

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**  
**EASTERN ZONE BENCH AT KOLKATA**  
**ORIGINAL JURISDICTION**  
**O.A. NO. 154 OF 2023**

**IN THE MATTER OF:**

Threat to life arising out of Coal Mining  
in South Garo Hills District

...Applicant(s)

Versus

State of Meghalaya & Ors.

...Respondent(s)

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Filed By:

Dated: 08.02.2024



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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH AT KOLKATA  
ORIGINAL APPLICATION NO. 154 OF 2023(EZ)

IN THE MATTER OF:

Threat to life arising out of Coal Mining  
in South Garo Hills District ...Applicant(s)

Versus

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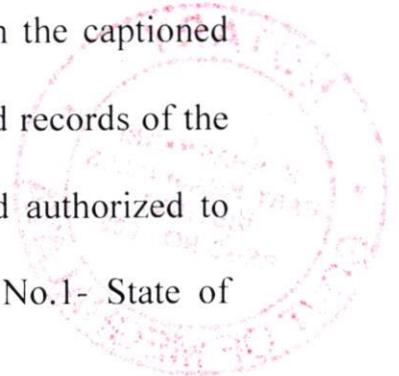
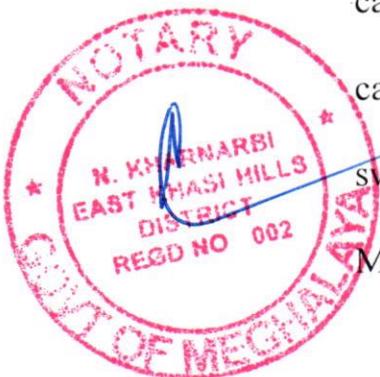
E. Kharmalki, IAS  
Secretary  
to the Govt. of Meghalaya  
Mining & Geology Department

REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1 -  
STATE OF MEGHALAYA

I, E. Kharmalki, IAS, Secretary to the Government of Meghalaya,  
Mining and Geology Department, having office at Secretariat Building,  
Secretariat, Shillong, Meghalaya – 739 001 do hereby solemnly affirm  
and state as under:

Sl. Instrument No. 48  
Date 08/02/2024

- 1. That I am the Secretary to the Government of Meghalaya, Mining and Geology Department, the Respondent No.1 in the captioned case and as such well conversant with the facts and records of the case. In my official capacity I am competent and authorized to swear in this affidavit on behalf of Respondent No.1- State of Meghalaya.

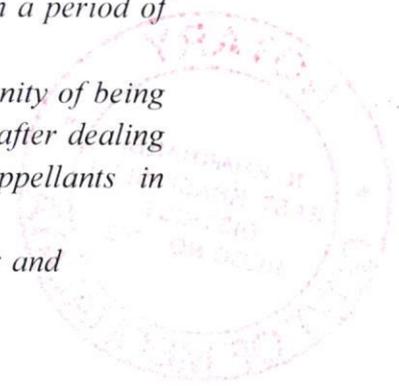


2. That the present application has been registered before this Hon'ble Tribunal on the directions of the Hon'ble Supreme Court of India passed in the judgment dated 02.05.2023 in the case of Civil Appeal No.3280 of 2020 (with connected cases). In the judgment dated 02.05.2023, the Hon'ble Supreme Court has been pleased to set-aside the judgment of Hon'ble Principal Bench of NGT on the ground of non-compliance with principles of natural justice and remanded the case for fresh hearing, after giving opportunity to Appellant cement companies for placing their case and Hon'ble Supreme Court has, inter-alia, issued following direction:

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*"12 Reading the impugned order of the NGT, we do not find any independent application of mind. The Committee, which was chaired by a former Judge of the High Court, had in the view of the NGT, carried out a copious exercise. But that would not obviate the need for the NGT to arrive at its own independent findings after furnishing the parties, who would be directly affected, an opportunity of being heard. The NGT having not done so, we would have to restore the proceedings in relation to the appellants back to the file of the NGT, at the stage, at which they stood prior to the passing of the impugned judgment dated 17 January 2020. Consequently, and to facilitate the above exercise, we set aside the impugned judgment dated 17 January 2020 in relation to its applicability to the appellants before this Court and direct that:*

- (i) The **appellants** shall submit their responses to the interim reports of the Committee appointed by NGT within a period of four weeks;
- (ii) NGT shall furnish to the appellants an opportunity of being heard, after which it shall proceed to pass orders after dealing with the suggestions and objections of the appellants in accordance with law;
- (iii) NGT shall take a final decision in three months; and



*(iv) The appellants would be at liberty to apply to the NGT for inspection of records, including the underlying documents which were submitted by the Committee."*

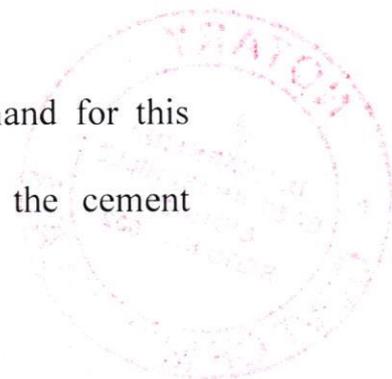
A copy of order passed by the Hon'ble Supreme Court in C.A. No.3280 of 2020 and connected matters dated 02.05.2023 is annexed herewith and marked as **ANNEXURE R/1**.

3. That the principal grievance raised by the Cement Companies, before the Hon'ble Supreme Court is against the direction of the Hon'ble National Green Tribunal, Principal Bench issued vide order dated 17.01.2020, wherein the Hon'ble NGT was pleased to accept the 5<sup>th</sup> interim report dated 02.12.2019 of the Committee constituted by it vide an earlier order dated 31.08.2018 (NGT Committee).

4. That upon remand, the Ld. Principal Bench of Hon'ble NGT has been pleased to allocate the present Original Application to this Hon'ble Bench as the matter pertains to jurisdiction of this Hon'ble Bench vide order dated 22.08.2023 passed in O.A. No.110/2012. A copy of the order passed by the Principal Bench of Hon'ble NGT in O.A. No.110/2012 dated 22.08.2023 is annexed herewith and marked as **ANNEXURE R/2**.

5. That therefore, the scope of adjudication upon remand for this Hon'ble Tribunal is limited to hear the side of the cement

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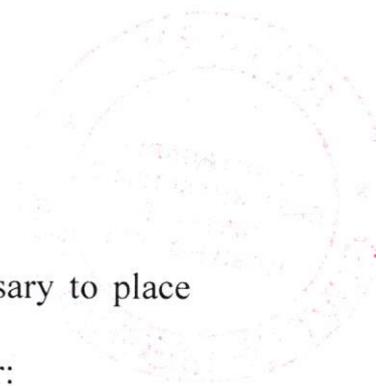
companies on the allegations and findings made against them in the 5<sup>th</sup> interim report of the NGT Committee headed by Justice (Retd.) B.P. Katakey, accepted by the Hon'ble NGT Principal Bench in order dated 17.01.2020, and then take a fresh decision on the findings of the 5<sup>th</sup> interim report of NGT Committee. A copy of the 5<sup>th</sup> interim report of the NGT Committee headed by Hon'ble Mr. Justice (Retd) B.P. Katakey dated 02.12.2019 and the Judgment and order passed by the Hon'ble NGT, Principal Bench in O.A. No.110/2012 dated 17.01.2020 are annexed herewith and marked as **ANNEXURE R/3** and **ANNEXURE R/4** respectively.

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6. That the rest of the issues have already been adjudicated upon by the Hon'ble NGT, Principal Bench in O.A. No.110/2012 which has been finally disposed of vide judgment dated 15.03.2021 by constituting an oversight committee to take care of the pending issues. A copy of the judgment and order passed by the Hon'ble NGT, Principal Bench in O.A. No.110/2012 dated 15.03.2021 is annexed herewith and marked as **ANNEXURE R/5**.

#### **BACKGROUND FACTS:**

7. That before making further submissions, it is necessary to place brief background of the present case which is as under:



- a. That vide order dated 31.08.2018, while disposing of O.A. No.73 of 2014 on the issue of rat-hole coal mining, the Hon'ble NGT, Principal Bench has, inter-alia, observed as under:

“14. Only last question which remains is of restoration of the environment and rehabilitation of the victims for which funds are available. We are of the view that for this task, it will be appropriate that we constitute an independent Committee. This Committee will be headed by Justice B.P. Katakey, Former Judge of the Guwahati High Court with representatives from Central Pollution Control Board and Indian School of Mines, Dhanbad.

15. The Committee will take the following steps:

- Take stock of all actions taken so far in this regard.
- Prepare time bound action plan to deal with the issue and ensure its implementation.

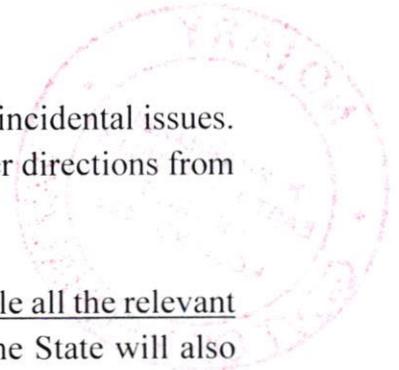
16. The Committee may requisition services of such technical experts as may be necessary and may also carry out visits to sites whenever necessary. They will be entitled to all logistic support for performing these functions which shall be provided under the directions of the Chief Secretary, Meghalaya.

19. All authorities concerned in the State of Meghalaya shall cooperate and coordinate with the Committee. The Committee can seek such technical assistance as may be required from any relevant authority.

22. The Committee will be free to take up all incidental issues. The Committee will be free to seek any further directions from this Tribunal by e-mail.

27. The State of Meghalaya will make available all the relevant records to the Committee for the purpose. The State will also determine the remuneration to be paid to the Chairman of the

To the Secretary, IAS  
 Secretary, IAS  
 To the Govt. of Meghalaya  
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Committee in consultation with him within one month from today.”

[Emphasis Applied]

- b. That the Hon’ble NGT, vide order dated 04.01.2019 passed in O.A. No.73 of 2014, expanded the scope of the Committee and inter-alia, observed as under:

“36. The Committee may also consider the following:-  
... 5. Resource (coal) audit of Meghalaya Power Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source.”

- c. That matter travelled before the Hon’ble Supreme Court and vide detailed judgment and order dated 03.07.2019 reported as *State of Meghalaya v. All Dimasa Students Union, Dima Hasao Committee & Ors.*, (2019) 8 SCC 177 Hon’ble Supreme Court, on the issue of jurisdiction of the Hon’ble NGT and the committee constituted by it was pleased to observe as under:

“167. In respect of constitution of committee by the Tribunal there are two other limbs of submission; that, (1) NGT by constituting committees has delegated essential judicial power to the committee; (2) the constitution of committees encroaches on the constitutional scheme of administration of tribal areas under Article 244(2) read with the Sixth Schedule of the Constitution.

168. The Tribunal vide its various directions has asked for reports from State officials and the committees. The various instances where NGT directed for report or investigation and submission of report by committees were with the object of ensuring the implementation of the orders passed by it and to

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decide the environmental issues raised before it. In no manner constitution of committee can be said to be delegation of essential judicial powers of NGT to the committee.

**169.** Now, we come to the Katakey Committee which was constituted by the Tribunal on 31-8-2018 [*Threat to Life Arising Out of Coal Mining in South Garo Hills District v. State of Meghalaya*, 2018 SCC OnLine NGT 1241]. In paras 14 and 15, the Tribunal while directing for constitution of Committee headed by Justice B.P. Katakey directed : (*Threat to Life Arising Out of Coal Mining case [Threat to Life Arising Out of Coal Mining in South Garo Hills District v. State of Meghalaya*, 2018 SCC OnLine NGT 1241] , SCC OnLine NGT)

“14. Only last question which remains is of restoration of the environment and rehabilitation of the victims for which funds are available. We are of the view that for this task, it will be appropriate that we constitute an independent Committee. This Committee will be headed by Justice B.P. Katakey, former Judge of the Guwahati High Court with representatives from Central Pollution Control Board and Indian School of Mines, Dhanbad.

15. The Committee will take the following steps:

- (i) Take stock of all actions taken so far in this regard.
- (ii) Prepare time-bound action plan to deal with the issue and ensure its implementation.”

**170.** The constitution of the Committee and its functions entrusted were with the object to implement the orders passed by the Tribunal. The Tribunal has already directed for preparing a scheme for the restoration of the environment and ecology. The environment and ecology restoration plan was submitted before the Tribunal along with the affidavit dated 3-10-2017 as has been noticed in the order dated 2-1-2018 [*All Dimasa Students Union v. State of Meghalaya*, 2018 SCC OnLine NGT 671] of NGT. In the constitution of the Katakey Committee, thus, it cannot be said that essential judicial functions were delegated to the Committee by the Tribunal. For the restoration of environment NGT vide its order dated 31-8-2018 [*Threat to Life Arising Out of Coal Mining in South Garo Hills District v. State of Meghalaya*, 2018 SCC OnLine NGT 1241] has directed the Committee to submit its action plan and reports by email. The Tribunal, thus, had kept complete control on all steps which were required to be taken by the Committee and issued

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directions from time to time. We, thus, do not accept the submission of the appellant that the essential judicial powers of NGT had been delegated to the Committee. Looking to the enormous work of restoration of environment which has to be supervised on the spot, the Committee was constituted. We, however, observe that the State is always at liberty to obtain particular direction if aggrieved by any act of the Committee. The matter being pending before the Tribunal of acts of the Committee are under direct control of the Tribunal and if the Committee oversteps in any direction the same can very well be corrected by the Tribunal on the matter being brought before it.

171. Now, we come to the second limb, that the constitution of the Committee encroaches the constitutional scheme of the tribal areas. We revert back to the Sixth Schedule of the Constitution. Para 3 of the Sixth Schedule enumerates the powers of the District Council and Regional Council to make laws. The powers of the District and Regional Councils are enumerated under para 3. In the directions of the Tribunal to constitute committee for transportation of extracted minerals or for preparing time-bound action to deal with the restoration of environment and to ensure its implementation, there is no interference in the powers of the District or Regional Councils. Action plan for restoration of environment is consequence of the Tribunal finding out that an unregulated coal mining has damaged the environment and has caused the pollution including water pollution. It is not the case of the appellant that the District and Regional Councils have framed any law for restoration of environment which is being breached by the committee or its acts. The District and Regional Councils are free to exercise all their powers and the Committee constituted by the Tribunal is only concerned with the environmental degradation and illegal coal mining. The Committee's report or direction of the Tribunal in no manner encroaches upon the administration of tribal areas by the District and Regional Councils."

- d. That thereafter the NGT Committee conducted a Coal-Audit of the Cement Companies, Power Plants and Steel Plants etc. situated in the State of Meghalaya. The only role that the

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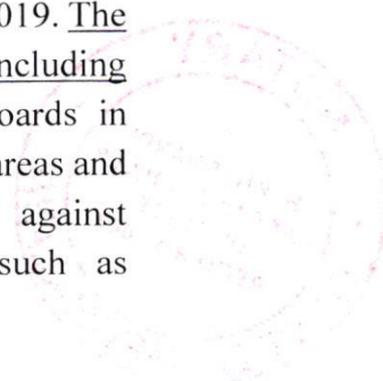
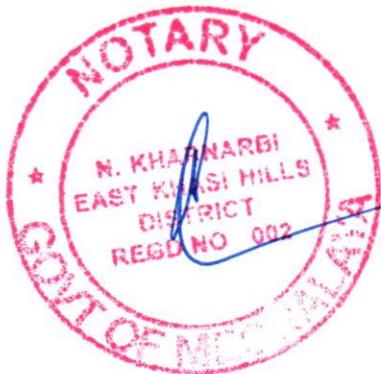
answering respondent performed in the said coal audit conducted by the NGT Committee is to provide information available in its record as sought by the NGT Committee from time to time.

e. That in the 15<sup>th</sup> sitting of the NGT Committee dated 28.06.2019 the Cement Companies and other similarly placed companies were called upon by the said Committee to place on record information as sought by the Committee. Further, in the 17<sup>th</sup> sitting of the NGT Committee dated 14.08.2019 some observations were made by the NGT Committee on incorrect reporting of the minerals used by these companies in their respective plants and evasion of Royalty based on its independent coal audit conducted on directions of the Hon'ble NGT.

f. That subsequently, the case was listed before the Hon'ble NGT, Principal Bench on 22.08.2019 wherein the Hon'ble NGT was pleased to reiterate its earlier direction of Coal Audit of power plants and cement companies in following words:

“6. Further report was considered on 11.04.2019. The Tribunal approved the recommendations including those for installation of digital display boards in respect of quality of water of the concerned areas and evolving mechanism for effective action against transportation of illegally mined coal such as

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electronic manifest system, audit of source of coal acquired by the power generation and cement plants.

15. The companies in question are directed to furnish the requisite information to the Committee, failing which this Tribunal may have to take coercive measures against the Chief Executive Officers of the companies. This aspect will be considered in the light of further report of the Committee. The Committee may also make its recommendations about the conduct of officers not cooperating in compliance of orders of the Hon'ble Supreme Court and this Tribunal so that the State may take appropriate action and inform this Tribunal.

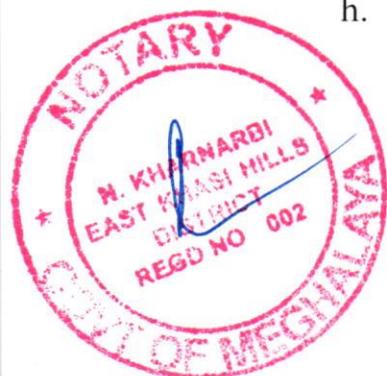
**16.** The Committee has proposed to send its further report by 31.08.2019. Thereafter, a further report be sent after three months by 30.11.2019.

