

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.9/2022

Date of order: 06.07.2023

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, AG with
Mr. K. Khan, AAG
Ms. R. Colney, GA
Dr. N. Mozika, DSGI with
Ms. A. Pradhan, Adv

Pursuant to the leave granted to the petitioner, an affidavit has been affirmed by him on July 5, 2023 appending a copy of a complaint lodged in the Basistha Police Station, Guwahati on June 30, 2023 to the effect that one Balwant Bhama, an alleged kingpin in the illegal operations of coke plants in Meghalaya, had called the petitioner twice on the morning of June 30, 2023 and thereafter physically called at the petitioner's residence shortly after 10:30 am to threaten the petitioner with dire consequences if the petitioner pursued the present petition.

2. Elsewhere in the affidavit, particularly at paragraph 3 thereof, the petitioner has furnished the names and phone numbers of all persons

who the petitioner describes as the “kingpins involved in illegal coke plants and illegal coal mining in the State of Meghalaya”.

3. Learned Advocate-General refers to a recent report of July 3, 2023 filed by the Director-General of Police in the State. Paragraph 6 of such report records as follows:

“6. That in the course of investigation, one of the identified accused persons, namely Shri. Youdishthra Bhama, who the owner of M/S Kalyani Fuel Limited, Shallang was arrested on 15th June, 2023 for not cooperating with the investigation while recording of statement U/S 161 CrPC during his appearance in response to Notice issued u/s 41 A CrPC. He is presently lodged in Judicial Custody.”

4. Learned Advocate-General submits that Youdishthra Bhama is the son of Balwant Bhama against whom the petitioner has lodged the complaint.

5. It is, thus, evident that the petitioner has not plucked the names out of thin air and there may be some basis to the petitioner identifying the kingpins or some of them who are involved in the illegal coal-mining and the use of such illegally-mined coal in the coke plants in the State. This requires to be thoroughly looked into.

6. It is unfortunate that the machinery in the State, be it the administration or the police, have been lacking in taking appropriate steps to arrest the illegal mining of coal in the State despite orders in such regard having been passed by the National Green Tribunal since or about 2016 and affirmed by the Supreme Court by 2019. Repeated

orders have been passed in the present and the connected proceedings, particularly in the suo motu proceedings instituted by the Court, for the last 15 months; but to no effect.

7. In another matter, PIL No.8 of 2022 which focuses on the source of coal used at the illegal coke oven plants in the State, an order was passed on July 4, 2023 requiring the State to show cause why the Court should have any further confidence in its machinery, including the police, and not require the Central Bureau of Investigation to inquire into the illegal mining of coal and the use thereof in coke oven plants and export of the same, particularly since the activities seem to be controlled by persons based in Assam.

8. The relevant PIL No.8 of 2022 will now appear before this Bench so that all matters pertaining to illegal mining of coal, the transportation of such illegally-mined coal, the use of such illegally-mined coal, the operation of coke oven plants without any permission or license and the failure on the part of the State to check overloaded vehicles on the State highways and roads can all be dealt with together.

9. In the meantime, in view of the apparent threat received by the petitioner and a similar allegation being made by the petitioner in PIL No.8 of 2022, since the relevant petitioners ordinarily reside in Assam, the Director-General of Police, Assam is requested to take appropriate

steps through the officers-in-charge of the local police stations and the Superintendents of Police of the relevant districts to ensure the safety and security of the petitioners, their family members and lawyers representing such petitioners. The Director-General of Police, Assam will also look into the complaint filed by the petitioner on June 30, 2023 and ensure that appropriate steps in accordance with law are taken in respect thereof.

10. It may be pertinent to record that learned Advocate-General appearing for the State of Meghalaya submits that a confidential communication has been made with the police authorities in Assam to take appropriate steps against persons based in Assam who may be the masterminds behind the illegal operation of coal-mining and coke oven plants in the State of Meghalaya. It is hoped that adequate attention is given by the appropriate authorities in Assam in such regard.

11. A copy of this order will be forthwith transmitted by the office of learned Advocate-General of the State to learned Advocate-General of the State of Assam for communication to the Director-General of Police, Assam with appropriate instructions.

12. The 15th interim report has been filed by Justice Katakey (retired) on June 30, 2023. It will be open to the State to deal with the contents of such report after obtaining a copy thereof from the officer

attached to this Court. It will also be open to all the parties in connected proceedings pending before the Full Bench, or transferred by this order to this Full Bench, to obtain copies of the latest report filed by Justice Katakey.

13. Let a further ad hoc remuneration of Rs.4 lakh be released to Justice Katakey in addition to the other expenses for which a provision has been made in earlier orders.

14. Let this matter appear along with all the connected matters, including PIL No.8 of 2022, on July 13, 2023.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
06.07.2023
"Lam DR-PS"

