

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"