

**BEFORE THE NATIONAL GREEN TRIBUNAL,
Circuit Bench at High Court of Meghalaya,
Shillong**

**Original Application No. 13 of 2014
And
Original Application No. 73 of 2014
And
M. A. No. 174 of 2014, M. A. No. 294 of 2014, M. A. No. 300 of 2014,
M. A. No. 317 of 2014, M.A. No. 352/2014, M.A. No. 371/2014 &
M. A. No. 318 of 2014**

In

Original Application No. 73 of 2014

IN THE MATTER OF :

**Impulse NGO Network Vs. State of Meghalaya & Ors.
And
All Dimasa Students Union Dima Hasao Dist. Committee
Vs.
State of Meghalaya & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Present:

Original Application No. 13 of 2014
Applicant: Mr. Raj Panjwani, Sr. Advocate along with Mr. Aagney Sail and Ms. Hasina Kharbhih, Advocate
Respondent No.1: Mr. Ranajan, Mukherjee, Ms. Aprajita Mukherjee, Advs. with Sh. R. P. Marak, Director of Mineral Resources
Respondent No2: Mr. Tayenjam Momo Singh, Advocate
Respondent No3: Mr. SubhroSanyal, Advocate
Respondent No. 4: Ms. P. Batra Singh, Advocate

(Original Application No. 73 of 2014)
Applicant: Mr. Arunabh Chowdhury, Mr. Parthiv Kr. Goswami and Barnali Chowdhury, Advs.
Respondent No.1: Mr. Pinaki Mishra, Sr. Adv. with Mr. Ranjan Mukherjee, Advocate and Ms. Aprajita Mukherjee, Advocate, Sh. C.K. Marak, Dy. Secy. Mining & Geology, Meghalaya Govt.
Respondent No. 3: Mr. Avijit Roy and Ms. Kankana Arandhara, Advs.
Respondent No. 4 Mr. Himmka Baruah, Adv.
Respondent No. 5: Smti Purabi Sarma, Adv.
MoEF: Ms. P. Batra Singh, Adv.
Respondent No. 9: Mr. Nitesh, Mr. Dharitry Phokan, Advs.
Respondent No. 10: Mr. H.S. Thanj Khiew, Sr. Adv. with Pyllang Mr. Nongbri and hilemon Nongbri, Advs.
Respondent No. 11: Mr. K.K. Sharma, Sr. Adv. and Mr. Pragyan Sharma, Mr. S.P. Mabanta and Mr. ODV Ladia, Advs.

Date and Remarks	Orders of the Tribunal
Item Nos. 2&3 June 9, 2014	<p><u>The Original Application No. 13/2014 and Original Application No. 73/2014.</u></p> <p>Both the above applications shall be heard and decided together.</p> <p>Even in the Original Application No. 110 (Thc)/2012, the documents filed,</p>

in so far as they are related to these two cases, shall be read as part of this file.

List the matters on 1st August, 2014 at Shillong.

M.A. No. 317/2014

This is a miscellaneous application filed by the Western Coal Miners and Exporters Association through Secretary for their impleadment in the main application, Original Application No. 73/2014, as they claim that their interests are likely to be affected by the orders that this Tribunal may pass during the pendency and/or disposal of the main application.

None of the Counsel appearing for the non-applicants has any objection. Consequently, M.A. No. 317/2014 is allowed subject to just exception. They are ordered to be impleaded as Respondents in the main application.

Liberty is granted to file reply to the main application within three weeks from today with advance copy to the Counsel appearing for the applicant who may file rejoinder thereto, if any, within two weeks thereafter.

M.A. No. 317/2014 is accordingly disposed of.

M.A. No. 352 / 2014

This is a miscellaneous application filed by the State Coordination Committee of Coal Owners, Miners and Dealers Forum, East Khasi Hills District Meghalaya for their impleadment in the main application, Original Application No. 73/2014, as they claim that their interests are likely to be affected by the orders that this Tribunal may pass, during the pendency and/or disposal of the main application.

None of the Counsel for the non-applicants has any objection. Consequently, M.A. No. 352/2014 is allowed subject to just exception. They are ordered to be impleaded as Respondents in the main application.

Liberty is granted to file reply to the main application within three weeks from today with advance copy to the Counsel appearing for the applicant who may file rejoinder thereto, if any, within two weeks

thereafter.