**17.** List again on 10.12.2019 or as and when the occasion arises.”

[Emphasis Applied]

- g. That subsequently the NGT Committee was please to prepare and submit its 5<sup>th</sup> interim-report, exclusively on the direction of Hon'ble NGT passed in order dated 04.01.2019 relating to Coal Audit of the Appellants and other such companies before the Hon'ble NGT on 02.12.2019.
- h. That the answering Respondent was not privy to the said report and it was directly submitted to the Hon'ble NGT by the Committee. The NGT Committee has submitted its 6<sup>th</sup> report also

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directly before the Hon'ble NGT on 03.12.2019 without providing a copy of the same to the answering Respondent. Copy of the 5<sup>th</sup> interim report and was made available to the answering respondent only on the date of hearing before the Hon'ble NGT, Principal Bench.

i. That during the course of the hearing dated 09.01.2020, the answering Respondent has raised objection to the 4<sup>th</sup> and 6<sup>th</sup> report of the NGT Committee which was directed against the answering Respondent. The answering Respondent did not submit any reply to the 5<sup>th</sup> interim report of the committee as it was not privy to the independent coal audit conducted by the NGT Committee and as such had no comments to offer.

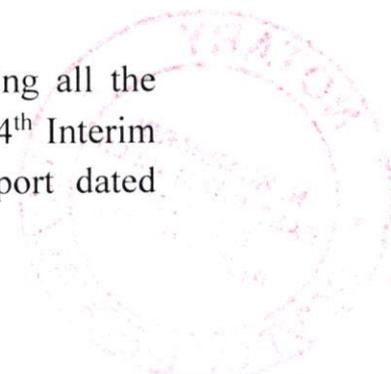
j. That vide order dated 17.01.2020, which was impugned before the Hon'ble Supreme Court and set-aside by the Hon'ble Supreme Court vide order dated 02.05.2023 passed in C.A. No.3280 of 2020, the Hon'ble NGT was pleased to accept the recommendation of the NGT Committee made in 5<sup>th</sup> interim report and directed the answering Respondent to comply with the same

in following terms:

**“Directions**

22. Under the circumstances, while accepting all the recommendations of the Committee in its 04<sup>th</sup> Interim Report dated 31.08.2019, 05<sup>th</sup> Interim Report dated

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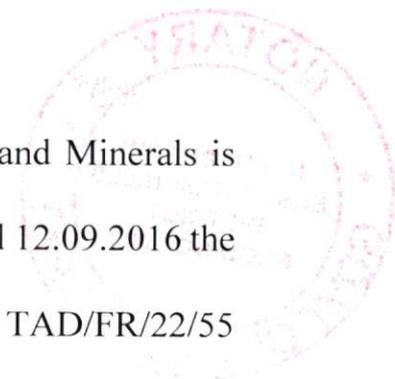
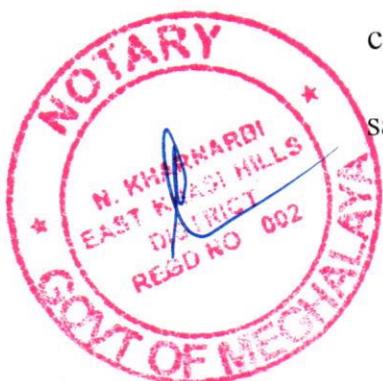
02.12.2019 and 06<sup>th</sup> Interim Report dated 03.12.2019, we also accept the request of Justice B.P. Katakey, former Judge, Guwahati High Court to be relieved.”

k. That after the aforesaid directions have been set-aside by the Hon'ble Supreme Court of India, the present proceedings are before this Hon'ble Tribunal, wherein, basically the cement companies are to reply to the findings against them made by the NGT Committee in its 5<sup>th</sup> interim report as to why the penalties recommended to be imposed upon them for circumventing payment of royalty, tax, cess etc. be not enforced upon them.

8. That the State Government is not privy to the independent coal audit conducted by the NGT Committee under the directions of the NGT and it was not involved by the NGT Committee in the said audit of Appellants. Insofar as usage of alternative Fuel/Muslate/Pet Coke and saw dust is concerned the state government has not been called by the Katakey Committee to address the said issue, however a perusal of the documents submitted shows that CPCB has placed the material before the committee that alternative fuel can technically be used.

9. It is also submitted that insofar as grant of Mines and Minerals is concerned in the State of Meghalaya is concerned, till 12.09.2016 the same was being governed by Executive Order No. TAD/FR/22/55

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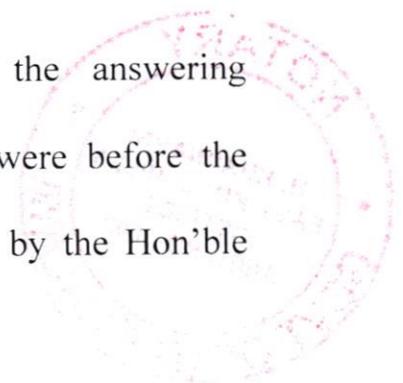
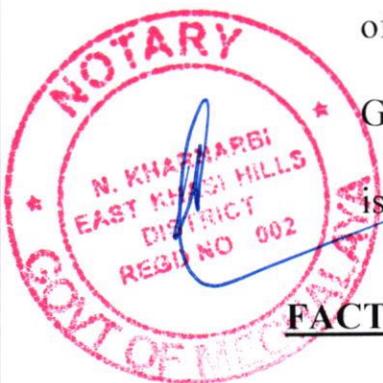
dated 29.01.1962 and Meghalaya Minor Concession Rules, 2016 came to be framed making provision for grant of lease to mines and minor minerals also and since then it is mandatory to obtain all environmental clearances before getting mining lease for minor minerals and approval of mining plan etc. is also mandatory to start mining operations.

10. It is also most respectfully submitted that prior to the judgment of this Hon'ble court in the case of *State of Meghalaya vs. All Dimasa Students Union* (Supra), the position of law was not clear as to the coal mining the State of Meghalaya is concerned. It is submitted that even the Government of India has written a letter to the Government of Meghalaya dated 02.07.1987, wherein the Central Government has acknowledged the tribal and customary rights of Tribals and has expressed that it does not intend to disturb the customary tribal rights of mining in the State of Meghalaya. A copy of the letter of Government of India to Government of Meghalaya dated 02.07.1987 is annexed herewith and marked as **ANNEXURE R/6**.

**FACTS AS TO INDIVIDUAL COMPANIES:**

11. That the factual information available with the answering Respondent pertaining to the companies which were before the Hon'ble Supreme Court against the order passed by the Hon'ble

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NGT, Principal Bench dated 17.01.2020 and which have been granted liberty to get their case adjudicated afresh before this Hon'ble Tribunal are summarized as under:

**I. M/s Star Cements Ltd. & M/s Star Cement Meghalaya Ltd. & Meghalaya Power Limited:**

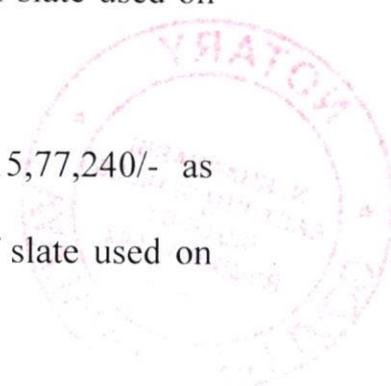
- a. That none of the above three companies were having any lease for mining of minor minerals in their name.
- b. The above three companies have paid Royalty on use of mu-slate procured through local miners, on their behalf, during the audit period as follows:

- i. Star Cement Ltd. has paid Rs. 2,40,02,011/- as Royalty for use of 518564.690 MT of slate used on 08.10.2018 and 12.02.2019.

- ii. Star Cement Meghalaya Ltd. paid Rs. 6,26,72,167/- as Royalty for use of 1366657.060 MT of slate used on 08.10.2018 and 12.02.2019.

- iii. Meghalaya Power Ltd. paid Rs. 4,15,77,240/- as Royalty for use of 913768.560 MT of slate used on 08.10.2018 and 12.02.2019.

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 Secretary, M.P.  
 to the Govt. of Meghalaya  
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## II. Amrit Cements Ltd.:

- a. That M/s Amrit Cement Limited was not having any mining lease for slate/mu-slate during the audit period and did not pay any Royalty on Mu-slate or any other minor mineral fuel to the State during the audit period.

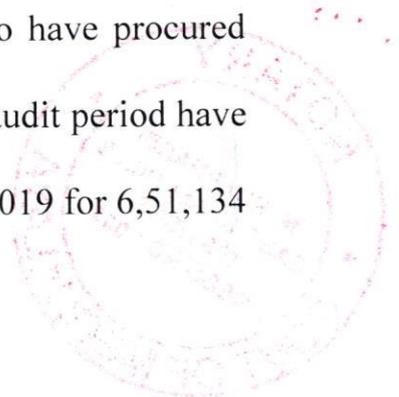
## III. Dalmia Cement (Bharat) Ltd.:

- a. That M/s Dalmia Bharat Cements Ltd., does not have any mining lease in their name.
- b. That M/s Dalmia Bharat Cements Ltd. claim to have procured mu-slate from local miners and during the audit period had paid an amount of Rs. 4.10 Crore to the State Government in respect of their claim of having already consumed 9.12 lakh MT of slate as alternative fuel in their cement plant on 08.02.2019.

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to the Govt. of Meghalaya  
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## IV. Goldstone Cement Ltd.:

- a. That M/s Goldstone Cements Ltd. does not have any mining lease in their name.
- b. That M/s Goldstone Cements Ltd. claim to have procured mu-slate from local miners and during the audit period have paid Royalty of Rs. 2,93,01,030/ on 15.02.2019 for 6,51,134



MT of mu-slate used by them on behalf of local miners from where they have claimed to have procured the same.

**V. Green Valliey Industries Ltd.:**

- a. That M/s Green Valliey Industries Ltd. does not have any mining lease in their name.
- b. That M/s Green Valliey Industries Ltd. claim to have procured mu-slate from local miners and during the audit period have paid total Royalty of Rs. 78,80,349/ on 01.07.2019 and 05.07.2019 for 1,62,352.2 MT of mu-slate used by them on behalf of local miners from where they have claimed to have procured the same.

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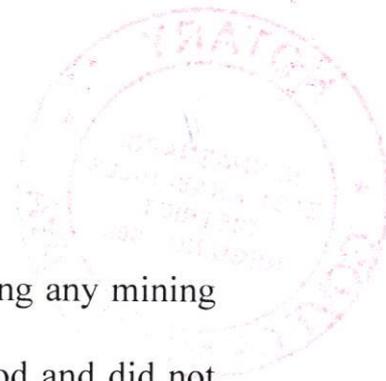


**VI. Hill Cements Ltd.:**

- a. That Hill Cements Limited does not have any mining lease in their name. and did not pay any Royalty on Mu-slate or any other minor mineral fuel to the State during the audit period.

**VII. JUD Cements Ltd.:**

- a. That M/s JUD Cement Limited was not having any mining lease for slate/mu-slate during the audit period and did not



pay any Royalty on Mu-slate or any other minor mineral fuel to the State during the audit period.

#### VIII. Meghalaya Cements Ltd.:

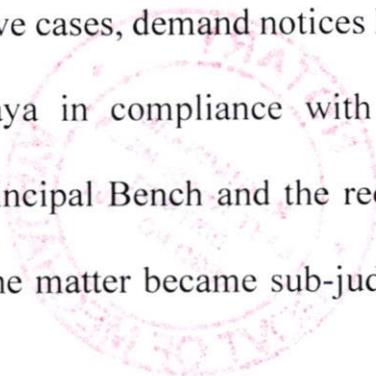
- a. That M/s Meghalaya Cements Ltd. does not have any mining lease in their name.
- b. That M/s Meghalaya Cements Ltd. claim to have procured mu-slate from local miners and during the audit period have paid total Royalty of Rs. 1,00,47,498/- on 01.03.2017 and 13.07.2017 for 2,23,277.7 MT of mu-slate used by them on behalf of local miners from where they have claimed to have procured the same.

E. Kharpurbi, M.S.  
Secretary  
to the Govt. of Meghalaya  
Mining & Geology Department

#### IX. Shyam Centuries Ferrous Ltd.:

- a. That M/s Shyam Centuries Ferrous Ltd. was not having any mining lease for slate/mu-slate during the audit period and did not pay any Royalty on Mu-slate or any other minor mineral fuel to the State during the audit period.

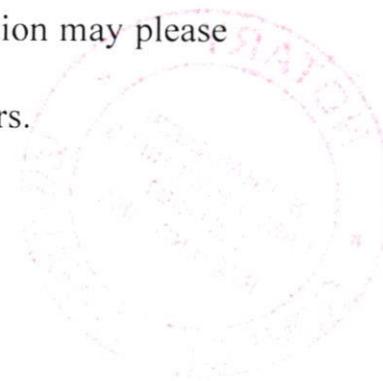
12. That in all the above cases, demand notices have been issued by the State of Meghalaya in compliance with the directions of the Hon'ble NGT, Principal Bench and the recovery proceedings are underway when the matter became sub-judice before the Hon'ble



Supreme Court which has been pleased to set-aside the imposition of penalty etc. on the Cements and Power Companies as recommended by the NGT Committee in its 5th interim report and hence, the process of recovery has been kept in abeyance pending adjudication by this Hon'ble Tribunal.

13. That the information contained in the above affidavit is as per the records maintained by the answering Respondents and is being placed on record to assist this Hon'ble Tribunal as the State Government was not involved in the preparation of 5<sup>th</sup> interim report by the NGT Committee and the determination of penalty calculated thereof, which is the domain of experts.
14. That in view of the submissions of law and facts made hereinabove in the reply affidavit submitted on behalf of the Respondent No.1- State of Meghalaya, the captioned original application may please be disposed of with appropriate directions and orders.

It is prayed accordingly.



  
**DEPONENT**  
E. Kharmalki, IAS  
Secretary  
to the Govt. of Meghalaya  
Mining & Geology Department

**VERIFICATION:**

Verified at Shillong on this 08<sup>th</sup> day of February, 2024 that the contents of above affidavit are true and correct to the best of my knowledge and belief based on official records of Respondent No.1- State of Meghalaya and nothing is false and nothing material has been concealed therefrom.

Identified by :  
*[Signature]*

(Mr. A.M. Pala)  
Shillong, Advocate



*[Signature]*  
**DEPONENT**  
E. Kharmalki, IAS  
Secretary  
to the Govt. of Meghalaya  
Mining & Geology Department

*[Signature]* 08/02/2024  
NELSON KHARNARBI  
NOTARY  
East Khasi Hills District  
Government of Meghalaya

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No 3280 of 2020**

**Star Cement Limited & Ors**

**.... Appellant(s)**

**Versus**

**State of Meghalaya & Ors**

**....Respondent(s)**

**WITH**

**Civil Appeal No 4144 of 2020**

**Civil Appeal No 2302 of 2021**

**Civil Appeal No 2355 of 2021**

**Civil Appeal Nos 2726-2727 of 2021**

**Civil Appeal Nos 4991-4992 of 2021**

**Civil Appeal No 781 of 2022**

**Civil Appeal No 3528 of 2022**

**Civil Appeal No 4962 of 2022**

Signature Not Verified

  
Digitally signed by  
Sanjay Kumar  
Date: 2023.05.08  
16:52:03 IST  
Reason: 

**ORDER**

- 1 This batch of appeals arises from a judgment of the National Green Tribunal<sup>1</sup> dated 17 January 2020.
- 2 In 2012, the Gauhati High Court registered a public interest litigation *suo motu* on the basis of a news item in the month of July, stating that several labourers were trapped inside a coal mine resulting in large scale deaths. The proceedings before the Gauhati High Court were transferred to the NGT and were numbered as Original Application No 110 (THC)/2012.
- 3 In the meantime, in 2014, All Dimasa Students Union Dima Hasao District Committee instituted Original Application No 73 of 2014 before the Principal Bench of the NGT making serious allegations against 'rat-hole' mining operations which were being carried out in Jaintia Hills of the State of Meghalaya without regulation under the law.
- 4 The NGT issued an order on 17 April 2014 directing the State of Meghalaya to ensure the cessation of rat-hole mining forthwith and of the illegal transportation of coal.
- 5 During the pendency of the proceedings, a Committee was constituted on 9 June 2014 to quantify the coal that had already been extracted before the ban and to assess its location and value. The Committee was also to prescribe the mode of transportation. This was followed by subsequent orders of the NGT. On 31 August 2018, the NGT constituted a Committee chaired by a former Judge of the  
1 "NGT"

Gauhati High Court to look into the restoration of the environment and rehabilitation of the victims. The Committee was also to supervise issues pertaining to receivership / custodianship of the already extracted coal, including environmental issues arising out of storage and remedial steps. The Committee furnished a report on 2 January 2019, which was considered by the NGT in an order dated 4 January 2019.

- 6 The order also took note of another tragic incident which had taken place on 13 December 2018, despite the earlier ban by the NGT.
- 7 From the impugned order of the NGT, it emerges that the Committee had submitted three reports on 2 January 2019, 31 March 2019 and 2 August 2019, which were dealt with by the NGT in its orders dated 4 January 2019, 11 April 2019 and 22 August 2019. The Committee thereafter submitted reports dated 31 August 2019, 2 December 2019 and 3 December 2019. The gist of these reports was set out by the NGT. The Committee, in the course of its fifth interim report dated 2 December 2019, arrived at the conclusion that there was a huge gap in the quantity of coal required to produce the reported quantity of clinker and/or power and the coal reported to have been purchased from legal sources by the cement manufacturing plants and thermal power plants in the State of Meghalaya for which an audit was completed by the Committee. The Committee estimated the year-wise quantity of the coal required to produce the reported quantities of clinker and/or power, the coal actually purchased from legal sources and the gap between them for 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19. Having carried out this exercise, the Committee estimated in the case of nine industrial units:

- (i) The quantity of illegal coal used in metric tonnes;
- (ii) The royalty payable;
- (iii) The contribution required to be made to the Environmental Protection and Restoration Fund; and
- (iv) GST/VAT payable.

The Committee submitted its sixth interim report dated 3 December 2019 to deal with the objections raised by the State of Meghalaya.

