

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A NO. 110 (THC) OF 2012

IN THE MATTER OF :

Threat to life
arising out of
coal mining in
South Garo Hills District

...Original Applicants

Versus

State of Meghalaya & Ors.

...Respondents

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Dated : 24.09.2020

Place : New Delhi

Avijit Mani Tripathi
Advocate for the Respondent State of Meghalaya
B-17th , 4th Floor Jangpura Extension
New Delhi -110014
Mobile : 9958537705

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IN THE MATTER OF:

Threat to life arising
out of coal mining in
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ADDITIONAL AFFIDAVIT ON BEHALF OF RESPONDENT STATE OF MEGHALAYA FOR PLACING ON RECORD TRUE AND CORRECT FACTS IN RELATION TO SELECTION OF OWNER FOR PARTICIPATION IN PILOT PHASE-I OF AUCTION OF 2 LAKH MT OF ALREADY EXTRACTED COAL

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Secretary
to the Govt of Meghalaya
Mining & Geology Department

*Si. Instrument No. 29.
Date 23/09/2020*

I, Dr. Manjunatha C. S/o Sh. Channabasappa T., aged about 42 years, Secretary to the Government of Meghalaya, Mining and Geology Department having office at Additional Secretariat Building, Shillong - 793001 do hereby solemnly affirm and state as under:

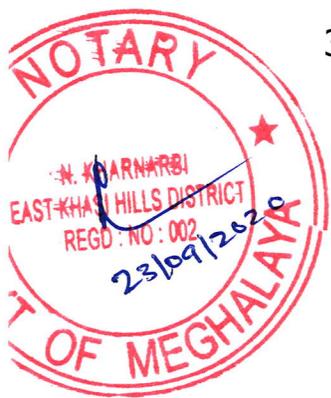
1. That I am the Secretary to the Government of Meghalaya, Mining and Geology Department, Respondent No.1 in the captioned case, and as such am aware of the facts and records of the case in my official capacity and am competent and authorized to swear the instant affidavit on behalf of the State of Meghalaya.
2. That the instant additional affidavit is being filed by the State of Meghalaya seeking to place on record true and correct facts with



regard to the issue of identification of the coal owner. It has been noted by this Hon'ble Tribunal in its order dated 27.07.2020 that the Scheme enclosed indicates that through the draw of lots, the coal owners will be identified. It is humbly submitted that the Scheme for auction prepared in terms of direction of the Hon'ble Supreme Court did not envisage identification of new owners of the coal. Since initially only two lakh MT coal was to be auctioned on pilot basis restricting the coal quantity of each owner to 5,000 MT; in order to carry out the process in fair and transparent manner, the Committee came to the conclusion that the existing coal owners whose coal are going to be part of pilot phase of auction process shall be selected through draw of lots from amongst the already identified owners placed before the Hon'ble Supreme Court. There is no new identification of coal owners.

M. Janta

Secretary
to the Govt of Meghalaya
Mining & Geology Department



3. That at the outset it is submitted that the State of Meghalaya has complied with all the directions of this Hon'ble Tribunal passed from time to time in the present case and undertakes to comply with the directions passed in the order dated 27.07.2020.
4. That vide order dated 27.07.2020, this Hon'ble Tribunal was pleased to pass certain direction on the 7th report of the Committee constituted by this Hon'ble Tribunal vide order dated 31.08.2018 (hereinafter the committee) in the instant case. The Applicant prays for liberty of this Hon'ble Tribunal to bring to the notice of certain observations made in the said order dated

27.07.2020, which have missed to note the true and correct facts on record of the case and are being placed on record herein.

5. That it is submitted that the Comprehensive Plan for handing over, auction and disposal of the 'extracted coal' dated 12.03.2020 placed by the Committee before this Hon'ble Tribunal in the 7th report of the Committee as Annexure-5 to the said report relates only to the auction and disposal of the 'extracted coal' as permitted by Hon'ble Supreme Court and nothing beyond.
6. That only for the limited purpose of the pilot-phase (Phase-I) auction of 2 lakh MT Coal out of the total coal permitted by the Hon'ble Supreme Court, the use of 'draw of lots' was proposed to ensure transparency and fairness of selection of owners, already identified in the affidavit filed before the Hon'ble Supreme Court, whose coal shall be included for auction in Phase-I. It is submitted that the process was proposed to ensure that there is no favour of bias in favour of some owners causing heartburn for others whose coal could not be included in Phase-I (Pilot) auction of 2 lakh MT Coal.
7. That this Hon'ble Tribunal has noted the portion of comprehensive plan for handing over, auction and disposal of the 'extracted coal' as permitted by the Hon'ble Supreme Court as under:

