



Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC(PIL) No. 1 of 2024 in
PIL No. 8 of 2022

Date of Decision: 17.09.2024

M/S. JAIMAA COAL PVT. LTD,
having its registered office at NH 37,
Beltola, Kamrup (M), Guwahati,
Assam represented by its Director,
Shri. Youdhistra Bhama

::::: **Applicant**

-Vs-

1. **SHRI. CHAMPER M. SANGMA,**
S/o (L) Ponindro A. Sangma,
R/o Gasuapara, Baghmara,
South Garo Hills District,
Meghalaya.
2. **STATE OF MEGHALAYA,**
Represented by Chief Secretary to the
Govt. of Meghalaya, Shillong.
3. **THE DIRECTOR OF GENERAL POLICE,**
Meghalaya, Shillong.
4. **THE DIRECTOR OF POLICE,**
Guwahati, Assam.
5. **THE DIRECTOR OF GEOLOGY &
MINING,** Government of Assam, Guwahati.
6. **THE COMMISSIONER OF TAXES,**
Assam, Guwahati.
7. **THE PRINCIPAL SECRETARY** to the
Govt. of Meghalaya, Transport Department,
Shillong.



8. **SECRETARY TO THE GOVT. OF MEGHALAYA,**
Mining and Geology Department,
Shillong.
 9. **THE DEPUTY COMMISISONER,**
South Garo Hills, Baghmara.
 10. **THE DIRECTOR OF MINERAL RESOURCES,** Meghalaya, Shillong.
 11. **THE SUPERINTENDENT OF POLICE,**
South Garo Hills, Baghmara.
 12. **THE SUPERINTENDENT OF POLICE,**
North Garo Hills, Resubelpara.
 13. **THE MINES ROYALTY INSPECTOR,**
DMR Check Gate, Dainadubi,
North Garo Hills District,
Meghalaya.
 14. **THE OFFICER (IN CHARGE)/ INSPECTOR,** Transport Check Gate,
Depa Garet, Dainadubi, North Garo
Hills District, Meghalaya.
 15. **THE COAL CONTROLLER,**
Ministry of Coal, Govt. of India
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- ::: Opposite Parties

Coram:

Hon'ble Mr. Justice H.S. Thangkhiew, Chief Justice (Acting)
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. P. Bora, Sr. Adv.
For the Respondent(s)	:	Mr. S. Deb, Adv. For Op. 1. Mr. A. Kumar, AG. with Mr. K. Khan, AAG. Ms. R. Colney, GA. For Op. 2-15.



i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

Per W. Diengdoh, (J):

ORDER (ORAL)

1. Heard Mr. P. Bora, learned senior counsel appearing for the applicant, who has submitted that this Misc. Case has been filed by the applicant primarily being aggrieved by the order dated 22.03.2023 passed by this Court in PIL No. 8 of 2022, wherein the applicant herein arrayed as respondent No. 14 was effectively restrained from dealing with purchase or export of coal. Without being heard in the matter, the learned senior counsel further submits that the passing of the said order is a violation of natural justice.

2. From the records and on the submission of the learned senior counsel, what is understood is that the applicant is in the business of purchase and transportation of coal and was also involved in the process of procurement of coal through the auction process. In course of its business, the applicant had earlier procured a lot of 16,000 metric ton of coal from market sources and had sold off the same to various buyers



who are local exporters by issuing e-invoices. However, by virtue of the said order, the business has come to a standstill.

3. The applicant came to know of an FIR filed before the Gasuapara Police Station being Gasuapara P.S. Case No. 05 (07) 2023 under Section 21 of the MMDR Act, 1957 connected to a case of dumping of coal in and around Gasuapara Land Custom Station. Later, the applicant came to know that the quantum of coal involved in the said FIR is the same coal of about 16,000 metric ton which was sold off by the applicant.

4. The applicant had then preferred an application before the Special Judge, MMDR Act, Baghmara, South Garo Hills District under Section 457 Cr.P.C seeking custody of the said quantum of coal seized, the same being registered as Zimma No. 3/2024. This application was taken up for consideration on 20.03.2024 and was dismissed on the said date, inter alia, on the observation that in view of the order dated 22.03.2023 of this Hon'ble High Court in PIL No. 8 of 2022, the learned Special Judge does not have the authority to deal with the matter.

5. Under such circumstances, the applicant has suffered due to the operation of the order dated 22.03.2023 which has acted as an embargo to its business operation, thereby causing financial constraints



for no fault of the applicant. Apart from this, the applicant came to know of an application filed by the State of Meghalaya before the learned District and Sessions Judge, South Garo Hills District being registered as Crl. Misc. Application (H) No. 1/2024 seeking permission to declare the seized coal of the applicant as unclaimed property, accordingly, prayer is also before this Court to restrain the State of Meghalaya from undertaking any auction process.