- 8 From the impugned order of the NGT, it emerges that the proceedings before the NGT came up for hearing on 9 January 2020 and the impugned order was uploaded on the website on 17 January 2020. After setting out the gist of the reports, the NGT dealt with the objections which were filed by the State of Meghalaya to the reports submitted by the Committee on 31 August 2019 and 3 December 2019. After rejecting the objections of the State of Meghalaya, the NGT proceeded to issue its directions, accepting all the recommendations of the Committee in the fourth interim report dated 31 August 2019, fifth interim report dated 2 December 2019 and sixth interim report dated 3 December 2019. The directions which have been issued by the NGT are summarized thereafter in paragraph 23, which is extracted below:

“23. Without in any manner meaning to dilute the exhaustive recommendations of the Committee, the substance of the recommendations of the Committee can be summed up to include monitoring of illegal raising and transportation of coal by the Chief Secretary of the State; steps for punitive measures for illegal mining — filling up gaps in the regulatory regime; action for preventing

minimizing and mitigating environment pollution by acidic water from coal depots; electronic recording of movement of coal including by way of GPS and RFID Tags and having a central server for the purpose; inspection of wings of BSF and vigilance department; establishing and supervising check posts and weigh bridges; utilization of the compensation amount for legitimate purposes in terms of the recommendations in the report; continuing Prof. A.K. Singh, nominee, IIT-ISM, Dhanbad as member of the Committee; monitoring of sourcing of illegally mined coal by cement manufacturing/thermal power plants for enforcement of mining law, including punitive and remedial actions for sourcing of illegally mined material, as found by the Committee; conducting necessary audit; study of land use and land cover analysis; drilling of bore holes in Khlihirt-Sutnga area in East Jaintia Hill District; preparation of geological report and feasibility report for scientific coal mining; compiling information about location of dumps of coal; finalizing mode and manner of handling of coal and its disposal including e-auction; transfer of coal to Coal India Limited; monitoring of illegal export of coal to Bangladesh by an independent agency; adopting satellite surveillance systems; action by the State PCB for enforcement of environmental norms; verification of claims of victims and disbursement of payments to them in the manner suggested by the Committee; implementing action plan prepared by the Committee by the State PCB etc. Compliance of all the recommendations may need to be closely monitored by the Committee.”

- 9 None of the appellants were parties to the proceedings before the NGT. It is common ground that the appellants were called upon to submit information to the Committee appointed by the NGT. According to the appellants, the fifth interim report dated 2 December 2019 was uploaded on 8 January 2020 at 1655 hours, following which a hearing took place on 9 January 2020. Neither were the appellants impleaded as parties to the proceedings nor was any notice issued to them to submit objections to the interim reports which were filed before the NGT. Eventually, the NGT, as noted earlier, accepted the recommendations of the Committee.

- 10 Section 19(1) of the National Green Tribunal Act 2010 provides that the NGT shall not be bound by the procedure laid down by the Code of Civil Procedure 1908, but shall be guided by the principles of natural justice. The National Green Tribunal (Practices and Procedures) Rules 2011 provide in Rule 15 for service of notice and processes and in Rule 16 for the filing of replies and other documents by respondents.
- 11 The appellants were not parties before the NGT and did not have the opportunity to deal with the contents of the reports of the Committee appointed by it. The NGT had assigned a fact finding and recommendatory role to the Committee. The ultimate decision on the reports of the Committee had to be taken by the NGT, which could only be arrived at after considering the submissions of the parties, who would be directly affected by the findings of the Committee if they were to be accepted by the NGT.
- 12 Reading the impugned order of the NGT, we do not find any independent application of mind. The Committee, which was chaired by a former Judge of the High Court, had in the view of the NGT, carried out a copious exercise. But that would not obviate the need for the NGT to arrive at its own independent findings after furnishing the parties, who would be directly affected, an opportunity of being heard. The NGT having not done so, we would have to restore the proceedings in relation to the appellants back to the file of the NGT, at the stage, at which they stood prior to the passing of the impugned judgment dated 17 January 2020. Consequently, and to facilitate the above exercise, we set aside the impugned judgment dated 17 January 2020 in relation to its applicability to the appellants before this Court and direct that:

- (i) The appellants shall submit their responses to the interim reports of the Committee appointed by NGT within a period of four weeks;
  - (ii) NGT shall furnish to the appellants an opportunity of being heard, after which it shall proceed to pass orders after dealing with the suggestions and objections of the appellants in accordance with law;
  - (iii) NGT shall take a final decision in three months; and
  - (iv) The appellants would be at liberty to apply to the NGT for inspection of records, including the underlying documents which were submitted by the Committee.
- 13 The appeals shall accordingly stand disposed of.
- 14 Pending application, if any, stands disposed of.

.....CJI.  
[Dr Dhananjaya Y Chandrachud]

.....J.  
[J B Pardiwala]

**New Delhi;**  
**May 02, 2023**  
-S-

ITEM NO.11

COURT NO.1

SECTION XVII

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Civil Appeal No(s).3280/2020

STAR CEMENT LIMITED &amp; ORS.

Appellant(s)

VERSUS

THE STATE OF MEGHALAYA &amp; ORS.

Respondent(s)

(WITH IA No. 101983/2020 - APPLICATION FOR PERMISSION, IA No. 119002/2022 - CLARIFICATION/DIRECTION, IA No. 87559/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 101998/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 87560/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 87558/2020 - STAY APPLICATION)

WITH

C.A. No. 4144/2020 (XVII)

(WITH IA No. 120345/2020 - EX-PARTE STAY, IA No. 120344/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 2302/2021 (XVII)

(WITH IA No. 69802/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 69801/2021 - STAY APPLICATION)

C.A. No. 2355/2021 (XVII)

(WITH IA No. 72268/2021 - EX-PARTE STAY, IA No. 72271/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 72270/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 72274/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

C.A. No. 2726-2727/2021 (XVII)

(WITH IA No. 76856/2021 - EX-PARTE STAY, IA No. 76860/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 76858/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 4991-4992/2021 (XVII)

(WITH IA No.91889/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.91888/2021-EX-PARTE STAY and IA No.91887/2021-PERMISSION TO FILE APPEAL)

C.A. No. 781/2022 (XVII)

(WITH IA No.3537/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.3536/2022-STAY APPLICATION and IA No.3534/2022-

PERMISSION TO FILE APPEAL)

C.A. No. 3528/2022 (XVII)

(WITH IA No.60554/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.60553/2022-EX-PARTE STAY and IA No.60555/2022-EXEMPTION FROM FILING AFFIDAVIT and IA No.60552/2022-PERMISSION TO FILE SLP)

C.A. No. 4962/2022 (XVII)

(WITH IA No. 85588/2022 - STAY APPLICATION)

Special Leave Petition (Civil) Diary No(s). 22753/2022 (XIV)

(FOR ADMISSION and I.R. and IA No.123797/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.123795/2022-PERMISSION TO FILE SLP, IA No. 187837/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 02-05-2023 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE J.B. PARDIWALA

For Appellant(s)

Mr. Shyam Divan, Sr. Adv.  
Mr. Udayaditya Banerjee, AOR  
Mr. Sudipto Sircar, Adv.  
Ms. Shreya Bhojnagarwala, Adv.

Mr. Pinaki Misra, Sr. Adv.  
Mrs. Vanita Bhargava, Adv.  
Mr. Ajay Bhargava, Adv.  
Mr. Shantanu Chaturvedi, Adv.  
Ms. Prerna Singh, Adv.  
M/S. Khaitan & Co., AOR

Mr. Dhruv Mehta, Sr. Adv.  
Mr. Nawneet Vibhaw, Adv.  
Mr. Himanshu Pabreja, Adv.  
Mr. S. S. Shroff, AOR

Mr. Huzefa A Ahmadi, Sr. Adv.  
Mr. E. C. Agrawala, AOR

Dr. Ashok Saraf, Sr. Adv.  
Mr. Kaushik Choudhury, AOR

Mr. Manpreet Singh Lamba, Adv.  
Mr. Pulkit Agarwal, AOR  
Mr. Sanampreet Singh, Adv.

10

Mr. Shivani Sharma, Adv.  
 Mr. Ashutosh Kumar, Adv.  
 Mr. Palav Agarwal, Adv.  
 Mr. Aditya Mishra, Adv.

For Respondent(s) Mr. Avijit Mani Tripathi, AOR

Mr. Saurabh Mishra, AOR  
 Mr. Nirbhaya Tewari, Adv.  
 Mr. Rakesh Chander, Adv.  
 Mr. Abhishek Pandey, Adv.  
 Ms. Priya Kaushik, Adv.

Mr. Avneesh Arputham, AOR  
 Ms. Anuradha Arputham, Adv.

Ms. K. Enatoli Sema, AOR  
 Mr. Amit Kumar Singh, Adv.  
 Ms. Chubalemla Chang, Adv.  
 Mr. Prang Newmai, Adv.

Ms. Richa Kapoor, AOR  
 Mr. Kunal Anand, Adv.  
 Ms. Tusharika Sharma, Adv.

**UPON hearing the counsel the Court made the following  
 O R D E R**

- 1 The appeals are disposed of in terms of the signed order.
- 2 Pending application, if any, stands disposed of.

**Special Leave Petition (Civil) Diary No 22753 of 2022**

- 3 In view of the order which has been delivered in the batch of appeals<sup>2</sup> listed together with the Special Leave Petition, Mr Shyam Divan, senior counsel, seeks the permission of the Court to withdraw the Special Leave Petition so as to pursue appropriate remedies before the High Court.
- 2 Civil Appeal No 3280 of 2020 etc.

11

- 4 The application for permission to file the Special Leave Petition and the Special Leave Petition are dismissed as withdrawn.

**(SANJAY KUMAR-I)**  
**DEPUTY REGISTRAR**

**(SAROJ KUMARI GAUR)**  
**ASSISTANT REGISTRAR**

**(Signed order is placed on the file)**

Item No. 28

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 110(THC)/2012

Threat to life arising out of coal mining  
in south garo hills district

Applicant

Versus

State of Meghalaya &amp; Ors.

Respondent

Date of hearing: 22.08.2023

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, CHAIRPERSON  
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

**ORDER**

1. Since the matter relates to the Eastern Zone Bench, Kolkata, thus, the matter is transferred to Eastern Zone Bench, Kolkata
2. Thus, the Registry is directed to transfer and transmit the records of this matter to Eastern Zone Bench, Kolkata where the Registrar shall register the case and place before the Bench for further proceedings according to Rules.
3. List this matter before NGT Eastern Zone Bench, Kolkata on the date already fixed.

Sheo Kumar Singh, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

August 22, 2023  
SN

# **THE FIFTH INTERIM REPORT**

of

The Independent Committee

Consisting of

**JUSTICE BROJENDRA PRASAD KATAKEY**  
FORMER JUDGE, GUWAHATI HIGH COURT, GUWAHATI

**PROF. S. C. BHOWMIK**  
RUNGTA CHAIR PROFESSOR, DEPARTMENT OF MINING ENGINEERING  
REPRESENTATIVE OF THE INDIAN INSTITUTE OF TECHNOLOGY- INDIAN SCHOOL  
OF MINES (IIT -ISM), DHANBAD 826 004

**DR. SHANTANU KUMAR DUTTA, ADDL. DIRECTOR**  
REPRESENTATIVE OF THE CENTRAL POLLUTION CONTROL BOARD

On

**RESOURCE (COAL) AUDIT OF CEMENT INDUSTRIES AND  
THERMAL POWER PLANTS IN MEGHALAYA**

**Submitted To**

**The Hon'ble National Green Tribunal, Principal  
Bench, New Delhi**

**On 02.12.2019**

Constituted vide order dated 31.08.2019 to go into the issues  
arising out of the coal mining in the State of Meghalaya



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## CHAPTER-1: BACKGROUND

1.1 On 12.11.2018, the Committee visited some coal mine areas in East Jaintia Hills District. The Committee on the said day also visited two Cement Plants (*viz.* Star Cement Limited and Star Cement Meghalaya Limited) and a Thermal Power Plant (*viz.* Meghalaya Power Limited) of the Star Cement Limited located at Lumshnong village in East Jaintia Hills District. The Committee during the visit to these plants made following observations:-

- (i) M/s Meghalaya Power Limited is a 43 MW Coal Based Power Plant. The Unit stands beside M/s Star Cement Limited, which is an integrated cement plant. M/s Meghalaya Power Limited, M/s Star Cement Limited and another cement plant, namely, M/s Star Cement Meghalaya Limited, are Units of same group of Companies. The cement plants are branded as 'Star Cement'.
- (ii) Huge quantity of coal is lying in open coal storage areas. The representative of the cement plants, present during the visit, claims that they procure coal for the plant from North East Coalfields Limited, Margherita and from Eastern Coal Fields as well as from the State of Nagaland. It has also been stated that they procured coal from local market when the transportation of the coal from mines in the State of Meghalaya was allowed by the Hon'ble Supreme Court and Hon'ble National Green Tribunal. They also claimed import of about 20,000 MT of coal from Malaysia during the last financial year.
- (iii) As per the record of the Central Pollution Control Board, the Star Cement Group of Companies, which has 2(two) power plants of 1 X 43 MW and 1 X 8 MW capacity, which need considerable amount of coal for operating the power plants. It has 2(two) integrated cement Units, *viz.* Star Cement Limited and Star Cement Meghalaya Limited, which use coal of about 15% of total clinker production.
- (iv) Moreover, as per the record of Central Pollution Control Board, there are few other Coal Based Power Plants in Lumshnong areas of East Jaintia Hills District. The capacity of captive power plants of various cement producing mills, as is available with the Central Pollution Control Board, is given below –

<i>Sl. No.</i>	<i>Name of the Cement Plant</i>	<i>Capacity of Captive Power Plants</i>
1.	<i>Adhunik Cement Limited</i>	<i>25 MW</i>
2.	<i>Meghalaya Cements Limited</i>	<i>12 MW</i>
3.	<i>Amrit Cements Limited</i>	<i>10 MW</i>
4.	<i>Goldstone Cements Limited</i>	<i>10 MW</i>

1.2 The Committee in its Fourth Sitting held on 13.11.2019 took note of the above observations and directed the North Eastern Regional Directorate of the Central Pollution Control Board (CPCB) to prepare and submit a report on the coal consumption in the Captive Power Plants of the Cement Manufacturing Units of East Jaintia Hills District and also in the clinker production for the last 4 (four) years (*viz.* 2014-15, 2015-16, 2016-17 and 2017-18) based on technical data on average coal requirement per MT of clinker production and coal consumption per million units of power generation.

1.3 During Fifth Sitting of the Committee held on 07.12.2019 the North Eastern Regional Directorate of the CPCB assured the Committee that based on compilation of the data, a report on coal consumption as sought by the Committee in its Fourth Sitting will be submitted to the Committee within a week.

1.4 During Sixth Sitting of the Committee held on 20.12.2019 the North Eastern Regional Directorate of the CPCB informed the Committee that the report as asked for relating to year - wise requirement, source of procurement and consumption of coal by the Cement Industries, Power Plants and Captive Power Plants in the State of Meghalaya, shall be submitted to the Committee in its next meeting

1.5 The Committee through its First Interim Report dated 31.12.2018 placed its observations on the matters as contained in paragraph 1.1 above, before the Hon'ble National Green Tribunal (NGT). The Hon'ble NGT in Order dated 04.01.2019 took note of these observations and directed that the Committee may consider the

resource (coal) audit of Meghalaya Power Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source.

**1.6** During Seventh Sitting of the Committee held on 11.01.2019 the North Eastern Regional Directorate of the CPCB informed that out of 7 (seven) Captive Power Plants in the State of Meghalaya, the relevant data relating to coal consumption from 6 (six) Plants have been collected. It was also informed that the data from the remaining 1 (one) Plant *viz.* Goldstone Cement Limited will be collected soon and the consolidated data for all these 7 (seven) plants will be submitted to the Committee in its next Sitting.

**1.7** During Eighth Sitting of the Committee held on 11.02.2019 the North Eastern Regional Directorate of the CPCB submitted a report on coal consumption by Thermal Power Plants and Cement Industries in the State of Meghalaya. As per the said report the State of Meghalaya is home to sixteen (16) Cement Industries and nine (9) Thermal Power Plants. Except one standalone Thermal Power Plants (*viz.* Meghalaya Power Limited), all other Thermal Power Plants are Captive Power Plants of the Cement and other Industries. Out of these sixteen (16) Cement Industries, one (1) Cement Industry (*viz.* Billenium Cement Limited) is a clinker grinding unit which does not use any coal. It has also been stated in the said report of the North Eastern Regional Directorate of the CPCB that three (3) Cement Industries (*viz.* H.M. Cement Limited, RNB Cement Limited and Megatech Engineers Limited) did not consume any coal since the year 2014-15 as these industries were under shutdown. It has also been stated in the said report that out of these sixteen (16) Cement Industries, two industries (*viz.* Jaintia Cement Limited and Virgo Cement Limited) are vertical shaft Kiln (VSK) based cement producing units. These units use coke breeze/low ash metallurgical coke (LAMC) as a fuel. No coal has been used by any of these industries since ban on rat hole mining was imposed by the Hon'ble NGT in the month of April, 2014.

**1.8** The Committee took a copy of the said Report on record for further examination and directed the North Eastern Regional Directorate of the CPCB to submit a report to the Committee as to whether the procurement of coal from Meghalaya by the Thermal Power Plants and Cements Industries has violated any

condition set forth in the licence/ permission granted for setting up of such power plants and cement industries and if so, the required action to be taken against those Thermal Power Plants and Cement Industries. The Committee further directed that the said report shall be submitted on 25.02.2019.

**1.9** During Ninth Sitting of the Committee held on 25.02.2019 the North Eastern Regional Directorate of the CPCB sought more time to submit a report relating to the violation or otherwise of any condition set forth in the license/ permission granted to the thermal power plants and cement industries by procuring coal locally from the State of Meghalaya and also the action required to be taken against those thermal power plants and cement industries. The Committee allowed the North Eastern Regional Directorate of the CPCB to submit the report till its next Sitting to be held on 25.03.2019.