"9. With regard to handing over of extracted coal to CIL for auction, the recommendations of the Committee are:



Secretary
to the Govt of Meghalaya
Mining & Geology Department

"1. The Committee approved the suggestion of the Mining and Geology Department officials for permitting transport and auction of 2 (two) lakhs MT of coal which is distributed over four coal bearing Districts in Meghalaya viz. East Jaintia Hills, West Khasi Hills, South Garo Hills and South West Khasi Hills in the first phase. The transport and auction of the aforesaid quantity of coal has been approved by the Committee on an experimental or pilot basis. In Phase — I the Committee allows the Government of Meghalaya to hand over to Coal India Limited for auction the following quantities of coal in respect of each of the four coal bearing districts of Meghalaya:

- (i) East Jaintia Hills - 75.000 MT
- (ii) West Khasi Hills - 50.000 MT
- (iii) South Garo Hills - 50.000 MT
- (iv) South West Khasi Hills - 25 000 MT.

3. The Comprehensive Plan along with the Annexures shall be uploaded by Mining and Geology Department in the websites of Mining and Geology Department and the Forests & Environment Department respectively. A copy of the said Comprehensive Plan should be circulated by the Mining and Geology Department to all concerned Departments, Offices and agencies including Coal India Limited.

4. The Mining and Geology Department shall allow the coal owners to transport their coal to the designated depots in their respective Districts within a period of fifteen days from the date of issuance of Transit Pass to the coal owners of the designated coal depots.

5. The Mining and Geology Department will select the coal owners on the basis of draw of lots. However, the maximum quantity a coal owner will be entitled to bid shall be restricted to 5000 MT in the first phase of auction.



Secretary
 to the Govt of Meghalaya
 Mining & Geology Department

6. The Mining and Geology Department will intimate the commencement of auction of coal in two prominent newspapers in Meghalaya.

7. The guidelines prepared by the Meghalaya State Pollution Control Board in respect of pollution control norms to be observed by coal depot owners was perused and approved by the Committee.

8. In respect of the buyers of auctioned coal who intend to transport or sell the same within Meghalaya. A list of such buyers shall be furnished by the Mining and Geology Department to the Meghalaya State Pollution Control Board."

8. That thereafter this Hon'ble Tribunal proceeded to make following observations and directions:

"11. We proceed to deal with the above recommendations. We find that **recommendation of permitting 'coal owners' to transport the coal and for such coal owners to be identified by the State by draw of lots is contrary to the judgment of the Hon'ble Supreme Court. Under the said judgment, it was observed that coal owners had already been identified as per record and that process of handing over coal was to be undertaken by the State.** The quantum of coal unscientifically mined was mentioned to be 23,25,663.54 MT (para 188). It was held that the said coal be handed over to CIL for disposal by the State in the manner laid down by the Committee. Out of the sale price, an amount could be paid to the owners, as already mentioned above (para 192 of the judgement). **The suggestion of the Committee that the coal owners may transport the coal and coal owners are yet to be identified by draw of lots is against the judgment of the Hon'ble Supreme Court wherein it is mentioned that coal owners were already identified and that it was the State which was to hand over the coal to the CIL.**



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Secretary
to the Govt of Meghalaya
Mining & Geology Department

13. The recommendation that the transportation may not be done by the State but by the 'coal owners' who are yet to be identified being against judgment of the Hon'ble Supreme Court cannot be approved. The State must transport the coal and give the locations in terms of the Sixth report. **New exercise for identifying landowners beyond the judgement of the Hon'ble Supreme Court is not permissible.** The Committee may revise its report accordingly."