6. The learned senior counsel has finally submitted that apart from the prayer made in this instant Misc. Case, this Court may be pleased to grant relief to the applicant to undertake its business operation which has been curtailed by the order dated 22.03.2023 (supra).

7. Mr. S. Deb, learned counsel for the opposite party No. 1, who is also the petitioner in the main PIL, has refuted the submission of the learned senior counsel for the applicant by contending that the grievance of the applicant herein is with regard to the order dated 22.03.2023 passed by this Court in PIL No. 8 of 2022, effectively blocking the purchase, export and transportation of coal by the applicant/respondent No. 14. However, the applicant has not cited the reason as to why such order has been passed, the reason being that the



applicant has not been able to reveal the source or the coal mine from which it has procured the coal, the situation being the same till date.

8. The learned counsel has also led this Court to the many orders passed by this Court in the said PIL No. 8 of 2022 to submit that this Court has, in effect, observed that the applicant herein has used e-way bills in its name to export coal to Bangladesh from Gasuapara LCS between 14.12.2022 to 25.05.2023 by creating a fictitious supply chain also involving Bittu Coal Traders and Viashoo Devi Traders Private Ltd. which are firms controlled by the same person or members of the same family as that of the owner of Jaimaa Coal Private Ltd. (the applicant herein). In this connection, an FIR was filed.

9. The learned counsel has further submitted that this Court having noted that the claim of the applicant/respondent No. 14 that the coal was procured from the open market at Beltola, Guwahati, Assam cannot be accepted for the simple reason that such a large amount of coal would have come from some specific mines and such mines or the source of coal ought to have been indicated, which was not done so till date, reiterated the learned counsel.

10. Mr. A. Kumar, learned Advocate General appearing for the opposite party Nos. 2-15/State of Meghalaya, while opposing the prayer



of the applicant has submitted that a perusal of the prayer made in this Misc. Case will show that such prayer cannot be accepted, inasmuch as, the applicant has sought release of coal which was seized under Section 21 of the MMDR Act, 1957 and for which FIR was registered and trial proceedings are on. In fact, the applicant has already filed a separate application for quashing of the FIR and as such, this prayer cannot be granted in this case.

11. The second contention raised by the learned AG is that the applicant herein has already filed an application before this Court for quashing of the said FIR which case is still pending, and as such, there can be no prayer herein for stay of the proceedings vis-à-vis the proposed auction of the seized coal, which according to the State is coal illegally procured.

12. We have considered the argument of the respective parties and have also perused the contents of this instant application. In a nutshell, the case of the applicant is that the coal allegedly belonging to the firm (M/s Jaimaa Coal Pvt. Ltd.) which has been dumped at Gasuapara LCS, Meghalaya, since seized by the concerned authority, is likely to be auctioned off by the State pursuant to the proceedings in Crl. Misc. Application (H) No. 1/2024 following an FIR filed, duly



registered as Gasuapara P.S Case No. 05 (07) 2023 under Section 21 of the MMDR Act, 1957, for which prayer is made herein to halt the process of such proposed auction.

13. It is the case of the applicant that since the said coal was purchased by the applicant firm from the open market at Beltola, Guwahati, however, in view of the order dated 22.03.2023 passed by this Court preventing the applicant from purchase, transport, sale and export of coal, including the said seized coal and that on prayer for Zimma of the same, the learned Special Judge, MMDR Act, South Garo Hills District vide order dated 20.03.2024 has rejected such prayer, therefore, the applicant is before this Court with a prayer, inter alia, for leave to be granted to the applicant to undertake transportation/export/purchase of coal.

14. We have considered the circumstances surrounding the case of the applicant and from the submission of the parties, the picture that has emerged is that the applicant on being unable to account for the coal allegedly belonging to him, particularly to the source of origin of such coal, this Court has therefore issued the embargo as is evident from the order dated 22.03.2023 and similar other orders passed in PIL No. 8 of 2022, wherein the applicant was arrayed as respondent No. 14 therein.



15. In course of hearing of this application, on query made, the applicant has again failed to reveal the said source of origin of the said coal, including the coal seized, this Court, only on this ground alone would hold that the applicant has not been able to make out a case for the prayer made to be allowed.

16. The contentions raised by the State is found valid, inasmuch as, the fact that the applicant has referred to the proceedings in the said Crl. Misc. Application (H) No. 1/2024 which is an independent proceeding before a competent court of jurisdiction, this Court cannot take cognisance of such proceedings in this application and related PIL.

17. Accordingly, this Misc. Case is hereby dismissed as devoid of merits.

18. Matter disposed of.

(W. Diengdoh)
Judge

(H.S. Thangkhiew)
Chief Justice (Acting)