

Serial No.01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.8/2022

Date of Order: 04.07.2023

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 with
Mr. S. Deb, Adv

For the Respondents : Mr. K. Khan, AAG with
Mr. S. Sengupta, Addl.Sr.GA
Ms. R. Colney, GA
Dr. N. Mozika, DSGI with
Ms. A. Pradhan, Adv
Ms. R. Mostafi, Adv (VC) for R/14 vice
Mr. P. Bora, Sr.Adv
Mr. D. Nath, GA (VC) [for State of Assam]

On the last occasion that this matter was taken up on June 26, 2023, the petitioner claimed to have video footage of the illegal coal-mining activities and the transportation of the illegally-mined coal across the State.

2. Accordingly, the petitioner was directed to ensure that such video footage could be viewed in Court when the matter appeared next.

3. A senior government official was also required to be present to immediately respond to whatever was revealed from the relevant video footage.

4. In terms of such direction, the State has brought the Deputy Commissioner, South Garo Hills, who is present in Court.

5. The video footage, in the first of its two parts, reveals the rampant illegal coal-mining activities and the transportation of such illegally-mined coal in several districts including the districts of West Khasi Hills, South West Khasi Hills, East Jaintia Hills and South Garo Hills. The second part contains the satellite images from several areas, showing widespread dumps of fresh coal.

6. Prima facie, the video footage reveals freshly-mined coal; though, quite alarmingly, the Deputy Commissioner of South Garo Hills claims, upon viewing the video footage, that this was the coal that had been previously seized. Such Deputy Commissioner claims to have been in office for the last six months.

7. Though the entire saga of the continuing illegal mining of coal and the transportation thereof would be evident from the several orders passed in the suo motu proceedings instituted by this Court and the other related matters by the Full Bench and a Division Bench, it may be recounted that prohibition on illegal mining of coal has been in place pursuant to orders passed by the National Green Tribunal in the year 2016 and, subsequently, confirmed by orders of the Supreme Court. Despite such being the position, it was widely reported in the local press in the State and was plainly visible to anyone who choose to look as he travelled

down the State highways that freshly mined coal was dumped all over the place.

8. The previously seized coal, which would have been coal that was mined prior to 2016 or 2017, would have plants, weeds and grass growing around them in the dumps. Pursuant to orders of this Court and the appointment of Justice Katakey (retired), a schedule has been prepared for disposing of the previously seized coal after weighing all of such previously seized amount.

9. In this petition, the petitioner alleges that coke oven plants have been flourishing in the State without any license or permission and even the few who have obtained permission or license use the illegally-mined coal in the State for their operations. Though high officials in the State have affirmed affidavits to indicate that the illegal coke oven plants have been closed down, the ground reality appears to be otherwise.

10. There are credible reports carried in local newspapers that there are fixed rates at various levels for those in authority to look the other way as this menace ravishes the State and deprives it of the rightful revenue that could have been generated upon scientific mining being permitted after issuing due license therefor.

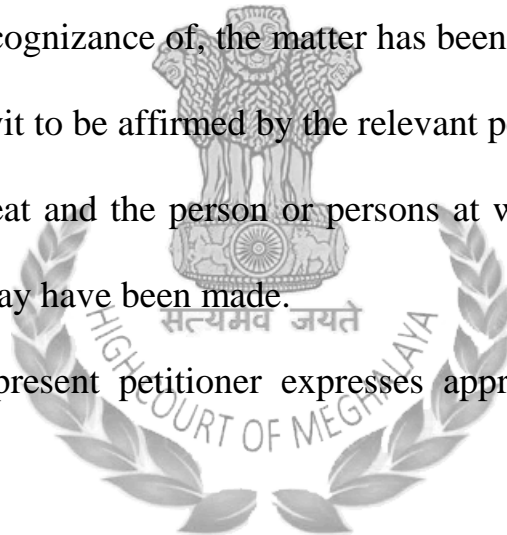
11. Since repeated orders over the last 15 months have yielded little result and the illegal trade in coal has its tentacles in other neighbouring or nearby States, particularly Assam, it may be in public interest to

require the Central Bureau of Investigation to inquire into the matter including the allegations, video footage, photographs and other material produced by the several petitioners in this and the connected matters or by other public spirited individuals.

12. In a related matter which appeared before the Full Bench on July 3, 2023, the petitioner in PIL No.9 of 2022 claimed that he had been threatened by one of the kingpins with dire consequences should he dare to proceed with the matter. Since such allegation made at the bar could not be taken serious cognizance of, the matter has been adjourned till July 6, 2023 for an affidavit to be affirmed by the relevant petitioner indicating the nature of the threat and the person or persons at whose behest or by whom such threats may have been made.

13. Even the present petitioner expresses apprehension over his own safety.

14. Since, hopefully, the rule of law can still be presumed to operate in the State, notwithstanding the blatant manner in which orders of the Supreme Court prohibiting illegal mining of coal have been flouted by the administration and completely overlooked by the police machinery, the State is put on notice that should any harm, even the slightest scratch or sprain, come to any of the petitioners in this and the other matters pertaining to illegal coal-mining and illegal coke oven operations, the State will be held responsible.



15. Indeed, as has been noticed in one of the matters, the State had been warned by the Union, including the Hon'ble Union Minister for Finance, that it should guard against illegally-mined coal in the State being exported by fabricating documents. Little or nothing was done by the State in such regard. To top it all, the receipt of such letters was actively concealed by the State from the Court till a few months back.

16. The respondent No.14 in this case which, whether in its own name or through other entities owned and controlled by the same human agencies, has exported close to 2 lakh MT of coal in the last 15 months through the Land Customs Station in the South Garo Hills District by claiming the coal to have been mined outside the State with the State officials having certified to such effect without bothering to make any inquiries as to the origin of the coal.

17. The respondent No.14, which and its associates operate across several States, has spared no efforts to scuttle this matter, whether by seeking adjournments or by trying to divert the attention of the Court to irrelevant matters and it is unfortunate that the request today is for an adjournment on the medical ground of Counsel.

18. It had been sufficiently made clear that in this matter adjournments should not be sought and it is unfortunate that Counsel lends his cause for an adjournment to be sought by what appears to be an

entity or a group of persons having complete disregard for law and authority.

19. Learned DSGI who is appearing for the Land Customs authorities in this matter, submits that he will represent the CBI.

20. The matter will appear a week hence. The State should show cause through a high official as to why the Court should still have any confidence in the police or the administrative machinery in the State to ensure that illegal mining of coal is completely brought to a stop and its illegal transportation prohibited. The video footage that was shown in Court in course of the present hearing will be made available to the State in course of the day.

21. It will be open to the petitioner to gather further material, if possible, should the State needs any further convincing that it has altogether failed to check the menace or to uphold the rule of law in such regard.

22. List on July 13, 2023.

(W. Diengdoh)
Judge

Meghalaya

04.07.2023

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(Sanjib Banerjee)
Chief Justice