[Emphasis Applied]

9. That the direction of this Hon'ble Tribunal of transporting the coal from the pit-head/dump to the depot by the State Government and for handing it over to CIL and not by the respective owners will be complied with by the State Government.
10. That the details of owners already identified in the judgment of ***State of Meghalaya v. All Dimasa Students Union, Dima Hasao Committee*** (2019) 8 SCC 177, including location of geo-coordinates of coal dumps, as contained in the affidavit filed on 06.04.2019 as noted in paragraph 188 of the said judgment has already been submitted before the Committee constituted by this Hon'ble Tribunal during the course of proceedings dated 12.03.2020 and also to NESAC as per directions of this Hon'ble Tribunal. A copy of record minutes of the 7th special sitting of the Committee constituted by this Hon'ble Tribunal dated 12.03.2020 is annexed herewith and marked as **ANNEXURE A/1**. [Page No. 9 to 13]

Secretary
 to the Govt of Meghalaya
 Mining & Geology Department



11. That however, as submitted above in paragraph 6 of this application, the observations that there is a "new exercise of identifying the owners by draw of lots" is contrary to the record and any such exercise is not being conducted by the State Government or CIL or any other concerned person.
12. That the 'draw of lots' was proposed to 'select the owners' from amongst 'already identified owners' as per affidavit of State of Meghalaya submitted before the Hon'ble Supreme Court dated 06.04.2019 noted in para 188 of the judgment of the Hon'ble Supreme Court in the case of **State of Meghalaya v. All Dimasa Students Union** (supra), only for the limited purpose of deciding as to who would be the owners whose coal will be included in the Phase-I of auction in a fair and transparent manner. Further, in Phase-I, the limit of maximum of 5,000 MT of coal per owner has been fixed to ensure that even the Pilot Phase of auction benefits all concerned equitably.
13. That in view of the aforesaid facts, it is most humbly prayed that this Hon'ble Tribunal may be pleased to take on record the correct facts on record that there is no exercise being carried out by the State Government or CIL or any other concerned authority for 'fresh identification' of owners of coal beyond those who were already identified in the affidavit of State of Meghalaya dated 06.04.2019 submitted before the Hon'ble Supreme Court, noted in paragraph 188 of the judgment in the case of **State of Meghalaya v. All Dimasa Students Union** (supra).



It is prayed accordingly.

M. Talta

DEPONENT

Secretary
to the Govt of Meghalaya
Mining & Geology Department

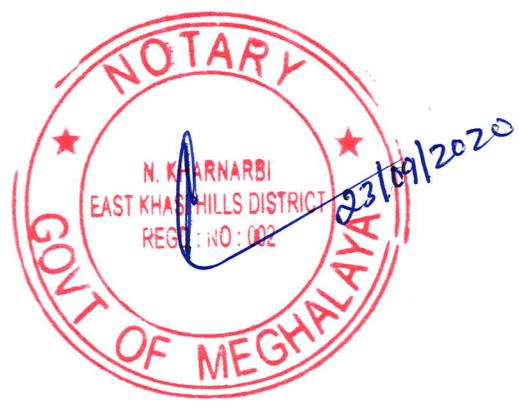
VERIFICATION:

Verified at this 23rd day of September, 2020 at Shillong, Meghalaya that the content of the aforesaid affidavit is true and correct to the best of my knowledge and belief based on official records of the Respondent-State of Meghalaya and that nothing is false and nothing material is concealed therefrom.

M. Talta

DEPONENT

Secretary
to the Govt of Meghalaya
Mining & Geology Department



QUORUM

**HON'BLE MR. JUSTICE B.D.AGARWAL,
FORMER JUDGE, GAUHATI HIGH COURT, GUWAHATI**

**SHRI. S. C. BHOWMIK, PROFESSOR
REPRESENTATIVE FROM INDIAN SCHOOL OF MINES,
(IIT – ISM), DHANBAD
(Email id: bhowmik44@gmail.com)**

**DR. SHANTANU KUMAR DUTTA, ADDITIONAL DIRECTOR
REPRESENTATIVE OF CENTRAL POLLUTION CONTROL BOARD
(Email id: shantanucpcb@gmail.com)**

