

Serial No. 1
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 8 of 2022

Date of order: 01.06.2023

Champer M. Sangma vs State of Meghalaya & ors

Coram:

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

Appearance:

For the Petitioner : Mr S. Dey, Adv.
Mr S. Deb, Adv.

For the Respondents : Mr N. Syngkon, GA
Mr D. Nath, GA [For State of Assam]
Dr N. Mozika, DSGI with
Ms A. Pradhan, Adv. [For R 13]
Mr P. Bora, Sr. Adv.

Pursuant to the previous order of May 17, 2023, an affidavit has been filed by the State, though copies thereof may have not been circulated to all the respondents.

2. The State will forward copies of such affidavit to all the respondents, particularly the State of Assam.

3. Apropos the several letters issued to the State by Central agencies and by the Union Minister of Finance long prior to the suo motu proceedings pertaining to illegal coal-mining and illegal transportation of the illegally-mined coal being instituted in this Court, there is a rather wishy-washy explanation and the general refrain is that

such letters required better coordination between the State administration and the Customs authorities to ensure that no illegally-mined coal was exported in the garb of coal that had originated outside the State.

4. It is alarming that despite the State understanding the purport of the request by the Central agencies, it was so lax that it allowed tens of thousands of metric tonnes of coal to be cleared for export through land customs stations within the State without, apparently, seeking to ascertain the source or origin of such coal. The complicity of the State with the mafia and the racket operating in the illegal mining of coal and its illegal transportation is clear and obvious and there can be little doubt that the higher-ups in the administration are the beneficiaries of the illegal gains and responsible for the colossal loss of revenue that has been occasioned to the State.

5. There is also a glib line at paragraph 12 of the State's most recent affidavit:

“12. The State tenders an unconditional apology for not putting on record these documents in these proceedings on earlier occasion or else the observations made by this Hon'ble Court in order dated 17.05.2023 attributing complicity to the State would never have occasioned...”

6. Indeed, the suo motu proceedings pertaining to illegal mining of coal were initiated in or about March of 2022 and matters pertaining to the illegal transportation of such illegally-mined coal were addressed in several orders from or about April, 2022. If the State had been warned by the Central agencies to ensure that illegally-mined coal in the State was not attempted to be exported on the representation that they were coal mined outside the State, the State ought to have been alive to the issue and checked every truck carrying coal and verified every request for permission to export coal to ascertain the origin of the coal and the veracity of the declarations made by the intending exporters. In the case of the respondent No. 14 that the petitioner has complained of and the associates and other persons who have continued to act in concert with the respondent No. 14 or the human agencies controlling such entity, the Court cannot be faulted if it were to infer that the respondent No. 14 may have been virtually an instrumentality of the State aided and abetted by the State to finance the lucrative business of illegal mining of coal in the State.

7. It has been repeatedly observed in orders of this Court that illegal mining of coal could not have continued unless there was transportation of coal and, without transportation and no demand, illegal mining would

have died a natural death. In entities like the respondent No. 14 herein, aided and abetted by the State, finding a way to export the illegally-mined coal in the State there was demand for the product that resulted in illegal mining on a larger scale. And, this despite Supreme Court orders affirming the National Green Tribunal prohibition on illegal mining that have been in place since or about 2016 and the Chief Secretary to the State, no less, being tasked with the responsibility of ensuring due compliance with the orders.

8. It will be open to the petitioner and the respondents to deal with the contents of the latest affidavit filed by the State. The Court still hopes that despite the abysmal conduct of the State and its highest officials in this matter, steps would be taken to arrest further illegal mining and its illegal transportation, though the 13th interim report filed by Justice Katakey (retired) in the suo motu proceedings may indicate otherwise.

9. Any reasonable or rational or responsible administration ought, after the observations made in the orders passed in this and the connected proceedings, to discover the source of the coal that the respondent No. 14 and its associates exported through the LCS in the State. The Court can only hope that such realisation would dawn on the

State, though any enquiry in such regard may be uncomfortable for the highest officials in the executive.

10. It is submitted on behalf of the land customs authorities that though the land customs authorities do not have any role to look into an e-way bill that has been certified upon being checked by the State authorities, several of the e-way bills submitted by Jaimaa Coal Private Ltd showing the delivery of coal in Dudhnoi revealed what may have been going on.

11. It may not be out of place, in this context, to record that in several of the orders of this Court, particularly in the suo motu proceedings, this Court has referred to the recent mushrooming of coal dumps or depots between Dudhnoi and Paikan on the National Highway in the Goalpara district connecting Guwahati to North Bengal. It has also been recorded in such orders that on this stretch from Dudhnoi to Paikan, of approximately 10 to 15 km, there are at least three roads which come from the south to meet the National Highway and such roads originate in Meghalaya.

12. It takes no rocket science or great IQ to infer that illegally mined coal from Meghalaya is dumped around Dudhnoi and then delivered from Dudhnoi to agencies in Meghalaya for the ultimate export thereof

through land customs stations in Meghalaya. The Central agencies suspected such activities and in the letters referred to in the previous order warned the State, including through the Union Minister of Finance. The State, not only did not take any steps, but actively concealed these letters from the Court with glib apology recorded above at paragraph 12 of its recent affidavit.

13. The matter will appear a fortnight hence.

14. List on June 15, 2023.

(W. Diengdoh)
Judge



(Sanjib Banerjee)
Chief Justice

Meghalaya
01.06.2023
"Sylvana PS"