M.A. No. 352/2014 is accordingly disposed of.

M.A. No. 371/2014

This is a miscellaneous application filed by the State Coordination Committee of Coal Owners Miners and Dealers Forum, East Khasi Hills District Meghalaya for exemption from filing certified copy of order dated 17.04.2014 and modification is sought for.

The application is allowed subject to just exception that certified copy be filed in due course.

M.A. No. 371/2014 is accordingly disposed of.

M.A. No. 318/2014, M.A. No. 294/2014 and M.A. No. 300/2014

In all these miscellaneous applications, the applicants pray for modification/vacation of the order passed by this Tribunal on 17.04.2014. Vide our order dated 17.04.2014, we had directed that State of Meghalaya shall ensure that rat-hole mining is stopped forthwith through-out the State of Meghalaya and any illegal transportation of coal shall not take place until further orders passed by this Tribunal. Against this order, some of the parties had preferred a civil appeal before the Hon'ble Supreme Court of India which came to be dismissed vide order dated 19.05.2014 passed by the Hon'ble Supreme Court of India. However, the Hon'ble Supreme Court of India had granted liberty to the applicants to approach the Tribunal for variations of the order dated 14.05.2014, if they so desire.

We have heard the learned Counsel appearing for the various respondents in all these petitions at some length.

There is not and, in fact, cannot be any dispute that there has been serious air, water and environmental pollution being caused by the illegal, unregulated and indiscriminate rat-hole mining being carried on in various parts of the State of Meghalaya and an attempt is made to say that in some parts particularly towards Khasi Hills, the pollution is less. This is also disputed by the Counsel appearing for the State Pollution Control Board on the plea that what has been referred to is the resultant

pollution to the downstream, there is also serious pollution to the upstream even in that area. Be that as it may, the *factum* of the pollution remains undisputed.

There are documents on record before us to show that right from the year 2003, that there has been serious air and water pollution in the mining areas of Meghalaya which is injurious and has not only resulted in degradation of environment, particularly the streams and underground water, but has also seriously jeopardized the human health. Transportation of coal in an illegal, unregulated, indiscriminate and unscientific manner has resulted in serious diseases to the people, particularly involved in the mining activity in the different districts of the State of Meghalaya.

In the report of 2003 prepared by the Pollution Control Board, it has been stated that the coal mine workers are suffering from diseases such as malaria, skin diseases, tuberculosis, and lung cancer. The environmental degradation & deterioration does not end here. In a very recent inspection conducted by a joint team of the Central Pollution Control Board (CPCB) and the Meghalaya State Pollution Control Board (MSPCB), it has been noticed that the stream water, ground water and the environment in general has been seriously damaged and no measures have been taken by any of the authorities, including the State Government, to remedy the continuing degradation.

In the report submitted to this Tribunal by its Committee dated 09.06.2014 which is founded upon the Minutes recorded by the Committee during its inspections on 17.04.2014, 29.04.2014, 06.05.2014 and 13.05.2014 in different areas of the State of Meghalaya. In this report at page 11 with photographs, it has been said *“the effluent in the mines below is pumped out via PVC/plastics pipes onto a tank and from there is then discharged out into the nearest stream (or river)”*. In the joint inspection report at this stage, we may refer to the comments made by the joint inspection team in its report as placed below:

“After sampling and analysis of active coal mines in Garo, West Khasi and East Jaintia Hills, it found that the pH of mine water effluent / acid mine drainage (AMD) remain very low and found less than 3 in all the cases. These AMDs are pumped out from the mines and

discharged into nearby streams or river. This has polluted most of the rivers and streams in the mining areas by turning the water highly acidic.

The AMD generated from the coal dumping yards are highly acidic and they also contribute equally to the surface water pollution in the mining areas.

The discharge of acid mine drainage (AMD) from the coal mines (active and abandoned) and the surface runoff from the coal dumping yards are the root cause of the water pollution in the area. All the surface water bodies in the area have become highly acidic. Most of the cases, pH level in mine water and surface water are becoming even lesser than three (3) and in that low level of pH, it is understood that no aquatic life can sustain.

So far there is no control over the miners by any of the regulatory bodies. There is immediate need for enforcing treatment of AMDs and reclamation of the abandoned mines. Measures for neutralization of AMDs from the coal dumping yards to be regulate.

