

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

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

**Threat to Life Arising Out of Coal Mining in South Garo Hills District
Vs.
State of Meghalaya &Ors.**

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

Present: **Applicant:** **None Present**
Respondent No. 1: **Mr. Ranjan Mukherjee, Advocate and Ms. Aprajita Mukherjee, Advocate along with Shri Y. Tsering, IAS, Pri. Secy. Mining & Geology Dept., Meghalaya Govt. Sh. R. P. Marak, Director of Mineral Resources, Sh. C.K. Marak, Dy. Secy. Mining & Geology, Meghalaya Govt.**
Respondent No. 1A: **Ms. P. Batra Singh, Adv. And Dr. S.C. Katiyar, Joint Director, MoEF, N.E. Regional Office**
Respondent No. 2: **Ruchir Mishra, Adv. with Mr. T.K. Barman and Mr. Dinesh Kr. Sahu, Officers of Director of Mines Safety**
Respondent No. 3: **Mr. S.C. Shyam, Sr. Adv.**
Respondent No. 4&5: **Mr. Saurabh Sharma, Adv.**

Date and Remarks	Orders of the Tribunal
Item No. 1 April 4, 2014	<p>We have heard learned Counsel appearing for the respective parties at some length.</p> <p>First of all, there a joint request made by the learned Counsel appearing for the respective parties before the Tribunal that the following parties be impleaded as respondents to the petition as their presence is necessary for adjudicating the issue in this case as well as to examine the ecological and environmental impact of coal mining activity presently being carried out in various parts of Meghalaya in an illegal, unregulated and indiscriminate manner.</p> <p>Having heard the learned Counsel appearing for the respective parties, we are of the considered view that addition of the following parties would be necessary in the facts and circumstances of the present case. Consequently, we direct the following to be added as respondents no. 6 to 8 in the main application :</p> <ol style="list-style-type: none">1. Central Pollution Control Board,2. Meghalaya State Pollution Control Board and

3. National Disaster Management Response Force, which is an organization under the National Disaster Management Authority, New Delhi.

Let Notices be issued to the newly added respondents by the Registry, without process fee. Notices returnable on the next date of hearing.

It is the case where as a result of mining activities being carried out in a most indiscriminate and irregular manner, the Hon'ble High Court of Gauhati had been pleased to issue notice *suo moto*.

It is also the case before the Tribunal now that besides environmental impacts of such illegal and unregulated mining, there had been death of a number of workers at the site of mining in question. Thus, compensation and restoration are the other reliefs which fall within the ambit and scope of this petition and consequently under the jurisdiction of the Tribunal.

Respondent No. 5 who admits that he was having the mining permission to carry out mining activity in the District South Garo Hills, Baghmara. He also admits that immediately before and at the time of incident, he was carrying on mining activity through the workers. Respondent No. 5 being in control of carrying on activity in the mine in question, has filed three different affidavits. They are dated 12.8.2013, 23.10.2013 and 22.03.2014. There are serious variations in these affidavits. Respondent No. 5 on the one hand says that he maintains and is in possession of regular mining activity and on the other hand he is giving particulars of different events including the number of workers.

Prima facie, we are of the considered view that respondent no. 5 has not come to the Tribunal with clean hands and has not stated complete and true facts, even within his knowledge. From

the affidavit, it is not clear whether actually some persons were trapped and died consequently, because of the sudden incident that occurred on 06.07.2012 at the mine in question.

In terms of the order of the Tribunal dated 24.01.2014, names of certain persons had been given and recorded who unfortunately died in the incident of 06.07.2012. These were not clearly admitted by the respondent no. 5. Now, four affidavits have been filed before the Tribunal including by the widows of the workers who have died in the said mine incident of 06.07.2012. It has been stated in these affidavits that respondent no. 5 had even paid some compensation, nearly Rs. 80,000/- to the dependents of the deceased who were earlier getting a salary of Rs. 12,000/- per month. It is also averred in these affidavits that they have been warned with dire consequences and thus, they could not visit the area as they were threatened. It is also stated that the reporters from the press had appeared at the incident site and even thereafter. These affidavits have been received by post. They are directed to be taken on record and let copy of the same be furnished to the Counsel appearing for the respective parties. Liberty is granted to the Counsel for respondent no. 5 to file a reply affidavit, if any, within three weeks from today.

