

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.13/2023

Date of order: 14.03.2024

1. Shri Rophul S. Marak

2. Shri Robinson Ch. Sangma

..... Petitioners

Vs.

1. The State of Meghalaya represented by the Chief Secretary to the Government of Meghalaya, East Khasi Hills District, Meghalaya.

2. The Commissioner and Secretary, Mining and Geology, Govt. of Meghalaya.

3. The Director of Mining and Geology, Govt. of Meghalaya, Shillong, East Khasi Hills District, Meghalaya.

4. Chairman of Independent Committee on Auction of Coal Meghalaya, Shillong, East Khasi Hills, Meghalaya.

5. Director General of Police, Shillong, Meghalaya, East Khasi Hills.

6. Deputy Commissioner, South Garo Hills District, Baghmara, Meghalaya.

7. Superintendent of Police, South Garo Hills, Baghmara District, Meghalaya.

8. Divisional Mining Officer, South Garo Hills, Baghmara.

9. Commissioner of Transport, Govt. of Meghalaya.

10. Mining and Geology Department, Govt. of Meghalaya.

11. The Director (Commercial) Metal Scrap Trade Corporation Limited (MSTC), Kolkata.

12. The Director (Marketing) Coal India Limited, Kolkata.

13. Shri Henninson M. Sangma.

14. Shri Kedal S. Marak.

..... Respondents

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioners : Mr. P.T. Sangma, Adv

For the Respondents : Mr. A. Kumar, Advocate-General with
Mr. K. Khan, AAG
Ms. R. Colney, GA

i) Whether approved for reporting in Law journals etc.:	Yes
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ii) Whether approved for publication in press:	Yes
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ORDER

(Hon'ble, the Chief Justice) (Oral)

This Public Interest Litigation has been filed, seeking to a) direct B.P.Katakey (Retd) Judge or any independent Investigation agency / agencies to conduct the spot inquiry into the extracted coal lying at Depot No.10 at Jadigittim, South Garo Hills District Baghmara; b) to direct the state respondents and other respondents to strictly implement and comply with the direction of the Supreme Court; and c) to completely restrain the State respondent and other respondent authorities from the sale of extracted coal through spot e-auction by Coal India Limited from Depot No.10, Jadigittim South Garo Hills District, Meghalaya.

2. This Public Interest Litigation has been filed by two persons, namely, one is a former MLA and the other is a businessman by profession. It is the case of the petitioners that their main intention is to bring to the

notice of the Court about the illegal coal mining and extracted coal lying at Depot No.10 Jadigittim, South Garo Hills District, Baghmara. It is further case of the petitioners that the Supreme Court vide order dated 03.07.2019 passed in Civil Appeal No.10720 of 2018 (**State of Meghalaya v. All Dimasa Students Union Dima-Hasao District Committee**) had completely banned the rat-hole mining in the entire State of Meghalaya, while upholding the order dated 17.04.2014 passed by the National Green Tribunal. Though the National Green Tribunal in its order dated 17.04.2014 had directed the Chief Secretary and the Director General of Police of the State of Meghalaya to ensure that rat-hole mining/illegal mining is banned forthwith in the entire State of Meghalaya.

3. Learned counsel for the petitioners submitted that despite the orders of the Supreme Court and the National Green Tribunal to ban the complete rat-hole mining, illegal coal mining and transportation of coal in the entire State of Meghalaya, no steps have been taken to prevent rampant illegal rat-hole mining and transportation of coal in the entire State of Meghalaya, particularly in South Garo Hills. Learned counsel also submitted that this Court, based on the article published in one of the leading local newspapers, namely, the Shillong Times with the heading “Mask of rat-hole mining in the state”, had taken *suo motu* cognizance of

illegal coal mining in the State being PIL No.2 of 2022 and vide order dated 23.02.2022, observed that the matter complained of needs to be looked into, without any political interference and further observed that an independent report should be filed by the Chief Secretary and the Director General of Police after getting necessary inputs from the Correspondent of the Shillong Times who visited the area.

4. The petitioners, in Paragraph No.9 of the petition has stated as follows:

“That the Secretary to the Mining and Geology Department Govt. of Meghalaya also have issue the list of quantity of seized coal in District Wise which are to be auction namely East Jaintia Hills District, West Khasi Hills District, South Garo Hills District and West Jaintia Hills District and according to the District Wise seized coal it was indicated that 35,271,68 (Thirty five lakhs two hundred seventy one thousand and one hundred sixty eight) are still existing remaining in South Garo Hills District Meghalaya. It is stated herein that the extracted coal mention District Wise on 07.10.2023 by the Secretary to the Mining and Geology department Govt. of Meghalaya is completely different and not tally with the detail of lot for e-auction provided by the Coal India Limited which was enclosed in the letter dated 25.09.2023 by the Director of Mineral Resources Meghalaya Shillong, whereas as per the detail lot for e-auction by Coal India Limited which was enclosed in the letter dated 25.09.2023 the extracted coal lying in the Depot No.10 at Jadigittim is only 86 quantity of Metric Tons but as per the District Wise quantity of seized coal report dated 07.10.2023 furnished by the Secretary Mining and Geology Department Govt. of Meghalaya in respect of South Garo Hills District is 35,271,68 which is confusing and required for spot verification.”

5. Learned Advocate General submitted that the matter is already pending before the One Man Committee and that he is inquiring the same and also submitting his periodical report before this Court. There is also a communication as being stated by the petitioners in Annexure-6, with regard to spot e-auction by Coal India Limited. Learned Advocate General also submitted that the petitioners have not approached this Court really with the public interest, but out of their personal interests, which is impermissible, besides not maintainable.

6. On 05.03.2024 when the matter was taken up in a Division Bench consisting of the Chief Justice and W. Diengdoh, J, an objection has been raised about the maintainability of the PIL and this Court has passed a detailed order which reads as follows:

“When the matter is taken up for hearing, it is represented by the learned counsel for the petitioners that this Public Interest Litigation is connected with the batch of cases, pending before the Full Bench.

Learned counsel appearing for the respondents would submit that this is not a Public Interest Litigation rather it can be termed as a private litigation by projecting it to espouse the cause of public at large and that the maintainability of the PIL itself is questioned. Learned counsel for the respondents fairly admits that similar points have already been raised in the subject matter pending before the Full Bench.

In order to bring quietus to the matter, we incline to take up this matter along with the other batch of matters pending

before the Full Bench. We also make it very clear that in case we accept the plea of the respondents that it is only Private Interest Litigation, then heavy costs will be imposed on the petitioners.

Post the matter on 14.03.2024.

7. After hearing both sides, we are of the view that in case the petitioners want to put forth their arguments in the PIL, which is already pending, they have to get themselves intervened in the said matter and make submissions and a separate PIL is not maintainable. That apart, the matter is pending before the One Man Committee and it is open to the petitioners, if so advised, to place all the factors before the One Man Committee so as to enable the said Committee to submit a detailed report before this Court. Hence we are of the view that the present PIL is not maintainable and the same is dismissed with the above observation.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
14.03.2024
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