Out of 21 parameters analyzed, the pH level of water is alarming. Most of the parameters analyzed are within the limits desirable for drinking water as per IS 1991 except Iron, which level is also very high in most of the samples analyzed.”

Besides the above observations of the technical experts, the Applicants in original application no. 73/2014 has specifically alleged that Kopili river is seriously polluted by discharge of various effluents from the acid mine drainage and the colour of the river water has become dark brown and this has also affected the sources of drinking water of the areas in question. Of course, this is disputed by the coal mine owners.

The above inspection reports and constant history of the area shows, at least prima facie, that there is serious pollution resulting from carrying on of illegal mining activity in various districts of the State. It also remains undisputed by all the Applicants/Associations that none of them have sought consent/permission of the Pollution Control Board to carry on the mining activity. It is also not disputed that the mining activity is being carried on without permission from any governmental authority/body and in fact, it is an unregulated activity. The activity is neither being supervised nor scientifically regulated by any authority under the State or the State Pollution Control Board. The provisions of the Environment (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 are in force in this area. Furthermore, the Mines and Minerals (Development and Regulation) Act, 1957 is in force and even

the State Government has formulated a Mining Policy in the year 2012 whereby mining activity is to be carried on in consonance with law and the statutory provisions. The whole emphasis is that it is a customary activity which has been in force for so many years and the people have unquestionable right to carry on like this even without compliance to any of the environment or regulatory laws.

We are not at all impressed by the contentions. Whether these are private mines or they are mines which are on the lands other than private lands, yet they cannot carry on this activity in an unregulated, indiscriminate and illegal manner without compliance with the laws in force. At this stage, even if we overlook the legal issues relating to the claimed right of carrying on with the mining activity, still in the interest of environment and public health, this activity cannot be permitted to be carried on in that manner its presently carried on. Thus, we refuse to modify the order dated 17.04.2014. The State would ensure that no unregulated, illegal, indiscriminate mining is carried on by any person in the State of Meghalaya and all the mines shall be sealed forthwith as per law. The Deputy Commissioner and Superintendent of Police of their respective districts shall be liable to comply with this order.

The question that has been vehemently argued before us is that the orders of NGT have adversely affected the economy of the State. On behalf of the Counsel of the districts, it is contended that their major source of revenue is the royalty assets that is received from the State which is recovered from the mining activity. Generally it is contended that large number of persons are dependent for their livelihood on the coal related activities and if the transport of already extracted coal is also prohibited, it will cause serious damage to the economy and hurt the livelihood of the people of the State of Meghalaya. It is also stated that huge quantity of extracted coal is stored near the mines and if they are not removed at the earliest, they will cause further environmental hazards and are also likely to be wiped away by the heavy rains in this area for a prolonged period. This may result in further pollution of the rivers, groundwater, adversely affect the public health and would also cause

great loss to the nation besides causing injury to the economy of the area. This is also contended on behalf of State Government and the Applicants.

Having examined the cumulative effect of the contentions raised before us, the applicant contends that even if this is to be permitted, it must be in strict terms, entirely regulated and should be carried on in a scientific manner.

We are of the considered view that to a limited extent, we should permit the transportation of the already extracted coal lying in open near the mining sites. However, such removal shall be subject to strict supervision and directions of the following Committee and the terms and conditions of this Order:-

(I) We hereby constitute a Committee of the following:

- (1) Director of Mines, Meghalaya.
- (2) Member Secretary, Meghalaya State Pollution Control Board.
- (3) Members Secretary, Assam State Pollution Control Board.
- (4) Sr. Scientist of the Central Pollution Control Board.
- (5) Sr. Representative of Ministry of Environment & Forests.
- (6) Principal Secretary, Mining & Geology Dept. Government of Meghalaya.

(II) The above Committee shall, within one week from today, conduct inspection of all the mining sites in the concerned districts of the State of Meghalaya. They shall quantify the extracted coal and the location thereof. The Committee shall also state the proximate value of the coal presently lying in the open. No coal shall be transported before this report is submitted to the NGT and is examined by the Government as well.

(III) For this purpose, they would be entitled to engage any expert in the field, if they so require. The entire administration of State of Meghalaya shall provide full assistance to this Committee.