**1.10** During Eleventh Sitting of the Committee held on 25.03.2019 the North Eastern Regional Directorate of CPCB submitted an updated report on coal consumption by Cement Industries and Thermal Power Plants in the State of Meghalaya. The Committee after examination of the said Report observed that year-wise details of coal reported to be consumed by various Cement and Thermal Power Plants have only been provided in the said report. The Committee further noted that in the absence of year-wise details of cement or the power produced by each of the Cement Industries and Thermal Power Plants and the quantity of coal required to produce such quantity of cement or power, it is not possible for the Committee to ascertain that quantity of coal reported to be procured by these plants was sufficient to produce reported quantity of cement/power. The Committee further noted that difference between the quantity of coal reportedly consumed by each of the Cement Industries and Thermal Power Plant and the quantity of coal required to produce such reported quantity of cement or power by each such plant, if any, could have been met by illegally mined coal. The Committee therefore directed the North Eastern Regional Office of the CPCB to revise the report keeping in view the above observations and submit the same to the Committee during its next Sitting to be held on 25.04.2019.

**1.11** The Hon'ble NGT by order dated 11.04.2019 directed that the Committee may also consider requiring audit of the sources of coal acquired by the power generation and cement plants in the State of Meghalaya.

**1.12** The Committee in its twelfth Siting held on 25.04.2019 formulated a format for undertaking resource (coal) audit of each Cement Industry and Thermal Power Plant in the State of Meghalaya by North Eastern Regional Directorate of the CPCB in compliance of the directions issued by the Hon'ble NGT's by the said Order dated 11.04.2019.

**1.13** During Fourteenth Sitting of the Committee held on 03.06.2019 representative of the CPCB informed the Committee that information in respect of resource (coal) audit of Cement Industries and Thermal Power Plants in the State of Meghalaya to be undertaken by them in compliance of directions issued by the Hon'ble NGT by order dated 11.04.2019 has been received from only two such units. Information received from these units also does not appear to be correct. The Committee during the said Sitting noted that reluctance of these Cement Industries and Thermal Power Plants to provide requisite information not only amounts to total disregard and disrespect to the Hon'ble NGT and to the CPCB but also creates a suspicion about use of illegally mined coal by these plants. The Committee further noted that continuous defiance of these units is highly unacceptable and cannot be tolerated any further. The Committee, keeping in view the above, directed that in case any of these units continues to wilfully disobey the requests made by the North Eastern Regional Directorate of CPCB to provide the data/information required by them to conduct the resource (coal) audit, the North Eastern Regional Directorate of CPCB shall initiate appropriate punitive action, as per law, against each such defaulting units.

**1.14** The Committee during its Fourteenth Sitting held on 03.06.2019 also noted that year-wise details of coal purchased by each of these units since imposition of ban on mining of coal in the State by the Hon'ble NGT are already available in the first report prepared by the North Eastern Regional Directorate of the CPCB. The Committee further noted that other information such as annual production of coal/power and specific fuel consumption by each such units are available in the Annual Reports and Detailed Project Report (DPR) of these units, a copy of which is either

available in the public domain or is already available with North Eastern Regional Directorate of the CPCB. The Committee keeping in view the above directed that the North Eastern Regional Directorate CPCB shall complete resource (coal) audit of each cement/power plant in the State and submit a report to the Committee within a month, without fail.

**1.15** The Committee in its Fifteenth Sitting held on 28.06.2019 noted that from perusal of information on the clinker and power produced by some of these plants available in their annual reports, a copy of which is available in the public domain *prima facie* it appears that quantity of coal reported to be procured by some of these plants is grossly insufficient to produce reported quantity of cement and/or power by such plants. The Committee further noted that the gap has, in all probability, been met by illegally mined coal. The same, if found to be true, has not only resulted in gross violation of the orders of the Hon'ble NGT and the Hon'ble Supreme Court but has also resulted in enormous loss of revenue to the State. To have a preliminary assessment of illegally sourced coal, if any, used by any of these plants/industries after ban on mining of coal was imposed by the Hon'ble NGT in April, 2014, the Committee directed the Managing Directors/ Chief Executive Officers of all Cement Industries and Thermal Power Plants in the State of <sup>Meghalaya</sup> to depute their duly authorised representative(s) to remain present before the Committee in its sitting to be held on 23.07.2019 and produce before the Committee, along with supporting documentary evidence, the following information /documents:

- (i) Year-wise details of clinker and / or power produced since imposition of ban on coal mining in the State in April 2014;
- (ii) Year-wise details of coal and / or any other alternate fuel procured since imposition of ban on coal mining in the State in April 2014;
- (iii) Year-wise details of the quantity of cement/ clinker on which transport subsidy, if any, has been claimed by the plant since imposition of ban on coal mining in the State in April 2014;
- (iv) A copy of annual report for each of the years since imposition of ban on coal mining in the State ;

- (v) Average estimated quantity of coal and / or any other alternate fuel(s) required to produce one tonne of clinker and / or one unit (kwh) of power; and
- (vi) A copy of Detailed Project Reports (DPRs) submitted to the Bank(s) / Financial Institution(s) to obtain loan for establishment / expansion / modernization of the plant.

**1.16** During Sixteenth Sitting of the Committee representatives of 9 (nine) Cement Industries (*viz.* Amrit Cement, Cosmos Cement Limited, Dalmia Bharat Cement Limited, Jaintia Cement Limited, JUD Cement Limited, Mawmluh Cherra Cement Limited, Meghalaya Cement Limited, Star Cement Limited and Star Cement Meghalaya Limited) and four (4) Thermal Power Plants (*viz.* Maithan Alloys Limited, Meghalaya Power Limited, Shree Sakambari Ferro Alloys Pvt. Ltd. and Shyam Century Ferrous Ltd.) appeared before the Committee. A summary of deliberations held on the matter during the said Sitting of the Committee is as below:

- (i) Representatives of Mawmluh Cherra Cement Limited, Jaintia Cement Limited, Maithan Alloys Limited and Shree Sakambari Ferro Alloys Pvt. Ltd. submitted information and documents sought by the Committee. The Committee observed certain discrepancies in information submitted by Maithan Alloys Limited and Shree Sakambari Ferro Alloys Pvt. Ltd. and requested them to depute a representative to attend next sitting of the Committee to be held on 14.08.2019 along with the corrected information. The Committee also noted that the information provided by the Mawmluh Cherra Cement Limited does not contain Annual Report for the year 2018-19.
- (ii) Representative of Jaintia Cement Limited informed that they do not use coal as a fuel. He further stated that the entire fuel requirement for the said plant is met from the Coke Breeze sourced from Assam. The Committee directed the North Eastern Regional Directorate of the CPCB to undertake audit of each of the Coke Plants from which the coke has reportedly been sourced by the Jaintia Cement Limited in the format stipulated by the Committee for resource (coal) audit of cement factories and Thermal Power Plants in Meghalaya and submit a report to the Committee within one month. The said Report is still awaited from the North Eastern Regional Directorate of CPCB.

- (iii) The representative of Cosmos Cement informed that they have not yet installed the plant and machineries of the Cement Plant and have therefore neither commenced production of the cement nor have purchased any coal.
- (iv) Dr. Shantanu Kumar Dutta, Addl. Director, North East Regional Directorate of the CPCB who is also a member of the Committee informed that the RNB Cement Limited will not be able to provide any information or document as the plant has been taken over by the National Company Law Tribunal (NCLT) and is managed by an Interim Resolution Professional (IRP).
- (v) Representatives of Amrit Cement, Meghalaya Cement Limited, Meghalaya Power Limited, Star Cement Limited and Star Cement Meghalaya Limited initially questioned the jurisdiction of the Committee to seek information from them. Later on they agreed to provide the information and documents sought by the Committee provided additional time is granted to them. Similarly representatives of Dalmia Bharat Cement Limited, JUD Cement and Shyam Century Ferrous Limited requested the Committee to provide additional time for submission of the information and documents sought by the Committee. In spite of prior notice, five Cement Industries (*viz.* Greenvalley Industries Limited, Goldstone Cements Limited, Hills Cements Limited, RNB Cement Limited and Virgo Cements Limited) and one Thermal Power Plant (*viz.* CMJ Breweries Limited) did not depute a representative to attend Sixteenth Sitting of the Committee. The Committee directed the afore-mentioned defaulting Industries to depute a representative to attend next Sitting of the Committee to be held at Shillong on 14.08.2019 along with all information and documents sought by the Committee, without fail.

1.17 During Seventeenth Sitting of the Committee held on 14.08.2019, representatives of nine (9) Cement Industries (*viz.* Amrit Cement, Dalmia Bharat Cement Limited, Goldstone Cement Limited, Green Valley Industries Limited, Hill Cement Limited, JUD Cements Limited, Meghalaya Cement Limited, Star Cement Limited and Star Cement Meghalaya Limited) and four (4) Thermal Power Plants (*viz.* Maithan Alloys Limited, Meghalaya Power Limited, Shree Sakambari Ferro Alloys Pvt. Ltd. and Shyam Century Limited) appeared before the Committee. A learned Senior Counsel along with one other Counsel appeared before the Committee on behalf of Star Cement Limited and two of its subsidiaries (*viz.* Star

Cement Meghalaya Limited and Meghalaya Limited). A summary of deliberations held on the matter during the said Sitting of the Committee is as below:

- (i) The Mawmluh Cherra Cement Limited provided a copy of Annual Report for the year 2018-19. The Committee took the same on record.
- (ii) Three (3) Cement Industries (*viz.* Goldstone Cement Limited, Meghalaya Cement Limited, Star Cement Limited and Star Cement Meghalaya Limited) and four (4) Thermal Power Plants (*viz.* Maithan Alloys Limited, Meghalaya Power Limited, Shree Sakambari Ferro Alloys Pvt. Ltd. and Shyam Century Limited) submitted information and documents sought by the Committee.
- (iii) One (1) Cement Industry (*viz.* Amrit Cement) provided some of the information/document sought by the Committee. Four (4) Cement Industries (*viz.* Dalmia Bharat Cement Limited, Greenvalley Industries Limited, Hill Cement Limited and JUD Cement Limited) sought additional time to provide information/documents sought by the Committee. In spite of prior notice, one Cement Industry (*viz.* Virgo Cements Limited) and one Thermal Power Plant (*viz.* CMJ Breweries Limited) neither deputed a representative to attend meeting of the Committee nor provided the information/documents to the Committee. The Committee directed all these defaulting Industries to provide the information/documents to the Committee within one week positively.
- (iv) The Committee noted that the quantity of coal procured by Maithan Alloys Limited and Shri Sakambari Ferro Alloys Pvt. Ltd, as per the statements submitted to the Committee, is substantially different than the quantity of coal reportedly consumed by these Plants, as per the details given in a report on coal consumption by the Thermal Power Plants and Cement Industries submitted to the Committee by North Eastern Regional Directorate of CPCB. The Committee therefore, directed the North Eastern Regional Directorate of CPCB to re-examine the records relating to purchase and use of coal by above Thermal Power Plants and submit a report to the Committee within fifteen days.
- (v) The Committee noted that *prima-facie* the quantity of coal purchased by majority of Cement Industries and Thermal Power Plants is much lower than the quantity of coal required to produce reported quantity of clinker and/or electricity.

- (vi) Many of the Cement Industries and Thermal Power Plants claimed that they have used large quantity of slate in place of coal. The Committee noted that it is neither technically feasible nor legally permissible to use large quantity of slate in place of coal.

**1.18** The Star Cement Meghalaya vide letter dated 26.08.2019 submitted a representation wherein, among others, it has been stated that observations made by the Committee that *prima-facie* they have used illegal coal for production of clinker/power is not based on the factual information but on the premise that use of alternate fuel by them is not technically feasible and that no royalty on the same was paid. The Committee sent a copy of the said representation to the MSPCB, the North Eastern Regional Directorate of the CPCB and North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India (GoI) for their comments.

**1.19** During Eighteenth Sitting of the Committee held on 16.09.2019, the MSPCB, the North Eastern Regional Directorate of the CPCB and North Eastern Regional Office of the MoEFCC, GoI submitted their comments on submissions made by the Star Cement in their said letter dated 26.08.2019. The Committee took a copy of these comments on record and directed as below:

- (i) The MSPCB shall provide to the Committee a copy of Environmental Statements submitted to them by all Cement Industries and Thermal Power Plants in the State of Meghalaya for the period from 20014-15 to 2018-19.
- (ii) The MSPCB shall provide to the Committee a copy of all authorizations/ no objection certificates granted by them to Cement Industries and Thermal Power Plants in the State of Meghalaya for use of any fuel other than coal.
- (iii) The MSPCB shall provide to the Committee a copy of 'Consent to Establish' and/or 'Consent to Operate', if any, granted for mining of slate or muslate in the State of Meghalaya. In case no such consent has been granted, the same shall also be intimated to the Committee within one week
- (iv) The North Eastern Regional Office of the MoEFCC, GoI and the State Environmental Impact Assessment Authority (SEIAA), Meghalaya shall provide to the Committee a copy of Environmental Clearance(s), if any, granted for mining of slate in the State of Meghalaya. In case no such EC has been issued by them the same shall also be intimated to the Committee.

- (v) The North eastern Regional Directorate of the CPCB shall provide to the Committee a copy of data which formed the basis for making a submission before the Committee while preparing its First Interim Report to the effect that the two integrated cement units of State Cement Limited (*viz.* Star Cement Limited and Star Cement Meghalaya Limited) use coal of about 15% of total clinker production. The CPCB may also provide the reasons for discrepancy between the said information provided in December 2018 and the information provide vide letter dated 13.09.2019 wherein it has been stated that actual requirement of coal by these cement plants is even less that self-declared quantity of 12.75% of clinker production.

**1.20** During Eighteenth Sitting of the Committee held on 16.08.2019, the Commissioner and Secretray to the Government of Meghalaya, Mining and Geology Department informed the Committee that no mining lease has been granted so far for extraction of slate in the State of Meghalaya. He further stated that local suppliers have supplied muslate or slate sourced from overburden of coal mining carried out prior to ban imposed by Hon'ble NGT. He also stated that six (6) Cement Industries (*viz.* Dalmia Bharat Cement Limited, Goldstone Cement Limited, Green Valley Industries Limited, Meghalaya Cements Limited, Star Cement Limited and Star Cement Meghalaya Limited) and one (1) Thermal Power Plant (*viz.* Meghalaya Power Ltd.) have paid royalty on slate used by them.

**1.21.** Later on, the Committee received requisite information/documents sought from all defaulting Cement Industries and Thermal Power Plants. The Committee also received information/documents sought from the MSPCB, North Eastern Regional Directorate of CPCB and North Eastern Regional Office of the MoEFCC, GoI in its Eighteenth Sitting held on 16.09.2019.



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## CHAPTER 2: ANALYSIS OF INFORMATION PROVIDED BY INDUSTRIES AND REGULATORY AUTHORITIES

### 2.1 Mawmluh Cherra Cement Limited

2.1.1 The Mawmluh Cherra Cement Limited was initiated incorporated as a private enterprise under the Indian Companies Act, 1913 in the name of the 'Assam Cement Limited' on 20.05.1955 to establish first cement plant of the entire North East India at a place named Mawmluh located near Cherrapunjee at about 56 km from Shillong. Keeping in view the inability of the original promoters to raise requisite funds for establishment of the plant, the Government of Assam decided to take-over the enterprise. Accordingly, on 01.01.1964 the Assam Cement Limited became a Government of Assam undertaking with very small and token percentage of share given to private sector. The Cement Plant having installed capacity of 85,000 tones of cement per annum was commissioned in November 1964. With the reorganization of the composite State of Assam resulting in creation of a new State of Meghalaya on 22.01.1972 the control and management of the above enterprise formally passed over to the State of Meghalaya. On 07.05.1974 the above enterprise was rechristened as Mawmluh-Cherra Cement Limited (hereinafter referred to as "MCCL").

2.1.2 The Committee examined the Techno-Economic Feasibility Report for expansion of existing cement plant of MCCL consisting of three long wet process kilns (Kiln 1 of 250 tons per day (TPD) and Kiln 2 and 3 of 340 TPD each) by addition of 600 TPD dry process kiln in the existing cement plant prepared by Holtec Consulting Private Limited in 2004. The said report envisages coal sourced from nearby areas as a fuel for the said plant. List of raw materials for the said plant given in the said Report does not include any other fuel. It has also been stated in the Said Report that specific coal requirement (*i.e.* percentage of coal required to produce a unit quantity of clinker) for the said plant is 16%.

2.1.2 Presently, the dry process kiln of 600 tpd capacity is only operational in the MCCL. The all three wet process kilns have been de-commissioned in 2014. Foundation stone of the said dry process kiln was laid in 2004. The same however,



could be commissioned in the month of September 2016. Hence, after the imposition of ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014 the cement plant of the MCCL was in operation for a period of about three years (*viz.* from September 2016 to March 2019).

**2.1.3** Year-wise details of clinker produced and the coal procured by the MCCL to produce such clinker, since the ban on illegal rat hole coal mining was imposed by the Hon'ble NGT in April 2019 (*viz.* from the year 2014-15 to the year 2018-19) (hereinafter referred to as 'Audit Period') is as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	-	-	32,505	40,440	38,530	1,11,475
Coal procured (MT)			10,196	10,192	11,802	32,190

**2.1.4** The representative of North Eastern Regional Directorate of CPCB informed the Committee that after due scrutiny of all requisite documents, they have found that the entire afore-mentioned quantity of 32,190 MT coal has been procured by MCCL from legal sources.

**2.1.5** The Committee notes that as per the afore-mentioned information, the reported specific coal consumption (*i.e.* percentage of coal consumed to produce a unit quantity of clinker) for the MCCL during the Audit Period is 28.876 %. The Committee also notes that in paragraph 1 of the 'Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010, a copy of the which has been placed before the Committee by North Eastern Regional Directorate of the CPCB, it has been stated that 40 million tones of coal is required to produce 200 million tomes of cement in the entire country. The specific coal consumption for the cement industry for the country as a whole, as per the said Guidelines, is 20%.