IN THE MATTER OF

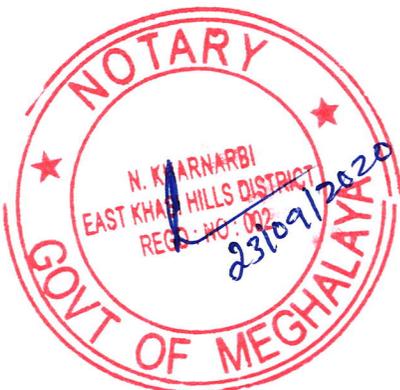
Threat to Life Arising Out of Coal Mining in South Garo Hills District

-Vs-

**The State of Meghalaya & Ors.
And other connected matters**

PRESENT

- : Shri. C. P. Marak, IFS,**
Chairman, Meghalaya State Pollution Control Board
Email id: cpmarak1@gmail.com,
memsecy.spcb-meg@gov.in
- : Mr. Manjunatha C, IFS**
Secretary to the Government of Meghalaya,
Mining & Geology Department
Email id: manju2020@gmail.com
- : Mr. A. Kembhavi, IAS**
Director, Directorate of Mineral Resources,
Government of Meghalaya,
Email id: arunkumar.kembhavi@gmail.com
- : Mr. J. K. Borah,**
General Manager,
North Eastern Coalfields, Coal India Limited
Email id: gm.nec.cil@coalindia.in
- : Mr. J. H. Nengnong, Member Secretary**



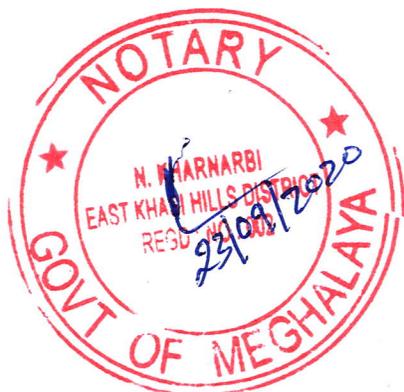
Meghalaya State Pollution Control Board, Shillong
Email id: megspcb@rediffmail.com

: **Mr. M. B. K. Reddy, IFS**
Additional Principal Chief Conservator of Forests,
(Planning, Development and Legal Matters),
Forests & Environment Department, Government
of Meghalaya.
Email id: mudiyabala18@yahoo.com

: **Mr. B. Shangdiar, IFS**
Conservator of Forests (Monitoring & Evaluation)
Government of Meghalaya,
Forests & Environment Department,
Email id: barlandshangdiar@gmail.com

: **Mr. M. Somorjit Singh**
Scientist
North Eastern Space Application Centre,
Department of Space, Government of India
Email id: msomorjit69@gmail.com

: **Mr. R. P. Gurung**
Scientist – D
Central Pollution Control Board
Email id: riteshprasadgurung@gmail.com



RECORD OF THE MINUTES OF THE SEVENTH SPECIAL SITTING OF THE COMMITTEE CONSTITUTED BY THE HON'BLE NATIONAL GREEN TRIBUNAL UNDER THE CHAIRMANSHIP OF HON'BLE MR. JUSTICE B.D. AGGARWAL, FORMER JUDGE, GAUHATI HIGH COURT HELD ON **12TH MARCH, 2019 AT 11.30 A.M** IN THE CONFERENCE HALL, SYLVAN HOUSE, OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS & HOFF, LOWER LACHUMIERE, SHILLONG

AGENDA

To consider, finalize and approve the Comprehensive Plan prepared by Mining and Geology Department, Govt. of Meghalaya in accordance with the direction of the Hon'ble Supreme Court of India dated 03.07.2019 in Civil Appeal No.10720 of 2018. The Comprehensive Plan pertains to handing over of already extracted coal to Coal India Limited for auction, modalities of auction of such coal, and its subsequent transportation.

PROCEEDINGS

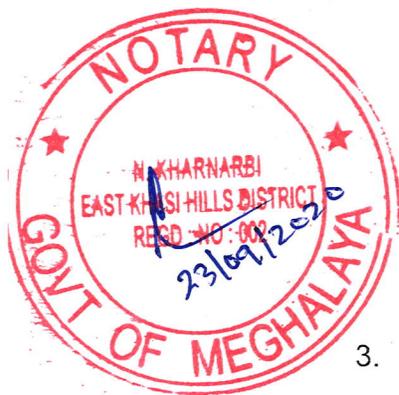
At the outset, the Chairperson of the Committee welcomed the Members of the Committee, Special Invitees, Senior Officials of the State Government and other Officers present.