(IV) This Committee shall further prescribe the mode of transportation of the extracted coal with due regard to the safeguards and protections that the transporter should take, both in regard to the health of the public at large, the workers involved in transportation and the general

environment. The procedure so prescribed shall be duly provided for.

(V) The carriage and transportation of coal would be done strictly in terms of the conditions imposed by the aforesaid Committee and not otherwise. There is serious variation in the amount or extent of the extracted coal lying open near the mines. According to the State, it is 3.4 million metric tonnes while according to the Applicant, it is approximately 9 million metric tonnes. This variation has to be reconciled before any coal is permitted to be transported by the authorities concerned.

(VI) The Committee shall fix two check-points *en route* transportation of the extracted coal from the point of loading to the point of destination. In addition, there shall be an exclusively devoted check point at the borders of Bangladesh and the State of Assam. Due records shall be maintained by these check points. Further the mine-owners would also maintain the records which will be subject to check and verification by the staff of the concerned authorities in the State Government. The records shall state the quantity of coal loaded, quantity transported, quantity received at destination and particularly at the border of the State. We are permitting the transportation of extracted coal lying near the mines, only for a period of three months and would consider enlargement of such period or passing of such other directions at a subsequent stage.

(VII) We direct the Committee above appointed under clause (I) to submit a detailed report in regard to the pollution of rivers, streams, groundwater in and around these mining pockets, the damage already done to the environment and ecology of the areas, the damage to the people who are suffering from various diseases due to this pollution. The State Government shall immediately direct taking of such steps and measures to ensure medical aid and health care to the people adversely affected in the mining areas

(VIII) The State may also take steps to inform the public so that steps for preventive health care, particularly of the younger generation of the State, could be taken. After the report is received, we would consider the matter in relation to issuance of notice to all the mine owners as to why they

should not be called upon to pay compensation for restoration of environment, health and ecology.

(IX) The Authorities will ensure that the trucks carrying or transporting coal are not overloaded at all. The transportation should be in a scientific way and the trucks should be fully covered to ensure that the coal dust does not pollute the area.

(X) The State Government and all its authorities shall fix weighing machines at all exit points from Meghalaya, particularly towards Assam and Bangladesh. The Secretary, Transport, Government of Meghalaya will ensure strict compliance of the weight restrictions as per law.

(XI) We further direct the Chief Secretary and Secretary, Mining & Geology of the State of Meghalaya to take up the matter with the Secretary, MoEF and the Secretary, Coal, Government of India and finalize the coal mining plan in the State of Meghalaya at the earliest, the law which ought to have been complied with before carrying on the mining activity and the manner in which the mining activity, if at all, could be permitted in the State of Meghalaya.

(XII) We also grant liberty to the Applicants and for that matter all persons claiming to be owners of the coal mines in the State of Meghalaya to apply for obtaining consent of the State Board and SEIAA or MoEF, as the case may be, within one month from today. If such applications are moved, they shall be disposed of, in accordance with law expeditiously.

(XIII) We hereby direct the said authorities i.e. Chief Secretary, Meghalaya, the Secretary, MoEF and the Secretary, Coal in Government of India to approve a health plan that should be prepared by the State of Meghalaya within one month from today which shall specify all measures which ought to be taken to protect the health of the persons involved in the mining activity transportation of coal and even the residents of the villages who are residing in and around such areas.

(XIV) The State Government shall take into consideration, if necessary, the views of the local Councils while preparing the plan for protection, prevention of environment, control of pollution and public health and other requirements in that behalf. Let this exercise be taken up at the

earliest.

(XV) The records would be maintained not only on what we have indicated above but shall be maintained regarding royalty and revenue received by the State Government for transportation of coal, strictly in terms of the above order. The amount so received by the State Government would be shared with the District Councils as per the administrative policy but major part of the royalty that the State receives must be retained for the expenses to be spent for environmental projects for protecting further degradation of the environment, its restoration and ensuring protection of public health.

All parties are granted liberty to file replies to the main petitions, as already noticed. Both the cases shall be heard jointly. Therefore, parties have been granted opportunity to file the common replies and documents, if they so desire.

Accordingly, all the above miscellaneous applications are partly allowed to the limited extent afore-stated.

List the main applications on 1st August, 2014 at Shillong.

.....,CP
(Swatanter Kumar)

.....,EM
(RanjanChatterjee)