

DISTRICT: EAST JAINTIA HILLS

**IN THE HIGH COURT OF MEGHALAYA
AT SHILLONG**

(CIVIL EXTRA ORDINARY JURISDICTION)

P.I.L NO. 9 of 2022

IN THE MATTER OF:

SRI SHAILENDRA KUMAR
SHARMA.

.....Petitioner

- Versus -

STATE OF MEGHALAYA & ORS.

...Respondents

- AND -

IN THE MATTER OF:

An Affidavit-in-Reply filed on behalf of the petitioner on the basis of the order dated 12.06.2023 granting leave to Petitioner against the Affidavit dated 08.06.2023 filed by the learned Director General of Police, Meghalaya.

AFFIDAVIT - IN – REPLY

I, Shailendra Kumar Sharma, aged about 72 years, son of Late S.D. Sharma, resident of 89, Jayanagar, Chatiali,

Beltola Road, Guwahati-781028, Kamrup Metro, Assam do hereby solemnly affirm and state on oath as under:

- 1.** That I am the Petitioner in the instant case and as such, I am fully acquainted with the facts and circumstances of the instant case and I am competent to swear and sign the instant Affidavit.
- 2.** That a copy of the Affidavit dated 08.06.2023 (herein after in short referred to as "Affidavit") sworn by learned Director General of Police, Meghalaya (herein after in short referred to as "DGP") was served upon my counsel. I have perused the contents of the said Affidavit and have understood the contents and purport thereof.
- 3.** That the Petitioner approached the Hon'ble Meghalaya High Court by way filing Public Interest Litigation being PIL No. 9 of 2022 bringing to the notice of this Hon'ble Court about illegal running of Coke Industries in the State of Meghalaya.

4. That, in the said proceedings, a number of orders were passed by Hon'ble Full Bench of this Hon'ble Court. Vide order dated 13.03.2023, the Hon'ble Meghalaya High Court was pleased to grant liberty to approach Hon'ble Mr. Justice (Rtd.) B.P. Katakey, in connection with said PIL filed by the Applicant.

A copy of order dated
13.03.2023 is annexed
herewith and marked as
Annexure- I.

5. That in the order dated 13.03.2023, it was observed that that the real persons who started the illegal operations may have abandoned most of the coke plants and the local persons or workers may have taken over their reduced operations. Further, it was observed on the basis of submissions advanced by the learned DSG that the identification of the kingpins should not be difficult job as they are well known. In response to that the learned AG submitted before this Hon'ble Court

that the State has called upon the investigating agency to trace out the original operators and bring them to book. Additional penal provisions have apparently, been incorporated in the original FIRs to facilitate such process. On the basis of the submissions so advanced by the learned AG, this Hon'ble High Court observed that "If the real culprits are well known, it would be expected of the State to take appropriate action against them in accordance with law.

6. That, the despite the order dated 13.03.2023, nothing effective has been done by the State, situated thus this Hon'ble High Court after showing displeasure vide order dated 09.05.2023 had observed as under:

"7. *These are matters of serious concern. Despite repeated orders of this Court, the State has cared little to check the menace, though the State was always encouraged by the Court to ensure that scientific coal mining was started so that the cottage industry of illegal mining of coal would be dropped.*

8. ***That matter will appear four weeks hence for the State to indicate the persons behind the illegal coke plants that had been set up and the steps taken in accordance with law to bring them to book. "***

A copy of order dated 09.05.2023 passed by Hon'ble Meghalaya High Court is annexed herewith and is marked as **Annexure- II.**

7. That on 05.06.2023, one news had been aired by DY 365 regional news channel, Assam showing that a few of kingpins involved in running the illegal coke plants are enjoying party in the Hotel Nakshatra, Beltola, Guwahati. Link of the said news is given below for the sake of brevity:

<https://fb.watch/k-3PjPXw7q/?mibextid=vDIwzm>

The Applicant is also annexing herewith the photographs taken from the said news clippings showing the kingpins enjoying in the Hotel Nakshatra, Beltola, Guwahati. It is relevant to mention herein that the kingpins in the Hotel Nakshatra, Beltola, Guwahati

is just a few numbers, if proper investigation is carried out more than 50 kingpins will be unmasked and unearthed. But, the Meghalaya Police for the reason best known to them had done nothing. It is relevant to mention herein that as per the news report, 8 (eight) persons are also involved in the illegal running of coke plants in the State of Meghalaya. Names of the kingpins as per the news aired are as follows:

- 1. Mahavir Bagla. 2. Sanjay Kedia. 3. Anil Bansal.**
- 4. Dharambir Bansal. 5. Mahavir Sing Mittal.**
- 6. Balwant Bhama. 7. Lokesh Sharma. 8. Ram Pratap Goyal.**

A copy of the photograph taken from news clippings featuring a few kingpins involved in operation of illegal coke plant is annexed herewith and is marked as **Annexure-III**.