**2.1.6** The Committee notes that the reported specific coal consumption by the MCCL during the Audit Period (*i.e.* 28.876%) is substantially higher than the

average specific coal consumption of the Cement Industry for the country as a whole (i.e. 20 %). The Committee further notes that the reported specific coal consumption of the MCCL is also substantially higher than the same for other Cement Industries in Meghalaya. **The Committee is therefore; of the view that during the Audit Period the entire requirement of coal for the MCCL has been met from legal sources.**

## **2.2 Star Cement Limited and its Two Subsidiaries (viz. Star Cement Meghalaya Limited and Meghalaya Power Limited)**

**2.2.1** The Star Cement Limited (formerly known as Cement Manufacturing Company Limited) is the largest cement manufacturer of the North-East India. The first cement plant of the Star Cement Limited, having installed capacity to produce 1,800 TPD clinker was commissioned TPD at Lumshnong village in East Jaintia Hills District in the year 2005. Later on the installed capacity of the said plant was enhanced to produce 2400 TPD clinker. During, 2013, Star Cement Meghalaya Limited, a wholly owned subsidiary of the Star Cement Limited, commissioned a cement plant having installed capacity to produce 5,300 TPD clinker. The Meghalaya Power Limited, a fully owned subsidiary of the Star Cement Limited established 8 MW Thermal Power Plant. The said plant was commissioned in 2009. Later on the installed capacity of the said Thermal Power Plant was enhanced to 51 MW by addition of an eight 43 MW unit. The said Thermal Power Plant having installed capacity of 43 MW was commissioned in 2013. All these Cement Plants and Thermal Power Plant of the Star Cement Limited and its afore-mentioned subsidiaries are located in Lumshnong village in close vicinity to each other. All these plants were in operation before the ban on illegal rat-hole coal mining was imposed by the Hon'ble NGT in April 2014.

**2.2.2** The Committee in its Sixteenth Sitting held on 23.07.2019 examined a Techno-Economic Feasibility Report (TEFR) of the Modernization & Expansion of the then existing plant of the Cement Manufacturing Company Limited (now Star Cement Limited) from 1800 TPD to 2400 TPD clinker and a similar report of 5300 TPD clinkerization plant of the Star Cement Meghalaya Limited, both prepared by Holtec Consulting Private Limited, a copy of the which was provided to the

Committee by representatives of the Star Cement Limited, and observed that both these plants have been designed to use 100% Meghalaya coal available locally from areas within the distance of 50 kms. Nowhere in these reports is it stated that any of these plants can be operated by any alternate fuel other than coal. It has also been stated in these Reports that net calorific value of the local coal to be used in these clinker plants is 5,800 Kcal/kg. It has also been stated in these Reports that specific heat consumption of these plants is 740 Kcal per kg of clinker. The specific coal requirement for both these plants, as per the aforementioned information given in these Reports, is 12.75 %.

2.2.3 The Committee in its Sixteenth Sitting held on 23.07.2019 also examined TEFR of the Meghalaya Power Limited prepared jointly by Technical Consultant – Cethar Consulting Engineers (P) Ltd., Chennai and Financial Consultant- KBG Consultants Pvt. Ltd., Kolkata, a copy of the which was provided to the Committee by a representative of the Star Cement Limited, and observed that as per the said Report the said plant has been designed to use coal sourced from nearby coal mines at Bapung and Khliehriat, Jaintia Hills, in Meghalaya & captive mines, Meghalaya. Requirement of the locally sourced Meghalaya coal at 100 % capacity for the said 43 MW TPP, as per the said Report, is 720 MT per day. The specific fuel requirement for the said TPP, as per the information given in the said Report, is therefore 0.70 kg/ kwh. Nowhere, in the said Report it has been stated that it will be feasible to run the plant by using any alternate fuel other than coal.

2.2.4 The Committee in its Sixteenth Sitting held on 23.07.2019 also noted that Environmental Clearance (EC) to the said TPP has been accorded by the Ministry of Environment and Forests, Government of India subject to, among others, a condition that *“In case source of fuel supply is changed at a later stage (now proposed on imported coal from Indonesia the project proponent shall intimate the Ministry well in advance along with necessary requisite documents for its concurrence for allowing the change., In such a case the necessity for re-conducting public hearing may be decided by the Ministry in consultation with the Expert Appraisal Committee”*. The Committee also noted that the North Eastern Regional Office of the MoEFCC, GoI during routine monitoring of conditions stipulated in EC to the said TPP has

observed that in contravention of the said condition, the plant has been operated by using locally sourced coal. For the said violation, the North Eastern Regional Office has requested the MoEFCC, GoI to initiate penal measures in accordance with the provisions of the Environment (Protection) Act, 1986 against the said TPP. In pursuance, a show cause notice has been issued to the said TPP by the MoEFCC, GoI. No action has however been taken against the Meghalaya Power Limited for continuous violation of the said condition stipulated in the EC for last several years.

2.2.5 The Committee after examination of documents submitted by representatives of the Star Cements Limited in its Sixteenth Sitting held on 23.07.2019 noted that year-wise details of clinker (in MT) or power (in kwh) produced and coal procured by each of the afore-mentioned three plants of the Star Cements Limited during the Audit Period are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Clinker produced (MT)	3,30,010	4,92,055	5,67,241	5,15,350	6,00,025	25,04,681
	Coal procured (MT)	13,417	47,628	10,192	25,267	10,989	1,07,493
Star Cement Meghalaya Limited	Clinker produced (MT)	15,49,349	16,29,025	15,79,345	15,41,945	14,36,600	77,36,264
	Coal procured (MT)	58,448	1,48,954	9,775	67,624	84,188	3,68,989
Meghalaya Power Limited	Power Produced (Million kwh)	167.923	183.114	201.624	190.059	170.116	912.836
	Coal procured (MT)	25,182	68,092	41,863	36,129	18,024	1,89,290
Total	Clinker produced (MT)	18,79,359	21,21,080	21,46,586	20,57,295	20,36,625	102,40,945
	Power Produced (Million kwh)	167.923	183.114	201.624	190.059	170.116	912.836
	Coal procured (MT)	97,047	2,64,674	61,830	1,29,020	1,13,201	6,65,772

2.2.6 During sixteenth Sitting of the Committee representatives of the Star Cement Limited also placed before the Committee a document stating therein that during the Audit Period, apart from the coal these plants also purchased alternate fuels such as Mu Slate, Petcoke and Saw dust. Year-wise details of the quantity of alternate fuels stated to be purchased by each of these plants are as below:

(Metric Tonne)

Plant	Nature of Alternate Fuel	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Mu Slate	50,042	91,556	82,969	1,92,859	1,01,129	5,18,555
Star Cement Meghalaya Limited	Mu Slate/ Pet Coke/ Saw Dust	1,87,631	3,01,027	2,03,188	4,45,209	1,86,032	13,23,087
Meghalaya Power Limited	Mu Slate	1,06,243	1,39,303	1,73,348	2,87,638	1,58,652	8,65,184
<b>Total</b>		<b>3,43,916</b>	<b>5,31,886</b>	<b>4,59,505</b>	<b>9,25,706</b>	<b>4,45,813</b>	<b>27,06,826</b>

2.2.7 The Committee during its Sixteenth Sitting also noted that it has also been stated in the documents submitted to the Committee by representatives of the Star Cements Limited that average estimated requirement of coal and alternate fuel for production of clinker by these plants is 9% - 14% and 25% - 35% respectively. Similarly, it has also been stated in these communications that average estimated requirement of coal and alternate fuel for production of one kwh of power by the said Thermal Power Plant is 0.45 - 0.65 kg per kwh and 1.20 - 1.60 kg per kwh.

2.2.8 The Committee during its Sixteenth Sitting also noted that keeping in view that the project proponent in their own communication has stated that estimated requirement of coal for these plants is upto 14 % and both these plants are more than 10 years old, the actual requirement of coal for production of clinker by both these plants is atleast 14 % of the clinker produced. The Committee in the said

Sitting held on 23.07.2019 also noted that specific coal requirement for the Meghalaya Power Limited is atleast 0.70 kg/kwh as has been stated in its TEFR.

**2.2.9** The Committee in its Sixteenth Sitting also noted that use of alternate fuel, in place of coal in these plants, which have been designed to use coal as an exclusive fuel, requires major modification/alteration in their design and operation. The Committee in the said Sitting also noted that nothing was placed before the Committee to the effect that design of these plants have been altered/modified to enable them to utilise fuel such as slate having very low calorific value in place of the high calorific value local Meghalaya coal of about 5800 Kcal/kg calorific value. The Committee also noted that as per documents provided to the Committee, during the year 2016-17, the clinker plant of the Star Cement Meghalaya Limited was operated by using 9,775 MT coal and 2,03,188 MT of alternate fuel. The Committee in the said Siting noted that even with modifications, a clinker plant cannot attain the requisite kiln temperature with such a low calorie fuel mix.

**2.2.10** The Committee in its Sixteenth Sitting also noted that paragraph 2 of the Environment Impact Assessment (EIA) Notification issued by the MoEFCC, GoI vide S.O. 1533 dated 16.09.2006 mandates prior EC in the cases involving change in product mix. A representative of Star Cement Limited admitted before the Committee that no such EC has been obtained for any of these plants. Mr. H. Tynsong, Scientist D, North Eastern Regional Office of the MoEFCC, GoI during the said Sitting drawn attention of the Committee to specific condition no. (xi) (*viz. efforts shall be made to use low -grade lime, more fly ash and solid waste in cement manufacturing*) and no. (xii) (*viz. all efforts shall be made to use of high calorific hazardous waste in the cement kiln and necessary provision shall be made accordingly*) stipulated in EC to Star Cement Meghalaya Ltd. issued by the MoEFCC, GoI vide letter dated 28.10.2009 and stated that these conditions specifically provides for use of alternate fuel. He further stated that keeping in the above, use of alternate fuel in place of coal by the said plant does not requires prior EC. The Committee after examination of six-monthly self-compliance reports to said EC, a copy of which is available on website of the Star Cement Limited, observed that in respect of the afore-mentioned condition no. (xi) it has been reported that "SMCL is

*a clinkerization unit, no fly ash is used in the unit. The generated solid waste from the pollution control equipment has been recycled and re-used in the process and has been used for clinker manufacturing. Amount 8-10 % of low grade lime available in the mine has been used in the process".* Similarly, in respect of the afore-mentioned specific condition no. (xii) it has been reported that *"Provision already made to use of high calorific waste i.e. waste oil in the kiln. The tank capacity is 1000 litres. The used oil disposal process along with photograph has been submitted along with CREP in MoEF&CC, Shillong & New Delhi."* The Committee further noted that use of any alternate fuel, as was claimed by a representative of the Star Cement Limited, has not been reported anywhere in these self-compliance reports. The Committee also noted that even for the used oil, merely making a provision for its use and not any actual use has been reported in these self-compliance reports.

**2.2.11** The Committee in its Sixteenth Meeting also noted that apart from the revised EC, change in fuel for a plant also requires prior No Objection Certificate (NoC) from the MSPCB. The Member- Secretary of the MSPCB, during the said Meeting placed before the Committee a letter dated 24.09.2017 wherein the MSPCB communicated its no-objection certificate to M/s. Star Cement Meghalaya Limited for use of Petroleum Coke in its cement plant subject to conditions stipulated in the said letter. The Committee in the said Sitting further noted that use of Petroleum Coke by the said Cement Plant is not reported in any of the six monthly self-compliance for the period after 24.09.2017.

**2.2.12** The Committee in the Sixteenth Sitting also noted that the mining/ winning/ extraction of slate claimed to be used by these plants requires prior mining lease. It also requires payment of royalty and other taxes to the State Government. Nothing was placed before the Committee during the said sitting to indicate that any mining lease has been granted in the State for mining of slate and the slate, if any, used by these plants has been sourced from an area having valid mining lease after payment of requisite royalty and other taxes payable to the State Government.

**2.2.13** The Committee in the Sixteenth Sitting noted that year-wise details of clinker/power produced, coal required to produce reported quantity of

clinker/power produced (@ 14% for clinker and 0.70 kg of coal per kwh of power produced) and gap in coal requirement in respect of each of the afore-mentioned three plants of the Star Cement Limited during the Audit Period are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Clinker produced (MT)	3,30,010	4,92,055	5,67,241	5,15,350	6,00,025	25,04,681
	Coal required (MT)	46,201	68,888	79,414	72,149	84,004	3,50,655
	Coal procured (MT)	13,417	47,628	10,192	25,267	10,989	1,07,493
	Gap (MT)	32,784	21,260	69,222	46,882	73,015	2,43,162
Star Cement Meghalaya Limited	Clinker produced (MT)	15,49,349	16,29,025	15,79,345	15,41,945	14,36,600	77,36,264
	Coal required (MT)	2,16,909	2,28,064	2,21,108	2,15,872	2,01,124	10,83,077
	Coal procured (MT)	58,448	1,48,954	9,775	67,624	84,188	3,68,989
	Gap (MT)	1,58,461	79,110	2,11,333	1,48,248	1,16,936	7,14,088
Meghalaya Power Limited	Power Produced (Million kwh)	167.92	183.11	201.62	190.06	170.12	912.84
	Coal required (MT)	1,17,546	1,28,180	1,41,137	1,33,041	1,19,081	6,38,985
	Coal procured (MT)	25,182	68,092	41,863	36,129	18,024	1,89,290
	Gap (MT)	92,364	60,088	99,274	96,912	1,01,057	4,49,695
Total for above three plants	Coal required (MT)	3,80,656	4,25,131	4,41,659	4,21,063	4,04,209	20,72,718
	Coal procured (MT)	97,047	2,64,674	61,830	1,29,020	1,13,201	6,65,772
	Gap (MT)	2,83,609	1,60,457	3,79,829	2,92,043	2,91,008	14,06,946

2.2.14 The Committee in its Sixteenth Sitting noted that prima-facie it appears that the gap in coal required to produce reported quantity of clinker and power by the afore-mentioned plants of the Star Cements Limited has been met by illegally sourced local coal. The Committee in the said Sitting also noted that even if a part of it has been met by any alternate fuel, the same has been done in violation of the environmental and mining laws and also without payment of the requisite royalty and other taxes to the State Government. The Committee also noted that neither it is technically feasible, nor it is legally permissible to replace coal by alternate fuel by any of these cement and power plants.

2.2.15 The Star Cement Limited vide letter dated 26.07.2019 submitted a representation stating therein that observations made by the Committee that *prima facie* they have used illegal coal for production of clinker/ power is not based on the factual information but on the premise that use of alternate fuel by them is not technically feasible and that no royalty on the same was paid. Among others, the following has also been stated in the said representation:

- (i) TEFRs are prepared with a view to take a considered decision regarding technical and financial viability of undertaking a project and also is a requirement for funding by financial institutions/ banks. The TEFRs are prepared on the basis of available data and certain assumptions. The details given in the TEFRs and that actual found on the ground at the time of implementation of the project may widely vary. The energy requirement for production of clinker and power given in these Reports cannot be the ground for deciding the actual energy/ coal/ alternate fuel used by them. They had stated that the coal requirement for the plants is 9 -14 %. Based on the above the coal requirement cannot be taken as at least 14%. The age of the plants has nothing to do with the energy required to produce clinker/ power. In fact with passage of time and experience gained, the efficiency of the plants by and large improves.

- (ii) No major or even minor modification/ alteration in the plant design is required at all for using alternate fuel such as slate and pet coke by their plants. The plants can use coal as well as alternate fuel (slate).
- (iii) Revised EC is required only when product mix is changed and not for change in the use of fuel.
- (iv) The EC granted in respect of MPL specifically observes that "*imported coal from Indonesia will be used until domestic coal is available*". It is relevant to mention that none of the ECs granted after 3.6.2011 (when they were granted the EC), the MoEF & CC has prescribed the condition that only imported coal will be used. Similarly in the EC granted earlier to that date also, no such condition was prescribed. In any case for alleged violation of the conditions of the EC, the issue is under consideration of the competent authority and it is not linked with whether they have used legal coal or otherwise. Moreover, on their own they have approached SEIAA seeking change in the EC condition and this matter is yet to be decided.
- (v) Each and every payment for purchase of coal and alternate fuel has been made by cheque by them. The details of the payments made by them can easily be verified. There is no way they could have made any payment in cheque for purchase of illegal coal and no cash transaction has ever taken place for purchase of coal at all. On examination of their books of accounts and Annual Reports, the date - wise details of the payment made by them can easily be verified.
- (vi) Full royalty on purchase of alternate fuel by them has been paid on behalf of the suppliers by them.
- (vii) The alternate fuel is primarily overburden dumps produced during excavation of coal and does not require a separate mining lease at all. Like coal the alternate fuel (slate) was also produced as overburden during rat hole mining of coal - subsequently banned by the Hon'ble NGT.



- (viii) They have never been involved in illegal mining operations. The coal/ alternate fuel has been purchased by them from various local suppliers and royalty for the same has been paid. The Hon'ble Supreme Court has also held only that quantity of coal which was found to be illegally being transported as illegal coal. The ownership of the entire balance quantity lying on ground and already disposed of has been held to be that legally belonging to the concerned land owners/miners. In any case they have neither been involved in illegal mining (because they have not been involved in mining activity of coal/muslate) nor purchase of any illegal coal/ alternate fuel at all.
- (ix) Use of slate in the power plant results in generation of additional fly ash on account of it containing high ash content. The fly ash produced is used in manufacturing of PPC cement by them as well as by others. In fact they have been purchasing fly ash from other sources to meet their full requirement. The use of alternate fuel for production of power by the power plants is environmentally desirable, financially viable and results in use of the by product (fly ash) for further use as a raw material. Similarly in the cement plants use of alternate fuel, which has low sulphur content, is beneficial from the point of view of production process and is also environmentally desirable. However, it results in higher cost of production by way of additional transportation costs, handling cost, storage costs etc., due to which whenever coal at a reasonable rate is available, the same is not preferred by cement plants and power plants etc.
- (x) In fact the Meghalaya Power Limited has used slate during the years 2012 - 13 and 2013 - 14 also.
- (xi) The letter dated 24.11.2017 of the Divisional Mining Officer addressed to the Director of Mineral Resources, Meghalaya, a copy of the which was enclosed to the said representation, shows that alternate fuel (Slate / Muslate) was extensively being used by them as substantial quantity of the same were found to be physically available at their plants.