Besides, this incident in question which has been reported to this Tribunal there was another incident which had also occurred at Brivar in Meghalaya and it is reported that nearly five mining workers were crushed to death in a private coal mine. We have serious doubts as to the interim report as well as other reports submitted before the Tribunal of the National Disaster Management Response Force. The manner in which the report has been prepared leaves much to be desired in that behalf. It is surprising that the State of Meghalaya has not been able to produce any

records before the Tribunal which would satisfactorily explain the incident and whether there were any deaths or not of the workers consequent thereof.

Another very major aspect is the environmental impact and environmental regulation for carrying on mining activity in various mines in the State of Meghalaya. The Counsel for the respondent no. 5 has stated that the mining activity is just carried out under the orders of the Headman of the village under whose jurisdiction the mine falls and there is no formal protection and regulatory mechanism adopted by the State for carrying on mining activity. Learned Counsel appearing for the State of Meghalaya has brought to our notice that a Mines and Minerals Policy 2012 has been framed now and according to him this requires to be implemented and is being implemented from 04.11.2013.

We have serious doubts even in this regard as to whether this policy was fully implemented in the year 2012 and all the coal mines in the State of Meghalaya and there could have been and there should have been better records for prevention of the incidents like the one on 06.07.2012.

Still another facet that has been brought by the learned Counsel appearing for the MoEF is that the coal mined in the State of Meghalaya contains very high sulphur when mined. This percolates into the ground water and converts the water into sulfuric acid discharged in the mines which causes very serious environmental hazard in relation particularly to ground water. In this regard, MoEF has written to the State pollution Control Board but no steps have been taken in this regard. It thus appears that proper anti pollution devices are not being carried out in the State while performing mining activity. Therefore, the lapses also appear administrative in nature.

In the circumstances, thus, we direct that the Secretary, Department of Mining and Geology, State of Meghalaya shall file a personal affidavit, giving complete picture on record to the environment protection and anti pollution devices and the measures for protecting and control of pollution that are being taken under supervision of the State Government or State Board in the mining activity in the State of Meghalaya. The affidavit shall also state as to how many incidents of labour trapped or death have occurred in the State. Exact status of the two incidents referred to above shall be squarely dealt with in the said affidavit. The Secretary shall also state and collect the requisite data from the Deputy Commissioner as to whether the present mining activity is being permitted or not, if so, the area would be specified. It is brought to the notice of this Tribunal that the Deputy Commissioner, South Garo Hills District, Baghmara had passed an order u/s 133 of the Cr. P.C. Act prohibiting mining activity being carried out in the mines unless proper measures were taken. It shall also be stated as to whether now the said mining has been permitted or not, if so, the reasons for the same along with measures that has been taken in that regard.

The Counsel appearing for the MoEF also points out that the entire mining activity is being carried on without obtaining consent to establish and/or consent to operate from the State Pollution Control Board. Thus, it appears that the mining activity is going on in a most unregulated, illegal and in a manner opposed to the statutory provisions.

The Member Secretary of the State Pollution Control Board, Meghalaya shall file an affidavit stating as to what is the effect of what has been pointed out by the Counsel for MoEF. The Member Secretary, in consultation with the scientists in MoEF, shall state

as to what measures require to be taken while giving permission to carry out mining activity to ensure prevention of environment, particularly underground water.

The CPCB shall inspect the mines along with the Meghalaya State Pollution Control Board and representative of the State Government and submit a comprehensive report with regard to carrying on mining activity in various places of State of Meghalaya particularly in relation to the pollution and danger to human life. The methods, mechanism and question of money payable on account of restoration and compensation should also be specified by the State Government.

List this matter for further direction on 2nd June, 2014, at Shillong.

.....,C.P.
(Swatanter Kumar)

.....,EM
(Ranjan Chatterjee)