- 8.** That, thereafter on 08.06.2023, the learned DGP has filed one affidavit stating that the Meghalaya Police has taken a number of steps in the matter. It is matter of great concern that despite the kingpins are well known,

the Meghalaya Police seems to be handicapped in nabbing the kingpins for the reason best known to Meghalaya Police.

- 9.** That the Petitioner begs to state that all Coke Oven Plants operators in the State of Meghalaya are registered under Goods & Service Tax Department. If the details are sought for from GST Department, their entire purchase and sale data about quantity and source of coal with sales details with quantity and destination of sale, the original kingpins involved in running illegal coke oven plans shall be unmasked.
- 10.** That, on 24.06.2023, the Petitioner approached the Hon'ble Mr. Justice (Rtd.) B.P. Katakey by way of filing application brining on record about the whereabouts of Kingpin involved in running of illegal coke oven plants with a prayer to make recommendations to this Hon'ble Court for investigation into matter by an independent

agency preferably CBI under the supervision of this Hon'ble Court.

A copy of the application filed before Hon'ble Mr. Justice (Rtd.) B. P. Katakey is annexed herewith and is marked as **Annexure- IV.**

- 11.** That from the aforesaid facts and circumstances, it is crystal clear that Meghalaya Police is not investigating the matter in fair and unbiased manner for the best known to them. It is therefore prayed that the matter is required to be investigated by an independent agency preferably by CBI under the supervision of this Hon'ble Court in the interest of just and fair investigation.
- 12.** That the statements made in paragraphs 1,2,3,5,8,9,11 are true to my knowledge and belief and in paragraphs 4,6,7,10 are matter of record which I believe it to be true and rests are my humble submission before this Hon'ble Court.

13. That this affidavit is filed bonafide and in the interest of justice.

And I sign this Affidavit on this the day of
June, 2023 at Shillong.

On Oath –

I swear that this declaration is true, that it conceals nothing and that no part of it is false, so help me God.”

Identified by:

DEPONENT

Advocate

VERIFICATION

I, Shailendra Kumar Sharma, aged about 73 years, son of Late S.D. Sharma, resident of 89, Jayanagar, Chatiali, Beltola Road, Guwahati-781028, Kamrup Metro, Assam do hereby solemnly affirm and declare that the contents stated in the Affidavit are true to the best of my knowledge and belief and no part thereof is false or misleading and no material has been concealed therefrom.

Verified at Shillong on this the ____ day of June, 2023

DEPONENT

Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.9/2022

Date of order: 13.03.2023

Shailendra Kumar Sharma

Vs.

State of Meghalaya & ors

Coram:

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

Appearance:

For the Petitioner : Mr. A. Goyal, Adv

For the Respondents : Mr. A. Kumar, Advocate-General with
Ms. R. Colney, GA
Dr. N. Mozjak, DSGI with
Ms. A. Pradhan, Adv

The State fairly submits that there is no impediment to shutting down all illegally operating coke plants in the State.

As to what may be perceived to be illegally operating coke plants would be if such plants do not have any license or permission to operate or, even if they do possess the requisite license, the source of coal is not legitimate. Both aspects are of key importance.

The State offers that this aspect of the matter may also be looked into by Justice Katakey, as suggested on behalf of the petitioner.

Accordingly, the petitioner is given liberty to approach Justice Katakey who has been appointed to monitor the implementation of the orders of the National Green Tribunal and the Supreme Court pertaining to illegal coal mining in the State to ensure that similar illegality is not perpetuated by illegally operating coke plants.

The matter will appear eight weeks hence. Any matter pertaining to illegally operating coke plants may be incorporated in the interim

reports that are filed regularly by Justice Katakey in the suo motu proceedings.

Dr. Mozika, learned DSGI, submits that after orders have been passed for shutting illegal coke plants, the real persons who started the illegal operations may have abandoned most of the coke plants and the local persons or the workers may have taken over their reduced operations. Dr. Mozika, suggests that the identification of the kingpins should not be a difficult job as they are well known.

