental issues which any arise out of storage of the extracted material and the steps required</p>
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	<p>Item Nos. 06 to 10</p> <p>August 31, 2018</p> <p>R</p>	<p>to be taken for the purpose.</p> <p>The Report of the Committee may be furnished to this Tribunal by e-mail at filing.ngt@gmail.com.</p> <p>A copy of this order may be sent to all the concerned authorities by e-mail for compliance.</p> <p>All pending matters will stand disposed of in above terms.</p> <p>List for consideration of the Report on 06th March, 2019.</p> <p>.....,CP (Adarsh Kumar Goel)</p> <p>.....,JM (Dr.Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr.Nagin Nanda)</p> <p style="text-align: right;">31.08.2018</p>
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