

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 2 of 2022

Date of order: 13.07.2023

In Re: (Suo motu): Illegal Mining
of coal in the State of Meghalaya

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice H. S. Thangkhiew, Judge
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner

: -

For the State

: Mr A. Kumar, AG with
Mr K. Khan, AAG
Ms R. Colney, GA

For the Union

: Dr N. Mozika, DSGI with
Ms K. Gurung, Adv.

For Coal India Limited

: Mr B. Dutta, Sr Adv (VC) vice
Mr M.Z. Ahmed, Sr Adv.

Since it appears from newspaper reports and submission made by learned Advocate-General on behalf of the State that effective steps have now been initiated to demolish the illegally-established or the illegally-operating coke plants, it appears appropriate for the State to be afforded some time to proceed in accordance with law in such regard.

2. It is the State's further submission that effective steps are now being taken for arresting the transportation of the illegally-mined coal and ensuring that false documentation cannot be created for illegally-mined coal in the State to be passed off as coal originating elsewhere.

3. Repeated orders have been passed in matters pertaining to illegal mining of coal, the transportation of such illegally-mined coal and the

operation of illegal coke plants in the State for the last 15 months or so. However, it appears that the State may have woken up from its slumber and may have being goaded into action by the recent orders.

4. At the end of the day, the purpose for instituting the suo motu proceedings was to ensure that the State acted in accordance with the orders of the Supreme Court upholding the prohibition of mining of coal in the State other than by the scientific process in accordance with the Mines and Minerals (Development and Regulation) Act, 1957.

5. Various excuses have been proffered from several quarters in course of these and the related proceedings. The one excuse that has come up over and over again is that upon the timber industry being almost dismantled, mining operations that have been traditionally undertaken by the tribals in the State allowed some form of livelihood; but the sudden stoppage of the coal-mining operations led to a lot of people losing their livelihoods and, as such, such persons were forced to continue with it despite the prohibition imposed.

6. It was for the State to have taken appropriate steps to provide alternative sources of livelihood to its people, just as it was the State's obligation under the Constitution to ensure that orders passed by the Supreme Court that had attained finality were carried out without any breach. Indeed, due to the State's inaction in disposing of the previously illegally-mined coal, it allowed freshly-mined coal to be dumped on the roadsides and attempted to be passed off as the previously-mined coal. Further, coke oven plants mushroomed all over the State and the transportation of the illegally-mined coal was rampant and was plain to view for anyone who took to the State or the National highways in the State.

7. It appears that pursuant to the State inviting applications for scientific mining to be undertaken here or pursuant to applications made by certain entities for scientific mining, the relevant papers were forwarded by the State and some form of approval in certain cases have been granted by the appropriate authorities. However, it is the State's submission that scientific mining of coal is yet to start, though feasibility studies and the like may have already been undertaken.

8. It may do well for the State to encourage cooperative bodies to be formed by small miners so that collectively they can afford to obtain the requisite permission for scientific mining and, thereupon, the State can guide such cooperative bodies to ensure that scientific mining is conducted by them by adhering to all statutory and environmental concerns and parameters.

9. It is hoped that in adopting such an approach, the State will both ensure that the revenue due to it on account of mining is not lost and that the livelihoods lost by those engaged in coal-mining is restored. However, at the end of the day, it is a matter of policy on which the State has to take a call.

10. As of now, since it appears that the State is dealing with the illegal operation of coke plants in right earnest or so it is submitted, no immediate order is passed and all matters, including the present one pertaining to illegal mining of coal, the transportation of such illegally-mined coal and the operation of illegal coke plants will stand over for three weeks. The State should file a status report on all three aspects through the Secretary in the Mining Department within a fortnight from date. Such report will also be forwarded to Justice B.P. Katakey and to any of the petitioners in the connected matters who seek it.

11. For all intents and purposes, it appears to this Court that the miners operating in the State are small-time operators and the entire operations are controlled by kingpins who may not be in the State. It is for such reason that this Court had indicated earlier that an investigation into the illegal activities may be directed to be conducted by the Central Bureau of Investigation. However, if the State is serious in dealing with the issue, it is possible for the State police to obtain the assistance and cooperation of the Assam police to launch a combined operation not only to arrest the illegality but also to ensure that the exploitation of the small miners in the State cannot be continued by operators functioning from elsewhere.

12. In such regard, the State will obtain such information as may be available with the individual petitioners in the connected matters, including names and details of alleged or perceived kingpins and seek the assistance of the Assam police to bring the matter to a logical conclusion.

13. Both the State and the Assam police will ensure that the petitioners in the connected matters or others who have sought to intervene in the related proceedings to indicate the state of affairs and the extent of illegality being perpetrated, come to no harm.

14. List on August 8, 2023.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
13.07.2023
"Sylvana PS"