Learned Advocate-General submits that the State has called upon the investigating agency to trace out the original operators and bring them to book. Additional penal provisions have, apparently, been incorporated in the original FIRs to facilitate such process. If the real culprits are well known, it would be expected of the State to take appropriate action against them in accordance with law.

List on May 9, 2023.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
13.03.2023
"Lam DR-PS"

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 9 of 2022

Date of order: 09.05.2023

Shailendra Kumar Sharma vs. State of Meghalaya & ors.

Coram:

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

Appearance:

For the Petitioner : Mr A. Goyal, 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.
Dr A. Todi, Adv.

The immediate previous order on this matter recorded a submission by Advocate-General for the State as would be evident from the penultimate paragraph of such order:

“Learned Advocate-General submits that the State has called upon the investigating agency to trace out the original operators and bring them to book. Additional penal provisions have, apparently, been incorporated in the original FIRs to facilitate such process. If the real culprits are well known, it would be expected of the State to take appropriate action against them in accordance with law.”

2. Mr K. Khan, learned Additional Advocate-General refers to Justice B.P. Katakey's 12th interim report filed in a matter pertaining to illegal mining and transportation of coal in the State and several

paragraphs therefrom to indicate how coke plants operating illegally and without any permission have been shut down. Counsel emphasises that 57 illegally operating coke plants have been shut down and steps are being taken against the rest who cannot indicate permission to operate or explain the source of obtaining coal for their operations.

3. Repeated orders of this Court have pointed out that the present situation, where illegal coal mining has continued blatantly from 2016 despite orders of the National Green Tribunal and the Supreme Court, no less, prohibiting them, may have been with the tacit support of the State. Despite the State and its Chief Secretary being tasked with the obligation to ensure that illegal coal mines did not operate, the industry boomed till suo motu cognisance was taken of the matter by this Court and some form of regulation or control may now be in place. It took public spirited citizens to bring to the notice of this Court that illegal coke plants had mushroomed all over the place without either the State making any effort to ascertain the source of coal used thereat or to check whether such plants had permission to operate.

4. Again, after being goaded by this Court, the State now gloats in its glorious action taken to shut down the illegal coke plants that should never have sprung up in the first place. As to the kingpins, who had obviously been nurtured and protected by the State to run such illegal

industry, the State has done absolutely nothing. When queried by the Court, Counsel insists on the steps taken to shut down the illegal plants without so much as a word as to the persons who operated them and acted in flagrant disregard of orders of the Supreme Court.

5. The State has now announced with a lot of fanfare the imminent commencement of scientific coal mining. However, due to the callousness of the State and its criminal support to persons who indulged in rampant illegal coal mining, valuable revenue has been lost, several lives have been sacrificed in rat-hole mining and illegal transportation of coal has continued unabated, so much so that the Court was pushed into seeking Central assistance to stop the illegal transportation of coal within the State.

6. In another matter, it has been discovered that a single entity in various avatars has exported thousands of metric tonnes of coal through the Gasuapara Land Customs Station in South Garo Hills without anyone, whether from the State or at the relevant LCS, seeking to ascertain the source of such coal. Indeed, there is even an FIR filed by the sales tax authorities in Guwahati to the effect that the coal may have been of Meghalaya origin and may have been shown in the papers to have been transported from Guwahati or thereabouts back to Meghalaya

for its export without such coal moving any place other than ultimately to Bangladesh.

7. These are matters of serious concern. Despite repeated orders of this Court, the State has cared little to check the menace, though the State was always encouraged by the Court to ensure that scientific coal mining was started so that the cottage industry of illegal mining of coal would be stopped.

8. The matter will appear four weeks hence for the State to indicate the persons behind the illegal coke plants that had been set up and the steps taken in accordance with law to bring them to book.

9. Justice Kakatey will, doubtless, ensure that the illegal coke plants are no longer in operation by the time the matter appears next.