2.2.16 The Committee vide letter dated 28.09.2019 sent a copy of the said representation to the MSPCB, North Eastern Regional Office of the MoEFCC, GoI and North Eastern Regional Directorate of the CPCB for comments.

2.2.17 In reply, the MSPCB vide letter dated 13.09.2019 informed the Committee that revised Consent to Operate under the Air/ Water Act is not required for use of alternate fuel. It was also informed by the MSPCB that *prima facie* the use of alternate fuel by the cement and power plants is technically feasible and is in fact encouraged by the Pollution Control Board. A copy of Environmental Statement of the afore-mentioned plants of the Star Cement Limited was also provided to the Committee.

2.2.18 Similarly, the North Eastern Regional Directorate of the CPCB vide letter dated 13.09.2019 submitted following comments on the said representation of the Star Cements Limited:

- (i) As per the literature available in published journal of repute (*Ref: Mishra, H. K. and Ghosh, R. K, 1996, Geology, Petrology and Utilization Potential of some Tertiary coals of the North-eastern Region of India. International Journal of Coal Geology, 30: 65 - 100*) the calorific value of Eocene and Oligocene coal deposit of Meghalaya is in the range of 6500 - 8500 and 6255 - 8650 kcal/kg respectively. If we go with the published literature it could be assumed the coal requirement in actual clinker production in these cement plants of Star Cement Limited could be even less than the percentage (12.75%) requirement of coal as indicated in the TEFR assuming that calorific value of the Meghalaya coal at 5800 kcal/kg.
- (ii) If the industries use Pet Coke or slate as alternate fuel resource (AFR) it is not required to modify or attach a new fuel/ material feeding system. AFRs are generally used together with coal. As the physical characteristics of the Pet Coke and slate are similar to the coal these alternate fuel can be used in the existing coal mills for pulverization before feeding into the Kilns or the boilers after blending with coal. The CPCB has been working on use of AFR, Hazardous Wastes (HW) and Refused Derived Fuel (RDF) in the cement mills, power

plants and also in the blast furnaces so as to use the resources inherited in the wastes generated by various industries or municipalities. It is already established that disposal of wastes in the cement kilns, power plants, blast furnaces, etc. could be best possible method to dispose of the wastes in an environmentally sound manner in one hand and also to recover the resources inherited in the wastes by these industries so that use of conventional fuel is reduced significantly.

- (iii) The CPCB has published guidelines for use of AFR/ HW/ RDF in these industries. The CPCB has been conducting workshops, seminars *etc.*, amongst the stakeholders to promote the use of these AFR/ HW/ RDF in Cement Kiln or boilers.
- (iv) Besides the encouragement by CPCB, MoEF & CC, of late, has been stipulating specific condition to a few cement mills in Meghalaya to use HW/ RDF/ AFR in kilns. The EC granted to various cement industries in the region stipulates such conditions.
- (v) To use AFR/ RDF/ HW in the kilns, amendment in the EC by the concerned project is not required as per the provisions of the EC Notification, 2006. Amendment of EC is required for expansion, modification of projects and also changing in product mix. Using of AFR/ HW/RDF is only a change in fuel mix but not a change in product mix. By using AFR/ HW/RDF in a kiln/ boiler/ furnace, use of conventional fuel like coal is reduced. The arrangement helps in reducing the consumption of conventional fuel like coal and this brings in reduction in greenhouse gas emission. Thus, the use of AFR/ HW/RDF in cements kilns/ power plants/ blast furnace, etc., have significant environmental benefits and therefore such industries are encouraged to use AFR/ HW/RDF. Moreover, as the country is facing lot of problems in managing the solid wastes, use of these wastes in kilns shall also minimize the waste disposal problems in the country.
- (vi) As per provisions of the Hazardous Wastes and Other Wastes (Management and Transboundary Movement) Rules, 2016, an industry has to apply to SPCB

for authorization under the Rules for using Hazardous Wastes (HW) in its kiln/ boiler/ furnace. As per the provisions of the said Rules, CPCB prepares guidelines for use of HW in cement kiln/ boiler/ furnace. Such guidelines for various types of HW are available in the website of CPCB.

- (vii) Cement industries and power plants in Meghalaya, the industries are using slate as AFR in the cement kilns and the power plants. It is understood that slate are also mined together with coal in the coalfields of Meghalaya. Slates are differentiated from coal from their appearance and structure. It is learnt that slates commonly occur as overburdens together with the coal deposits. Slates are having less calorific value than the coal and therefore have less market values. Though data is not available regarding calorific value of slate in the State of Meghalaya, during field visit to the industries, use of slate/ Muslate by the industries were observed. When coal mining was in operation before the mining ban, various small crushers were observed in the coal depots. These crushers used to crush/ pulverize the slate into powder form and used to mix with the coal.
- (viii) From the sample documents supplied by the industries, it is observed that the industries are paying royalty on the slate being procured. The CPCB in general does not go into the detail of the royalty payment by the industries.
- (ix) The CPCB agrees to the point that the Cement Industries/ Power Plants are not involved in illegal mining of coal or slate. Documentary evidences have been submitted by the industries that the fuel/ AFR are procured after payment or royalty.

**2.2.19** The North Eastern Regional Office of the MoEFCC vide letter dated 12.09.2019 submitted, among others, the following comments on the said representation of the Star Cements Limited:

- (i) The EC is required only when product mix is changed and not for change in the use of fuel. Even though the project has used alternate fuel in their cement manufacturing process, there is no change in product mix as the produce produced is cement. The specific condition No. 12 in EC accorded to Star

Cement Limited by the MoEFCC, GoI vide letter dated 28.10.2009 specifically provides that all efforts shall be made to use of high calorific hazardous waste in the cement kiln and necessary provision shall be made accordingly

- (ii) Para 3 of the guidelines for Pre-processing and Co-Processing of the Hazardous Waste and other wastes in Cement Plants as per Hazardous and Other Waste (Management and Trans-Boundary Movement) Rules, 2016 issued by the CPCB provides that utilization of hazardous and other waste for co-processing or for any other use shall be carried out only after obtaining authorisation from the State Pollution Control Board in respect of wastes on the basis of standard operating procedure or guidelines provided by the CPCB. The Star Cement Limited has obtained NoC for use of pet-coke in cement plants, and no record is available in the North Eastern Regional Office of the MoEFCC for use of slate as alternate fuel.
- (iii) A Note given in col. 5 of the item 3 (b) pertaining to cement industries in Schedule to the Environment Impact Assessment (EIA) Notification, 2016 substituted by the Notification bearing S.O. No. 3518 (E) dated 23.11.2016 of the MoEFCC, GoI provides that fuel for cement industry be coal, pet coke, waste provided it meets the emission standard.

**2.2.20** During Eighteenth Sitting of the Committee held on 16.09.2019, the Committee took on record the afore-mentioned communications from the MSPCB, the North Eastern Regional Directorate of the CPCB and North Eastern Regional Office of the MoEFCC, GoI containing their comments on submissions made by the Star Cement in their said representation dated 26.08.2019 and directed as below:

- (i) The MSPCB shall provide to the Committee a copy of Environmental Statements submitted to them by all Cement Industries and Thermal Power Plants in the State of Meghalaya for the period from 20014-15 to 2018-19.
- (ii) The MSPCB shall provide to the Committee a copy of all authorizations/ no objection certificates granted by them to Cement Industries and Thermal Power Plants in the State of Meghalaya for use of any fuel other than coal.
- (iii) The MSPCB shall provide to the Committee a copy of 'Consent to Establish' and/or 'Consent to Operate', if any, granted for mining of slate or muslate in

the State of Meghalaya. In case no such consent has been granted, the same shall also be intimated to the Committee within one week

- (iv) The North Eastern Regional Office of the MoEFCC, GoI and the State Environmental Impact Assessment Authority (SEIAA), Meghalaya shall provide to the Committee a copy of Environmental Clearance(s), if any, granted for mining of slate in the State of Meghalaya. In case no such EC has been issued by them the same shall also be intimated to the Committee.
- (v) The North eastern Regional Directorate of the CPCB shall provide to the Committee a copy of data which formed the basis for making a submission before the Committee while preparing its First Interim Report, to the effect that the two integrated cement units of Star Cement Limited (*viz.* Star Cement Limited and Star Cement Meghalaya Limited) use coal of about 15% of total clinker production. The CPCB may also provide the reasons for discrepancy between the said information provided in December 2018 and the information provided vide letter dated 13.09.2019 wherein it has been stated that actual requirement of coal by these cement plants is even less than self-declared quantity of 12.75% of clinker production.

**2.2.21** The North Eastern Regional Office of the MoEFCC, GoI vide a communication dated 11.10.2019 informed the Committee that as per records available with them no EC has been issued by the MoEFCC or SEIAA for mining of Slate in the State of Meghalaya.

**2.2.22** The North Eastern Regional Directorate of the CPCB vide a communication dated 11.10.2019 informed the Committee as below:

- (i) While preparing the Interim Report about the coal consumption by the cement plants in Meghalaya, Mr. P. Chakraborty, Unit Head of Calcom Cement India Ltd. (CCIL), a subsidiary of Dalmia Cement (Bharat) Limited, located at Umrangsoo, Assam was consulted for getting a neutral feedback. He was consulted because of his working experience and vast knowledge about clinker production in North East. It was reported by him that the coal requirement for clinker production stands at about 15% of total clinker production in general. This figure may vary about depending on the calorific value of the coal being used. Similar percentage coal consumption figure data is also supported by data available in the internet.

- (ii) During the detailed audit of cement plants in the State of Meghalaya regarding coal consumption, it was observed that the units started using alternate fuel to a significant extent which would bring down the consumption of coal further. Moreover, published paper by *Mishra & Ghosh (1996)* reported very high calorific value of Eocene and Oligocene coal found in Meghalaya in the range of 6500 - 8500 and 6255 - 8650 Kcal/ Kg respectively. It is understood that if coal with such high calorific value is used for clinker production together with other alternate fuel like slate, plastic waste, wood-dust etc., the coal consumption percentage will come down even below 12.75%, as reported in their earlier report.

**2.2.23** The MSPCB vide a communication dated 30.09.2019 provided to the Committee Environmental Statement of nine cement plants (*viz.* Amrit Cement Limited, Green Valley Industries Limited, Hills Cements Company Limited, Jaintia Cements Limited, JUD Cements Limited, Meghalaya Cements Limited, Dalmia Cements (Bharat Limited), Gold Stone Cements Limited and Mawmluh Cherra Cements Limited). Environmental Statement of both Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited and its subsidiaries had already been provided to the Committee by the MSPCB vide letter dated 13.09.2019.

**2.2.24** During Eighteenth Sitting of the Committee held on 16.08.2019, the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department informed the Committee that slate is a minor mineral. He further stated that collection and sharing of royalty on minor minerals in the Autonomous District was done under the power of the Executive Order No. TAD/FR/22/55 dated 22.01.1962 till framing of Meghalaya Minor Mineral Concession Rules, 2016 (MMMCR). The said rules came into force on 12.09.2016. He further stated that grant of mining lease/quarry permit for slate was not there till Meghalaya Minor Mineral Concession Rules, 2016 came into force.

**2.2.25** The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department further informed the Committee that no mining lease has been granted so far for extraction of slate in the State. He further stated that local suppliers have supplied the slate sourced from overburden of coal mining carried out prior to ban imposed by Hon'ble NGT to the Cement plants. The Cement plants

have paid royalty on slate used by them. He further stated that the amount of royalty paid by the Star Cement Limited and its subsidiaries for slate is as below:

Name and address of Cement or Thermal Power Plant	Date of Payment	Amount Paid (Rs.)	Qty. of Slate (MT)
Star Cement Limited	08.10.2018	1,84,14,900	4,09,220.000
	12.02.2019	43,75,111	97,224.690
	12.02.2019	12,12,000	12,120
	<b>TOTAL</b>	<b>2,40,02,011</b>	<b>5,18,564</b>
Star Cement Meghalaya Limited	10.08.2018	4,82,26,500	10,71,700.000
	12.02.2019	1,23,13,667	2,73,637.060
	12.02.2019	21,32,000	21,320.00
	<b>TOTAL</b>	<b>6,26,72,167</b>	<b>13,66,657.060</b>
Meghalaya Power Ltd.	08.10.20118	3,14,18,100	6,98,180.010
	12.02.2019	8,32,100	8321.000
	18.02.2019	93,27,040	2,07,267.550
	<b>TOTAL</b>	<b>4,15,77,240</b>	<b>9,13,768.560</b>
<b>GRAND TOTAL</b>		<b>12,82,51,418</b>	<b>27,98.989.62</b>

2.2.26 The Committee after examination of the matter frames following questions:

1. Whether the specific coal requirement of afore-mentioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited and its subsidiaries is substantially lower than specific coal requirement stated in the respective TEFRs?
2. What is the actual specific coal requirement for the afore-mentioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited?
3. Whether it is technically feasible to use huge quantity of slate in lieu of coal without making any modification in design of these Plants?
4. Whether the afore-mentioned Plants of Star Cement Limited and its subsidiaries have actually used huge quantity of alternate fuel (*i.e.* Slate) in lieu of coal?

5. Whether slate, if used, has been used after obtaining all requisite regulatory approvals?

**Question No. 1.**

**2.2.27** As per the TEFR, the specific coal requirement of Mawmluh Cherra Cement Limited is 16%. However, as per details given in para 1.2.3 and 1.2.5 above, the actual specific coal requirement of the Mawmluh Cherra Cement Limited (MCCL), which uses the same relatively high calorific value Meghalaya coal, as is being used by Cement Manufacturing Plants and Thermal Power Plants of the Star Cement Limited and its subsidiaries is 28.876%. Specific coal requirement of Cement Plants of Star Cement Limited which uses the coal of almost similar quality as is being used by MCCL located in Meghalaya can-not be much lower than the specific coal requirement for the MCCL.

**2.2.28** As per the TEFR, the specific coal requirement of the 43 MW unit of the Meghalaya Power Limited is 0.70 kg/kwh. However, as per the Environmental Statement submitted by the Meghalaya Power Limited to the MSPCB, the actual specific fuel consumption for the said 43 MW Thermal Power Plant during the year 2015-16, 2016-17 and 2017-18 is 0.909 kg/kwh, 0.986 kg/kwh and 0.717 kg/kwh respectively. Similarly, as per the Environmental Statement submitted to the MSPCB by the Meghalaya Power Limited, the actual specific fuel consumption for the 8 MW unit of their Thermal Power Plant during the year 2014-15 and 2015-16 is 0.799 kg/kwh and 0.800 kg/kwh respectively. As per the Environmental Statement submitted by the Star Cement Limited to the MSPCB, during the year 2016-17 its cement plant consumed 1,21,803.193 MT of coal to produce 5,67,241 MT tonnes of clinker. The specific coal requirement for its cement plant during 2016-17 was 21.47%.

**2.2.29** Calorific value of Eocene and Oligocene coal deposit of Meghalaya in the range of 6500 – 8500 and 6255 – 8650 kcal/kg respectively reported in a published Journal, which formed the main basis for the North Eastern Regional Directorate of the CPCB to suggest that the actual specific coal requirement for cement manufacturing plants of the Star Cement Limited is less than the same stated in the respective TEFR, is for a coal sample collected on dry mineral-matter-free basis (*i.e.* for a sample of dry coal free from moisture and any other impurity). The coal actually available in the market does contain substantial quantity of moisture as

well as impurities, including the slate. The actual average calorific value of the Meghalaya coal available in the market is therefore; much lower than the calorific value reported in the said journal.

**2.2.30** While preparing the First Interim Report of the Committee in December 2018, the North Eastern Regional Directorate of the CPCB, after consulting one Mr. P. Chakraborty, Unit Head of Calcom Cement India Ltd. (CCIL), a subsidiary of Dalmia Cement (Bharat) Limited, located at Umrangsoo, Assam, which also uses the comparatively higher calorific value coal available in the North Eastern India, as is being used by Cement Plants of Star Cement Limited and other cements plants including a Cement Manufacturing plant of the Dalmia Cement (Bharat) Limited located in Meghalaya, has reported to the Committee that actual specific coal requirement for Cements Plants of Star Cement Limited is 15%.

**2.2.31** In paragraph 1 of the 'Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010, a copy of the which has been placed before the Committee by North Eastern Regional Directorate of the CPCB, it has been stated that 40 million tonnes of coal is required to produce 200 million tonnes of cement in the entire country. The specific coal consumption for the cement industry for the country as a whole, as per the said Guidelines, is 20%.

**2.2.32** Keeping in view the above, the Committee is of the view that actual specific coal requirement of Cement Manufacturing Plants and a Thermal Power Plant of the Star Cements Limited and its subsidiaries is higher than the same stated in the respective TEFRs.

#### **Question No. 2**

**2.2.33** As per details given in para 2.28, the Meghalaya Power Limited in the Environmental Statement submitted to the MSPCB has reported that specific coal consumption of its Thermal Power Plant varied from 0.717 kg/kwh to 0.986 kg/kwh, the Committee is of the view that average actual specific coal requirement of the Thermal Power Plants of the Meghalaya Power Limited is about 0.850 kg/kwh.

**2.2.34** For assessment of actual specific coal consumption of the Cement Plants of the Star Cement Limited and its subsidiary, the Committee took note of the followings:

- (i) Specific coal consumption for the cement industry for the country as a whole, as per information available in the Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010 is 20%;
- (ii) Average specific coal consumption for a similar Cement Plant of MCCL located in Meghalaya using almost similar quality of coal as is being used by cement plants of the Star Cement Limited and its subsidiaries, is 28.876%;
- (iii) As per the Environmental Statement submitted by the Star Cement Limited to the MSPCB, during the year 2016-17 its cement plant consumed 1,21,803.193 MT of coal to produce 5,67,241 MT tonnes of clinker. The specific coal requirement for the said cement plant of the Star Cement Limited during 2016-17, as per the information by Star Cement Limited itself was 21.47%;
- (iv) As per information obtained by North Eastern Regional Directorate of CPCB from one Mr. P. Chakraborty, Unit Head of a similar cement plant located in adjoining areas of Assam using almost similar quality of coal as is being used by cement plants of Star Cement Limited and its subsidiaries, average specific coal consumption of cement plants in the Region is about 15%.