1. After a threadbare discussion with the official of Coal India Limited, officials of Meghalaya State Pollution Control Board and Mining and Geology Department of Government of Meghalaya, the Committee approved the Comprehensive Plan, which has been prepared jointly by the Mining and Geology Department, Government of Meghalaya and Coal India Limited, for handing over of 32,56,715 MT of extracted coal to Coal India Limited for auction, and subsequent transport thereof.
2. The Committee approved the suggestion of the Mining and Geology Department officials for permitting transport and auction of 2 (two) lakhs MT of coal which is distributed over four (4) coal bearing Districts in Meghalaya viz. East Jaintia Hills, West Khasi Hills, South Garo Hills and South West Khasi Hills, in the first phase. The transport and auction of the aforesaid quantity of coal has been approved by the Committee on an experimental or pilot basis.

In Phase – I the Committee allowed the Government of Meghalaya to hand over to Coal India Limited for auction the following quantities of coal in respect of each of the four coal bearing districts of Meghalaya:

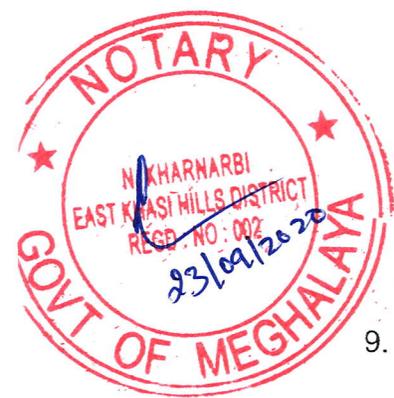
- | | | |
|-------|------------------------|--------------|
| (i) | East Jaintia Hills | - 75,000 MT |
| (ii) | West Khasi Hills | - 50,000 MT |
| (iii) | South Garo Hills | - 50,000 MT |
| (iv) | South West Khasi Hills | - 25,000 MT. |

3. The Comprehensive Plan alongwith the Annexures shall be uploaded by Mining and Geology Department in the websites of Mining and Geology Department and Forests & Environment Department respectively. A copy



of the said Comprehensive Plan should be circulated by the Mining and Geology Department to all concerned Departments, Offices and agencies including Coal India Limited.

4. The Mining and Geology Department shall allow the coal owners to transport their coal to the designated depots in their respective Districts within a period of fifteen (15) days from the date of issuance of Transit Pass to the coal owners of the designated coal depots.
5. The Mining and Geology Department will select the coal owners on the basis of drawal of lots. However, the maximum quantity a coal owner will be entitled to bid shall be restricted to 5000 MT in the first phase of auction.
6. The Mining and Geology Department will intimate the commencement of auction of coal in two prominent newspapers in Meghalaya.
7. The guidelines prepared by the Meghalaya State Pollution Control Board in respect of pollution control norms to be observed by coal depot owners was perused and approved by the Committee.
8. The Scientist deputed by North Eastern Space Applications Centre, Umiam, Shillong, made a brief Power Point presentation regarding the cost estimate and availability of satellite imageries relating to mapping coal dump sites in the coal mined districts of Meghalaya and also the land use, land cover studies in the said sites. The North Eastern Space Applications Centre shall furnish a hard copy of the said presentation to the Committee for their perusal to enable them to take an appropriate decision in the matter of undertaking the aforesaid mapping exercise.
9. In respect of the buyers of auctioned coal who intend to transport or sell the same within Meghalaya, a list of such buyers shall be furnished by the Mining and Geology Department to the Meghalaya State Pollution Control Board.



10. The Secretary of Mining and Geology Department, Govt of Meghalaya, submitted to the Committee a copy of the affidavit along with all annexures filed by the Government of Meghalaya in Civil Appeal No.10720 of 2018 before the Hon'ble Supreme Court in compliance of the directive of the Committee in their proceedings dated 02.03.2020.
11. The next General Sitting of the Committee will be held on 6th April, 2020 in Shillong at the Conference Hall, O/o Principal Chief Conservator of Forests & HoFF, Sylvan House, Lower Lachumiere Meghalaya, Shillong at 10:30 AM.

The Chairman thanked all present.

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(Justice B.D. Agarwal)