10. List on June 8, 2023.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

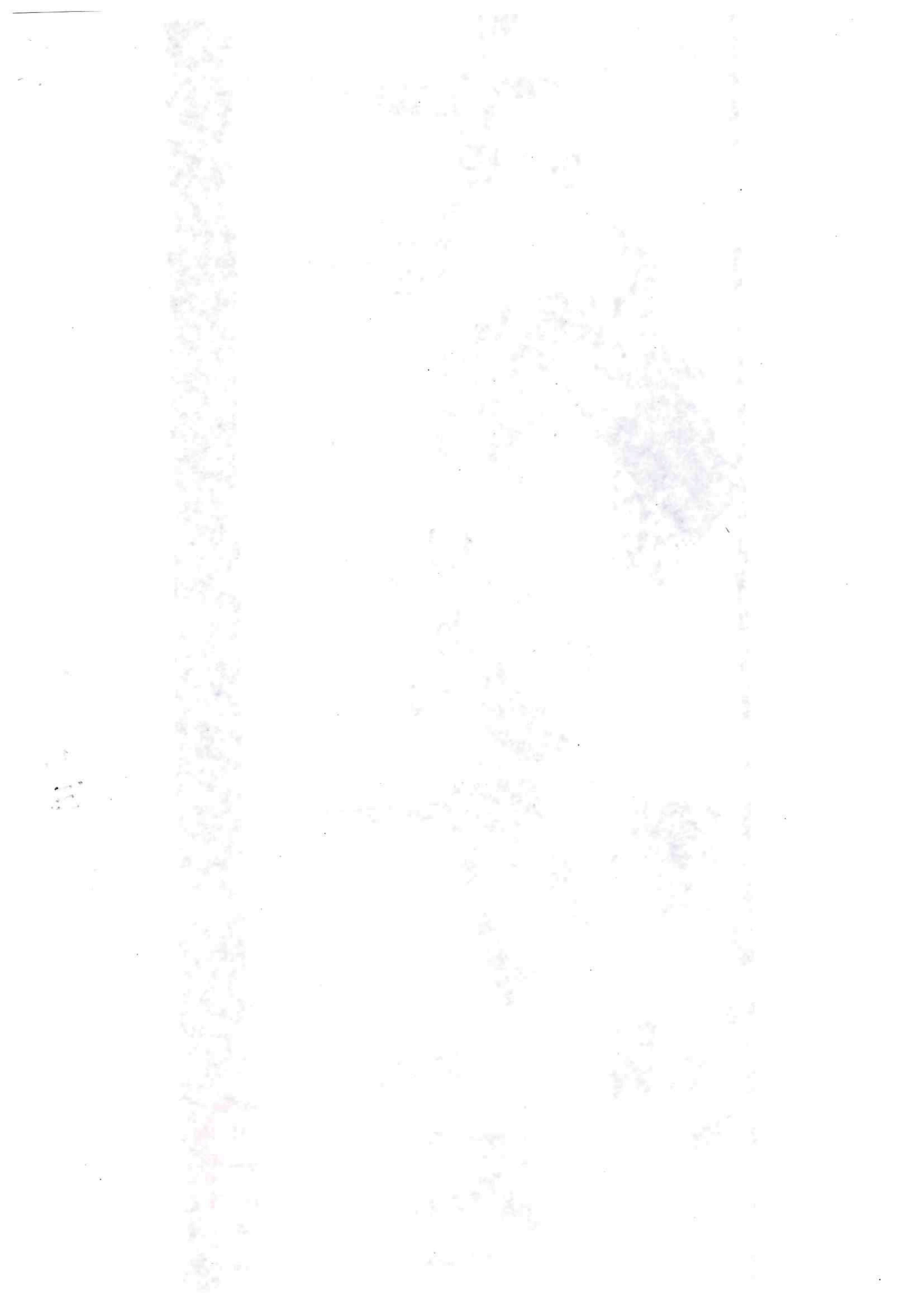
(Sanjib Banerjee)
Chief Justice

Meghalaya
09.05.2023
"Sylvana PS"

ANNEXURE - III

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**BEFORE THE HON'BLE MR. JUSTICE B.P. KATAKEY,
FORMER JUDGE GAUHATI HIGH COURT**

PIL NO. 9 OF 2022

(SHALIENDRA KUMAR SHARMA -VS- STATE OF MEGHALAYA)

IN THE MATTER OF:

An application bringing on record the names of king ping operating the coke oven plant and praying for recommendations to Hon'ble Meghalaya High Court for investigation by Central Bureau of Investigation under the supervision of Hon'ble High Court as the Meghalaya Police is unable to nab these king pings for the reason best known to them.

-AND-

IN THE MATTER OF :

Order dated 13.03.2023 passed by Hon'ble Full Bench of Meghalaya High Court giving liberty to the Petitioner to approach your Lordship in connection with PIL No. 9 of 2023.

-AND-

IN THE MATTER OF :

Non implementation of order dated 07.09.2022 & 09.05.2023 passed by Hon'ble Full Bench of Meghalaya High Court in PIL No. 9 of 2023.

-AND-

IN THE MATTER OF:

Sri Shailendra Kumar Sharma

Aged about 73 years, Son of Late S.D. Sharma, R/o House No. 89, Jayanagar, Chatiali, Belotola Road, Guwahati-781028.