**2.2.35** The Committee after examination of facts given in para 2.234 above, is of the view that the actual specific coal consumption for cement plants of Star Cement Limited and its subsidiaries located in Meghalaya is atleast 15% of the weight of clinker produced.

**Question No. 3:**

**2.2.36** All the cement manufacturing plants and thermal power plants of Star Cement Limited and its subsidiaries in Meghalaya have been designed to use locally sourced coal from the Meghalaya as a fuel. Even if the physical characteristics of the slate are similar to coal, use of slate having very low calorific value in place of high calorie coal requires modifications/changes in design of the plant, especially the components of the plants dealing with handing, processing, grinding and storage of fuel. The Star Cement Limited in their representation dated 26.07.2019 has categorically stated that no such modifications have been made in design of their cement and power plants. As per the information provided by Star Cement Limited during the year 2018-19 their cement plant used 10,989 MT coal and 1,01,129 MT slate. The Committee is of the view that even after modifications it is not feasible to achieve the required kiln temperature with such a low calories fuel mix.

2.2.37 Keeping in view the above, the Committee is of the view that except the small quantity of slate already mixed in the locally mined coal, it is not feasible to run the cement and thermal power plants of the Star Cement Limited by replacing about three-fourth of their coal requirement by a non-fuel mineral such as slate, as is being claimed by the Star Cement Limited.

#### **Question No.4**

2.2.38 The Star Cement Limited has claimed that huge quantity of slate has been used in-lieu of coal by all its Cement Manufacturing and Thermal Power Plants located in the State of Meghalaya. However, use of slate has not been reported in majority of Environmental Statements submitted by them to CPCB. In majority of these reports, use of coal as a fuel has only been reported. The Committee during its visit to fuel depot of the Meghalaya Power Limited on 12.11.2019 did not see any slate. During the visit, representative of the Meghalaya Power Limited also did not report to the Committee that a major part of the energy requirement of their plants is met from slate, as is now being claimed by them.

2.2.39 The Star Cement Limited at page 13 of their Annual Report for the year 2017-18 has prominently highlighted that its coal is accessed from 10-20 kilometres. Nowhere in any of the Annual Report it has been stated that about three-fourth of the energy requirement of their huge Cement Manufacturing Plants and Thermal Power Plants has been met by a non-fuel mineral (*viz.* slate).

2.2.40 It has also been claimed by the Star Cement Limited in their said representation dated 26.07.2019 that slate has been sourced from overburden dumps produced during excavation of coal. Except for a small quantity of overburden generated during creation of box-cutting, rat-hole mining does not involve generation of overburden. The Winning of lakhs of metric tonnes of slate from the overburden dumps, as has been claimed by the Star Cement Limited and other Cement Manufacturers and Thermal Power Plants, does not seem feasible. No such large overburden dumps having the capacity to allow extraction of several lakh tonnes of slates have been detected by the North Eastern Space Application Centre (NESAC) while undertaking land-use land-cover analysis of coal mining affected areas in Jaintia Hill districts.

2.2.41 Specific conditions no. (xi) (*viz. efforts shall be made to use low -grade lime, more fly ash and solid waste in cement manufacturing*) and no. (xii) (*viz. all efforts*)

shall be made to use of high calorific hazardous waste in the cement kiln and necessary provision shall be made accordingly) in the EC to Star Cement Meghalaya Ltd. issued by the MoEFCC, GoI vide letter dated 28.10.200 stipulates use of waste the said plant. The Committee after examination of six-monthly self-compliance reports to said EC, a copy of which is available on website of the Star Cement Limited, observed that in respect of the afore-mentioned condition no. (xi) it has been reported that *"SMCL is a clinkerization unit, no fly ash is used in the unit. The generated solid waste from the pollution control equipment has been recycled and re-used in the process and has been used for clinker manufacturing. Amount 8-10 % of low grade lime available in the mine has been used in the process"*. Similarly, in respect of the afore-mentioned specific condition no. (xii) it has been reported that *"Provision already made to use of high calorific waste i.e. waste oil in the kiln. The tank capacity is 1000 litres. The used oil disposal process along with photograph has been submitted along with CREP in MoEF&CC, Shillong & New Delhi."* The Committee further noted that use of any alternate fuel, as is being claimed by the Star Cement Limited has not been reported anywhere in these self-compliance reports. The Committee also noted that even for the used oil, merely making a provision for its use and not any actual use has been reported in these self-compliance reports.

**2.2.42** Keeping in view the above, the Committee is of the view that **except for a small quantity of slate found mixed in the locally mined coal, the Cement Manufacturing Plants and Thermal Power Plants of the Star Cement Limited have not used slate as a fuel in lieu of coal.**

#### **Question No. 5**

**2.2.43** Slate is a fine-grained, foliated metamorphic rock that is created by the alteration of shale or mudstone by low-grade regional metamorphism. It is mainly used for roofing, flooring, and flagging because of its durability and attractive appearance. Slate is mainly a non-fuel mineral. As far as cement industries are concerned, the slate being originated from the shale may be used, to some extent, in place of shale. The composition of the slate does not make it possible to use it as a fuel in place of coal.

**2.2.44** Till the declaration of the slate as a minor mineral by the Ministry of Mines, Government of India vide Notification bearing S.O. No. 423 (E) dated 10.02.2015, the slate was classified as a major mineral. The slate along with shale is listed at Sl. No. (7) in Schedule II of the Meghalaya Minor Mineral Concession Rules, 2016 (MMMCR).

**2.2.45** Clause (d) in Section 3 of the Mines and Mineral (Development and Regulation) Act, 1957 provides that “mining operation” means any operations undertaken for the purpose of winning any mineral. Winning or obtaining of slate from any area, even from overburden dump, as has been claimed by the Star Cement Limited in their representation dated 26.07.2019, as per the said definition, attracts provisions of Section 4 of the MMDR Act, which mandates prior mining lease for any operation undertaken for the purpose of winning any mineral.

**2.2.46** The Meghalaya Minor Mineral Concession Rules, 2016, which came into force on 12.09.2016, provide an elaborate mechanism for grant of mining lease or quarry permit for mining/winning of minor mineral for use in an industry. A mining lease or a quarry permit for winning of a minor mineral, including slate, as per the MMMCR, can be granted only after a prior Environmental Clearance and ‘Consent to Establish’ is obtained from the concerned regulatory Authorities. Grant of mining lease also requires preparation of a detailed mining plan duly approved by the concerned competent authority in the Mining and Geology Department in Government of Meghalaya. It also requires prior approval of Central Government under the Forest (Conservation) Act, 1980 in case mining/winning of such mineral involves any forest land. Actual winning/mining of slate requires ‘Consent to Operate’ from the State Pollution Control Board. As per Rule 29 of the MMMCR, a person who undertakes mining operations (viz. respective lessee or the holder of quarry permit) is responsible for payment of royalty. As per the said rule, in case of a mining lease royalty is to be paid by the concerned lessee on a quarterly basis. Similarly, in case of a quarry, royalty is to be paid before transportation.

**2.2.47** The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department has informed the Committee that no mining lease has been granted so far for extraction of slate in the State of Meghalaya. The North Eastern Regional Office of the MoEFCC, GoI has informed the Committee that the MoEFCC, GoI and the Meghalaya SEIAA have not granted any EC for mining of slate in the State. Similarly, the MSPCB has informed the Committee that so far no ‘Consent to

Operate' or 'Consent to Establish' has been granted by them to any person, firm or company for mining of Slate in the State of Meghalaya.

**2.2.48** The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department has informed the Committee that the Star Cement Limited and its subsidiaries has paid an amount of Rs. 12.82 crore as royalty on 27.98 lakh MT state claimed to be used by their Cement Manufacturing Plants and Thermal Power Plant located in the State of Meghalaya. The entire royalty on slate has been paid during the year 2018 and 2019, much after the MMMCR came into force. Majority of the said royalty has been paid during the month of February 2019 after the resource (coal) audit of these companies was started by this Committee.

**2.2.49** The North Eastern Regional Directorate of CPCB, MSPCB and North Eastern Regional Office of the MoEFCC stated that the slate has been used by these plants in lieu of the coal in pursuance of (i) Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010; (ii) guidelines for Pre-processing and Co-Processing of the Hazardous Waste and other wastes in Cement Plants as per Hazardous and Other Waste (Management and Trans-Boundary Movement) Rules, 2016; and (iii) specific condition no. (xi) and (xii) as per details given in para 2.239 above stipulated in EC to Star Cement Meghalaya Ltd. issued by the MoEFCC, GoI vide letter dated 28.10.2009.

**2.2.50** The Committee after examination of the Guidelines on Co-processing in Cement/Power/ Steel Industry' issued by the CPCB in February, 2010 noted that the said guidelines contains an exhaustive list of waste materials covered by these guidelines. The slate does not find a place in the said list. Similarly, the Committee after examination of the guidelines for Pre-processing and Co-Processing of the Hazardous Waste and Other Wastes in Cement Plants as per Hazardous and Other Waste (Management and Trans-Boundary Movement) Rules, 2016 noted that these guidelines are applicable to the use of only the 'hazardous waste' and 'other waste' respectively defined in clause 17 and 23 of sub-rule (1) of rule 3 of the said rules. The slate, as per these definitions, is neither a 'hazardous waste' nor an 'other waste'. No Authorization from the MSPCB for use of slate, as is required for use of any hazardous or other waste has been obtained by the Star Cement for any of its Cement Manufacturing Plants and a Thermal Power Plant. **In any case, the slate**

being listed in schedule-II to the MMMCR, which as per the Star Cements Limited has the potential to replace three-fourth of the coal requirement for their huge Cement Manufacturing Plants and a Thermal Power Plant, can-not be classified as a waste.

2.2.51 As far as use of slate in compliance of the conditions stipulated in EC to Star Cement Meghalaya Ltd. issued by the MoEFCC, GoI vide letter dated 28.10.2009 is concerned, as stated in para 2.2.39 above, use of any alternate fuel, as is being claimed by the Star Cement Limited has not been reported anywhere in the six-monthly self-compliance reports to the said EC, a copy of which is available on website of the Star Cement Limited.

2.2.52 Keeping in view the above, the Committee is of the view that, the slate, if used, by the Cement Manufacturing Plants and Thermal Power Plant of the Star Cement Limited and its subsidiaries located in the State of Meghalaya, the same has been used in flagrant violation and contravention of the mining, environmental and pollution control laws as all such slate has admittedly been extracted without obtaining requisite Mining Lease, Consent to Establish, Consent to Operate and Environmental Clearance. If such use of slate, as claimed by Star Cement Limited has happened in the State, it must have caused huge damage to flora, fauna, rivers, streams, water bodies and the environment in general as all such slate has admittedly been extracted in a totally unregulated manner without any measure to mitigate its adverse impacts on the environment.

### **Conclusion**

2.2.53 After examination of the afore-mentioned questions, the Committee is of the view that it is neither technically feasible nor legally permissible to replace more than seventy percent of the coal required to produce reported quantity of clinker and the electricity by Cement Manufacturing Plants and Thermal Power Plants of the Star Cement Limited and its subsidiaries located in the State of Meghalaya during the Audit Period by a non-fuel mineral (*viz.* slate), as is being claimed by the Star Cements Limited. The Committee is of the view that the Star Cement Limited and its subsidiaries have purchased illegally mined coal in the name of slate to

circumvent the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining in the State of Meghalaya and also to evade payment of Royalty, Contribution to Meghalaya Environment Protection and Restoration Fund (MEPRF), Goods and Service Tax, Contribution to District Mineral Fund (DMF) and other statutory duties.

**2.2.54** Even for the sake of an argument it is assumed that the claim of these plants that more than 72% of their coal requirement during the audit period has been met by a non-fuel mineral slate without making any change/modification in the design of these plants is true, it would have caused equal, if not more, damage to the flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya as all such slate has admittedly been mined in an unscientific and haphazard manner without any mitigative measures and without obtaining mandatory mining lease, consent to establish, consent to operate, environmental clearance and authorisation/no-objection certificate from the State Pollution Control Board in a flagrant violation of the existing mining, environmental and labour safety laws

**2.2.55** Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.2.35 above) and electricity power (@ 0.850 kg/kwh as given in para 2.2.33 above) and the coal procured by Star Cement Limited and its subsidiaries from legal sources are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited	Clinker produced (MT)	3,30,010	4,92,055	5,67,241	5,15,350	6,00,025	<b>25,04,681</b>
	Coal required (MT)	49,502	73,808	85,086	77,303	90,004	<b>3,75,702</b>
	Coal procured (MT)	13,417	47,628	10,192	25,267	10,989	<b>1,07,493</b>
	Gap (MT)	36,085	26,180	74,894	52,036	79,015	<b>2,68,209</b>

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Meghalaya Limited	Clinker produced (MT)	15,49,349	16,29,025	15,79,345	15,41,945	14,36,600	77,36,264
	Coal required (MT)	2,32,402	2,44,354	2,36,902	2,31,292	2,15,490	11,60,440
	Coal procured (MT)	58,448	1,48,954	9,775	67,624	84,188	3,68,989
	Gap (MT)	1,73,954	95,400	2,27,127	1,63,668	1,31,302	7,91,451
Meghalaya Power Limited	Power Produced (Million kwh)	167.92	183.11	201.62	190.06	170.12	913.00
	Coal required (MT)	1,42,732	1,55,644	1,71,377	1,61,551	1,44,602	7,75,906
	Coal procured (MT)	25,182	68,092	41,863	36,129	18,024	1,89,290
	Gap (MT)	1,17,550	87,552	1,29,514	1,25,422	1,26,578	5,86,616
Total for above three plants	Coal required (MT)	4,24,636	4,73,806	4,93,365	4,70,145	4,50,096	23,12,047
	Coal procured (MT)	97,047	2,64,674	61,830	1,29,020	1,13,201	6,65,772
	Gap (MT)	3,27,589	2,09,132	4,31,535	3,41,125	3,36,895	16,46,275

### 2.3 Amrit Cement Limited and its Captive Thermal Power Plant

2.3.1 An Integrated Clinker cum Cement Manufacturing Plant of Amrit Cement Limited having installed capacity to produce 2,000 TPD clinker is located at Umlaper Village in East Jaintia Hills District in Meghalaya. It also has a Captive Thermal Power Plant having 12 MW installed capacity. Both these Clinker Manufacturing Plant and the Captive Thermal Power Plant were commissioned in the year 2012.

2.3.2 As per the information/documents provided to the Committee by the Amrit Cement Limited, year-wise quantities of clinker and power produced and the coal procured by the Amrit Cement Limited to produce such clinker and thermal power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	3,07,286	4,03,205	4,25,842	4,01,497	5,40,902	20,78,732
Power Produced (in Million kwh)	44.976	54.197	49.257	46.977	77.392	272.799
Coal Procured (MT)	3,861	88,165	38,785	74,978	31,833	2,37,622

2.3.3 The Amrit Cement Limited has informed the Committee that during the Audit Period they have also procured alternate fuel. Except slate, nature of any other alternate fuel purchased by the Amrit Cement Limited has however been not intimated to the Committee. The MSPCB has informed the Committee that no authorization/non-objection certificate has been granted by the Board to the Amrit Cement Limited for use of any alternate fuel. The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department informed the Committee that no royalty has been paid by Amrit Cement Limited on the slate claimed to be used by them during the Audit period. Year-wise quantities of the slate claimed to be purchased by the Amrit Cement Limited during the Audit Period are as below:

(Metric Tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	
23,033	28,977	1,29,698	-	-	1,81,708

2.3.4 The Committee, based on a detailed analysis of a similar claim of the Star Cement Limited on use of slate as an alternate fuel in lieu of coal, as given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for the Amrit Cement Limited to replace more than half of their coal requirement by a non-fuel mineral such as slate.

2.3.5 The Committee after examination of a Techno-Economic Feasibility Report (TEFR) for the said 0.61 million tonnes per annum (MTPA) clinker and 0.66 MTPA cement (PPC) greenfield cement project with 1 X 12 MW Captive Thermal Power Plant of Amrit Cement Limited prepared by RCV Consulting noted that the said clinker production unit, as per the said TEFR, has been designed to use Meghalaya coal having the estimated net calorific value of 6,000 Kcal/kg as fuel. It has also been stated in the said TEFR that several small collieries are in operation in the Khliehriat and Sutnga coalfields which are at a distance of about 25-30 km from the proposed plant site. The specific heat consumption, as per the said TEFR, for the said clinker production unit is, 750 kcal/ kg of clinker produced. The specific coal requirement for the said clinker manufacturing plant, as per the said TEFR is therefore 12.50 % of the weight of the clinker produced. After examination of the Environmental Statements submitted by the Amrit Cement Limited to the MSPCB, a copy of which has been provided to the Committee by the MSPCB, the Committee observed that quantity of coal actually consumed by the said Cement Manufacturing Plant and Thermal Power Plant has not been indicated in any of these Statements. For the detailed reasons given in para 2.2.35 above, the Committee is of the view that actual specific coal consumption for clinker manufacturing plant of the Amrit Cement Limited is atleast 15%.

2.3.6 The Committee further noted that it has been stated in the said TEFR that 100 % fuel proposed for the captive power plant shall be coal from Khliehriat/ Sutnga area in Meghalaya. The boiler of the said captive power plant, as per the said TEFR, is suitable to accept E-grade coal with ash content upto 45 %. It has also been stated in the said TEFR that for every fifteen days the said plant will require about 4,000 MT of coal. The specific coal requirement for the said Captive Power Plant, as per the said information, is therefore about 1.20 kg/kwh. The Committee however is

of the view that the actual specific coal requirement for the said Captive Thermal Power Plant is same as the specific coal requirement of the Thermal Power Plant of the Star Cement Limited *i.e.* 0.850 kg/kwh.