..... Applicant

Most Respectfully Sheweth:

1. That the applicant approached Hon'ble Meghalaya High Court by way filing Public Interest Litigation being PIL No. 9 of 2022 bringing to the notice of Hon'ble High Court about illegal running of Coke Industries in the State of Meghalaya.
2. That, in the said proceedings, a number of orders were passed by Hon'ble Full Bench of Meghalaya High Court. Vide order dated 13.03.2023, the Hon'ble Meghalaya High Court was pleased to grant liberty to approach

Your Lordship's in connection with said PIL filed by the Applicant.

A copy of order dated 13.03.2023 is annexed herewith and marked as **Annexure- I.**

3. That in the order dated 13.03.2023, it is observed that that the real persons who started the illegal operations may have abandoned most of the coke plants and the local persons or workers may have taken over their reduced operations. Further, it was observed on the basis of submissions advanced by the learned DSG that the identification of the kingpins should not be difficult job as they are well known. In response to that the learned AG submitted before the Hon'ble Court that the State has called upon the investigating agency to trace out the original operators and bring them to book. Additional penal provisions have apparently, been incorporated in the original FIRs to facilitate such process. On the basis of the submissions so advanced by the learned AG, the Hon'ble High Court observed that "If the real culprits are well known, it would be

expected of the State to take appropriate action against them in accordance with law.

4. That, despite the order dated 13.03.2023, nothing has been done by the State, the Hon'ble High Court after showing displeasure vide order dated 09.05.2023 had observed as under:

- "7. These are matters of serious concern. Despite repeated orders of this Court, the State has cared little to check the menace, though the State was always encouraged by the Court to ensure that scientific coal mining was started so that the cottage industry of illegal mining of coal would be dropped.**
- 8. That matter will appear four weeks hence for the State to indicate the persons behind the illegal coke plants that had been set up and the steps taken in accordance with law to bring them to book. "**

A copy of order dated 09.05.2023 passed by Hon'ble Meghalaya High Court is annexed herewith and is marked as **Annexure- II.**

5. That on 05.06.2023, one news had been aired by DY 365 showing that a few of kingpins involved in running the illegal coke plant enjoying party in the Hotel Nakshatra, Beltola, Guwahati. Link of the said news is given below for the sake of brevity:

<https://fb.watch/k-3PjPXw7q/?mibextid=vDIwzm>

The Applicant is also annexing herewith the photographs taken from the said news showing the kingpins enjoying in the Hotel Nakshatra, Beltola, Guwahati. It is relevant to mention herein that the kingpins in the Hotel Nakshatra, Beltola, Guwahati is just a few numbers, if proper investigation is carried out more that 50 kingpins will be unmasked and unearthed. But, the Meghalaya Police for the reason best known to them had done nothing.

A copy of a few kingpins involved in operation of illegal coke plant is annexed herewith and is marked as **Annexure-III**.

6. That, thereafter on 08.06.2023, the learned DGP has filed one affidavit stating that the Meghalaya Police has

taken a number of steps in the matter. It is matter of great concern that despite the kingpins are well known, the Meghalaya Police seems to be handicapped in nabbing the kingpins for the reason best known to Meghalaya Police.

A copy of the affidavit filed learned DGP with annexures are annexed herewith and is marked as **Annexure- IV.**

7. That from the aforesaid facts and circumstances, it is crystal clear that Meghalaya Police is not investigating the matter in fair and unbiased manner for the best known to them. It is therefore prayed that the matter is required to be investigated by an independent agency preferably CBI under the supervision of Hon'ble Meghalaya High Court in the interest of just and fair investigation.
8. This application is filed bonafide and in the interest of justice.

It is therefore prayed that Your Lordships may graciously be pleased to recommend to Hon'ble Meghalaya High Court for handing over the

investigation to CBI under the supervision of Hon'ble High Court in the interest of justice and fair investigation and/or recommend any other issues as Your Lordship may deem fit and proper.

And for this act of kindness your humble applicant shall ever pray.

VERIFICATION

I, Shailendra Kumar Sharma, aged about 72 years, son of Late S.D. Sharma, resident of 89, Jayanagar, Chatiali, Beltola Road, Guwahati-781028, Kamrup Metro, Assam do hereby solemnly affirm and declare that the contents stated in the Affidavit are true to the best of my knowledge and belief and no part thereof is false or misleading and no material has been concealed therefrom.

Verified at Guwahati on this 24th June, 2023

DEPONENT