**2.3.7** Year-wise gaps in the quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.3.5) and electricity power (@ 0.850 kg/kwh as given in para 2.3.6) and the coal procured by Amrit Cement Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	3,07,286	4,03,205	4,25,842	4,01,497	5,40,902	20,78,732
Power Produced (Million kwh)	44.976	54.197	49.257	46.977	77.392	272.799
Coal required to produced clinker (MT)	46,093	60,481	63,876	60,225	81,135	3,11,810
Coal required to produce Power (MT)	38,230	46,067	41,868	39,930	65,783	2,31,879
Total Coal Required (MT)	84,323	1,06,548	1,05,745	1,00,155	1,46,919	5,43,689
Coal Procured (MT)	3,861	88,165	38,785	74,978	31,833	2,37,622
Gap (MT)	80,462	18,383	66,960	25,177	1,15,086	3,06,067

## 2.4 Dalmia Cement (Bharat) Limited and its Captive Thermal Power Plant

**2.4.1** An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity to 1.30 MTPA clinker and 1.50 MTPA Cement was established by M/s. Adhunik Cement Ltd. at Thangskai Village in East Jaintia Hills District. It also has a Captive Thermal Power Plant of 25 MW installed capacity. Both Clinker Manufacturing Plant and the Captive Thermal Power Plant were commissioned in

the year 2010. Later on, both the Cement Manufacturing Plant and the captive Thermal Power Plant were acquired by the Dalmia Cements (Bharat) Limited.

**2.4.2** As per the information/documents provided to the Committee by the Dalmia Cement (Bharat) Limited, year-wise quantities of the clinker and the power produced and the coal procured by the Dalmia Cement (Bharat) Limited to produce such clinker and thermal power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
Clinker produced (MT)	6,68,239	7,32,700	7,92,075	9,00,686	10,84,883	<b>41,78,583</b>
Power Produced (in Million kwh)	117.403	108.108	88.733	102.485	110.108	<b>526.84</b>
Coal and Pet Coke Procured (MT)	17,433	98,296	56,208	1,07,092	54,478	<b>3,33,507</b>

**2.4.3** It has also been stated in documents submitted to the Committee by the Dalmia Cement (Bharat) Limited that in addition to the above, alternate fuel has also been used. These alternate fuels, as per the information provided by the Dalmia Bharat Cement Limited, include saw dust, agro-waste, slate *etc.* Quantity of these alternate fuels claimed to be used by the Dalmia Bharat Cement Limited during the Audit Period has not been provided to the Committee.

**2.4.4** It has also been stated in documents provided to the Committee by the Dalmia Bharat Cement Limited that applicable taxes, duties and royalties have been paid on these alternate fuel. The Commissioner and Secretray to the Government of Meghalaya, Mining and Geology Department informed the Committee that Dalmia Cement (Bharat) Limited on 08.02.2019 paid an amount of Rs. 4.10 crore to the Mining and Geology Department, Government of Meghalaya as royalty on 9.12 lakh metric tonnes of slate claimed to be consumed by them. It is worthwhile to note that the entire royalty on the slate claimed to be consumed by the Dalmia Cement (Bharat) Limited was paid on 08.02.2019 after the resource (coal) audit of Cement

Manufacturing Plants and Thermal Power Plants in Meghalaya was initiated by the Committee. The MSPCB has informed the Committee that the MSPCB vide letter dated 01.12.2017 has granted authorization/ no-objection certificate for use of pet-coke by the Dalmia Cement (Bharat) Limited. The Same was renewed on 27.11.2018. Apart from the pet-coke, the MSPCB vide letter dated 19.04.2017 granted authorization to the Adhunik Cement Ltd. (now Dalmia Cement (Bharat) Limited) for use of eight non-hazardous waste (viz. rice hay, rice husk, whole tyre, tyre chips, wood chips, saw dust, textile paper and paper waste). The MSPCB informed the Committee that the Dalmia Cement (Bharat) Limited neither sought nor received any authorization from the MSPCB for use of slate in its Cement Manufacturing Plant and Thermal Power Plant.

**2.4.5** The Committee, based on a detailed analysis (given in para 2.2.26 to 2.2.52) of a similar claim of the Star Cement Limited on use of alternate fuel in lieu of coal is of the view that it is neither technically feasible nor legally permissible for the Dalmia Cement (Bharat) Limited to replace more than two-third of their coal requirement, as is being claimed by them, by any alternate fuel.

**2.4.6** The Dalmia Cement (Bharat) Limited informed the Committee that copy of the Detailed Project Report (DPR) of Adhunik Cement Limited, which now stand merged with Dalmia Cement (Bharat) Limited, is not available with them. It was also informed by the Dalmia Cement (Bharat) Limited that they are trying to obtain a copy of the same from the concerned banker. Though the Dalmia Cement (Bharat) Limited assured the Committee that they will submit the DPRs as and when the same can be obtained, the Committee till the finalization of this report did not receive a copy of the said DPR. The Dalmia Cement (Bharat) Limited also informed the Committee that average estimated quantity of coal and/or any other alternate fuel(s) required to produce one tone of clinker and one unit (kwh) of power will primarily depend on the calorific value of coal/any other alternate fuel. They further informed that there is very high variation in various kinds of fuel used and therefore there is no standard per ton usage which can be estimated as it varies from year to year.

**2.4.7** In the absence of the DPR and input on specific fuel consumption from the Dalmia Cement (Bharat) Limited, it is not possible for the Committee to correctly assess the specific fuel requirement for the Cement Manufacturing Plant and Thermal Power Plant of the Dalmia Cement (Bharat) Limited. The Committee therefore is of the view that specific fuel requirements of the Cement Manufacturing Plant and Captive Thermal Power Plant of the Dalmia Cement (Bharat) Limited are same as the specific fuel requirements of the similar plants the Star Cement Limited (*viz.* 15 % of the clinker produced and 0.850 kg/kwh of the power produced).

**2.4.8** Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.4.7) and electricity power (@ 0.850 kg/kwh as given in para 2.4.7) and the coal procured by the Dalmia Cement (Bharat) Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	6,68,239	7,32,700	7,92,075	9,00,686	10,84,883	<b>41,78,583</b>
Power Produced (Million kwh)	117.403	108.108	88.733	102.485	110.108	<b>526.837</b>
Coal required to produced clinker (MT)	1,00,236	1,09,905	1,18,811	1,35,103	1,62,732	<b>6,26,787</b>
Coal required to produce Power (MT)	99,793	91,892	75,423	87,112	93,592	<b>4,47,811</b>
Total Coal Required (MT)	2,00,028	2,01,797	1,94,234	2,22,215	2,56,324	<b>10,74,599</b>
Coal and Pet Coke Procured (MT)	17,433	98,296	56,208	1,07,092	54,478	<b>3,33,507</b>
Gap (MT)	1,82,595	1,03,501	1,38,026	1,15,123	2,01,846	<b>7,41,092</b>

## 2.5 Goldstone Cement Limited and its Captive Thermal Power Plant

2.5.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 0.56 MTPA clinker and 0.88 MTPA cement was established by M/s. Goldstone Cements Limited in Musiang Lamare (Old) village in East Jaintia Hills District. It also has a Captive Thermal Power Plant of 10 MW installed capacity. Both the Clinker Manufacturing Plant and the Captive Thermal Power Plant were commissioned on 02.07.2016.

2.5.2 As per the information/documents provided to the Committee by the Goldstone Cements Limited, year-wise quantity of clinker and power produced and the coal procured by the Goldstone Cements Limited to produce such clinker and thermal power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
2	3	4	5	6	7	8
Clinker produced (MT)	Nil	Nil	1,52,995	3,99,197	4,82,500	<b>10,34,692</b>
Power Produced (in Million kwh)	Nil	Nil	14.251	50.881	71.846	<b>136.978</b>
Coal Procured (MT)	Nil	Nil	5,918	21,295	4,946	<b>32,159</b>

2.5.3 The Goldstone Cements Limited has informed the Committee that during the Audit Period they have also procured alternate fuel such as Muslate/Saw Dust etc. The MSPCB has informed the Committee that the no authorization/non-objection certificate has been granted by the Board to the Goldstone Cement Limited for use of any alternate fuel. The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department informed the Committee that the Goldstone Cements Limited has paid an amount of Rs. 2.93 crores to the State of Meghalaya as a royalty on 6,51,134 MT slate claimed to be consumed by them. The Committee noted that the entire amount of royalty was paid on 15.02.2019 after resource (coal) Audit of Cement Manufacturing Plants and Thermal Power Plants in



the State of Meghalaya was initiated by the Committee. Year-wise details of alternate fuel claimed to be purchased by the Goldstone Cements Limited during the Audit Period are as below:

(Metric Tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	
Nil	Nil	99,242	2,65,532	2,57,928	<b>6,22,702</b>

**2.5.4** The Committee, based on a detailed analysis of a similar claim of the Star Cement Limited on use of alternate fuel in lieu of coal, as given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for the Amrit Cement Limited to replace about ninety percent of their coal requirement by any alternate fuel.

**2.5.5** The Committee after examination of the Techno-Economic Feasibility Report for setting up of the 2615 TPD Green Field Cement Plant of Goldstone Cements Ltd. at village Musiang Lamare in East Jaintia Hill district observed that the said plant has been designed to use the coal available in command area of the site (i.e. local Meghalaya Coal). As per the said report, the average estimated requirement of coal for the said plant is 18% of the weight of clinker produced.

**2.5.6** Even after a specific request, the Goldstone Cement Limited did not provide a copy of the Techno-Economic Feasibility Report (TEFR) for their Captive Thermal Power Plant. The Goldstone Cements Limited informed the Committee that specific fuel requirements for their captive Thermal Power Plant is 0.50 to 0.70 kg of coal per kwh and 1.25 to 1.60 kg of alternate fuel such as slate, bamboo, saw dust, wood chips etc. per kwh. No documentary evidence in support of these claims regarding specific fuel requirement were provided to the Committee by the Goldstone Stone Cement Limited. The Committee is therefore of the view that specific fuel requirement of the Captive Thermal Power Plant of the Goldstone Cement Limited is same as the specific fuel requirement of the similar plant of the Star Cement Limited (viz. 0.850 kg/kwh of the power produced).

2.5.7 Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 18 % as given in para 2.5.5) and electricity power (@ 0.850 kg/kwh as given in para 2.5.6) and the coal procured by Goldstone Cement Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	Nil	Nil	1,52,995	3,99,197	4,82,500	<b>10,34,692</b>
Power Produced (Million kwh)	Nil	Nil	14.251	50.881	71.846	<b>136.978</b>
Coal required to produced clinker (MT)	Nil	Nil	27,539	71,855	86,850	<b>1,86,245</b>
Coal required to produce Power (MT)	Nil	Nil	12,113	43,249	61,069	<b>1,16,431</b>
Total Coal Required (MT)	Nil	Nil	39,652	1,15,104	1,47,919	<b>3,02,676</b>
Coal Procured (MT)	Nil	Nil	5,918	21,295	4,946	<b>32,159</b>
Gap (MT)	Nil	Nil	33,734	93,809	1,42,973	<b>2,70,517</b>

## 2.6 Green Valley Industries Limited

2.6.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 1300 TPD Cement (expandable to 2600 TPD cement) was established by Green Valley Industries Limited at Nongsning village in East Jaintia Hills District. The said plant was commissioned in the year 2010.

2.6.2 As per the information/documents provided to the Committee by the Green valley Industries Limited, year-wise quantities of the clinker produced and the coal procured by the Green Valley Industries Limited to produce such clinker during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	3,88,036	3,68,412	3,83,369	4,31,151	4,35,984	20,06,952
Coal procured (MT)	44,844	50,555	46,762	51,068	30,278	2,23,507

2.6.3 It has also been stated in documents submitted to the Committee by the Green Valley Industries Limited that apart from the coal they have also used slate as an alternate fuel. Year-wise details of alternate fuel claimed to be purchased by the Green Valley Industries Limited during the Audit Period are as below:

(Metric Tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	
17,105	18,280	28,221	35,020	49,122	1,12,363

2.6.4 The MSPCB has informed the Committee that the no authorization/non-objection certificate has been granted by the Board in favour of the Green Valley Industries Limited for use of slate as an alternate fuel. The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department informed the Committee that the Green Valley Industries Limited has paid an amount of Rs. 78.80 lakh to the State of Meghalaya as a royalty on 1.62 lakh MT slate claimed to be consumed by them. The Committee noted that the entire amount of royalty was paid in the month of July 2019 much after resource (coal) Audit of Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya was initiated by the Committee.

2.6.5 The Committee, based on a detailed analysis (given in para 2.2.26 to 2.2.52) of a similar claim of the Star Cement Limited on use of alternate fuel in lieu of coal, is of the view that it is neither technically feasible nor legally permissible for the Green Valley Industries Limited to replace more than thirty percent of their coal requirement, as is being claimed by them, by a non-fuel mineral such as slate.

**2.6.6** The Committee after examination of a Techno-Economic Feasibility Report (TEFR) for the said 1300 TPD expandable to 2600 TPD Greenfield Cement Project of the Green Valley Industries Limited prepared by Holtec Consulting Private Limited, observed that the said clinker cum cement manufacturing plant of the Green Valley Industries Limited has been designed to use 100 % Meghalaya coal having a net calorific value of 6,000 Kcal/kg being exploited by locals in the areas around Khliehriat and Sutnga, which are located at a distance of about 18 km and 28 km respectively from the plant site as a fuel. The specific heat consumption, as per the said TEFR, for the said clinker production unit is 780 kcal/ kg of clinker produced. The specific coal requirement for the said clinker manufacturing plant, as per the said TEFR is 13.00 %.

**2.6.7** After examination of the Environmental Statements submitted by the Green Valley Industries Limited to the MSPCB, a copy of which has been provided to the Committee by the MSPCB, it has been observed that quantity of coal actually consumed by the said Cement Manufacturing Plant has not been indicated in any of these Statements. For the detailed reasons given in para 2.2.35 above, the Committee is of the view that actual specific coal consumption for clinker manufacturing plant of the Green Valley Industries Limited is atleast 15%.

**2.6.8** Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.6.7) and the coal procured by Green Valley Industries Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	3,88,036	3,68,412	3,83,369	4,31,151	4,35,984	<b>12,50,504</b>
Coal required to produced clinker (MT)	58,205	55,262	57,505	64,673	65,398	<b>1,87,576</b>
Coal Procured (MT)	44,844	50,555	46,762	51,068	30,278	<b>1,28,108</b>
Gap (MT)	13,361	4,707	10,743	13,605	35,120	<b>59,468</b>

## 2.7 Hill Cement Company Limited

2.7.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 2,500 TPD clinker and 3,000 TPD Cement was established by Hill Cement Company Limited at Mynkree village in East Jaintia Hills District. The said plant was commissioned in the year 2007.

2.7.2 As per the information/documents provided to the Committee by the Hill Cement Company Limited, year-wise quantities of the clinker produced and the coal procured by the Hill Cement Company Limited to produce such clinker during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	1,22,646	2,14,389	2,56,984	2,03,999	2,33,902	<b>10,31,920</b>
Coal procured (MT)	-	11,989	9,797	2,248	13,347	<b>37,381</b>

2.7.3 It has also been stated in documents submitted to the Committee by the Hill Cement Company Limited that apart from the coal they have also used slate as an alternate fuel. Year-wise quantities of slate claimed to be purchased by the Hill Cement Company Limited during the Audit Period are as below:

(Metric Tonne)

2014-15	Year				Total
	2015-16	2016-17	2017-18	2018-19	
29,228	-	1,61,688	-	-	<b>1,90,916</b>

2.7.4 The MSPCB has informed the Committee that the no authorization/non-objection certificate for use of slate has been granted by the Board in favour of the Hill Cement Company Limited. The Commissioner and secretary to the Government of Meghalaya, Mining and Geology Department informed the Committee that the Hill Cement Company Limited did not make payment of royalty to the State of Meghalaya on the slate claimed to be utilized by them.

2.7.5 The Committee, based on a detailed analysis (given in para 2.2.26 to 2.2.52) of a similar claim of the Star Cement Limited on use of alternate fuel in lieu of coal, is of the view that it is neither technically feasible nor legally permissible for the Hill Cement Limited to replace more than three-fourth of their coal requirement, as is being claimed by them, by a non-fuel mineral such as slate.

2.7.6 The Committee after examination of a Detailed Project Report of the aforementioned Cement Manufacturing Plant of the Hill Cement Company, a copy of which was provided to the Committee, noted that it does not contain anything on the nature as well as per unit requirement of the fuel for the said plant. The Committee after examination of the Environmental Statements of the said Cement Manufacturing Plant of the Hills Cement Company Limited for the years 2013-14, 2014-15 and 2014-15, a copy of which was provided to the Committee by the MSPCB, observed that quantity of coal actually consumed by the said Cement Manufacturing Plant and Thermal Power Plant has not been indicated in any of these Statements. For the detailed reasons given in para 2.2.35 above, the Committee is of the view that actual specific coal consumption for clinker manufacturing plant of the Hill Cement Company Limited is atleast 15%.

2.7.8 Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.7.7) and the coal procured by Hill Cement Company Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	1,22,646	2,14,389	2,56,984	2,03,999	2,33,902	10,31,920
Coal required to produced clinker (MT)	18,397	32,158	38,548	30,600	35,085	1,54,788
Coal Procured (MT)	0	11,989	9,797	2,248	13,347	37,381
Gap (MT)	18,397	20,169	28,751	28,352	21,738	1,17,407

## 2.8 Jaintia Cement Limited

2.8.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 150 TPD cement was established by Jaintia Cements Limited in Latyrke village in East Jaintia Hills District. Commercial production in the said cement plant started in the year 1992.

2.8.2 During sixteenth Sitting of the Committee held on 23.07.2019 a representative of the Jaintia Cement Limited informed the Committee that the Jaintia Cement Limited does not use coal as a fuel. He informed the Committee that the entire fuel requirement for the said plant is met from the coke breeze sourced from Assam. He further informed the Committee that during the Audit Period the Jaintia Cement Limited produced 1,00,153 MT clinker by consuming 26,203.11 MT Coke Breeze. The average per unit requirement of Coke Breeze is 26.163 % (i.e. 261.63 kg Coke Breeze per tonne of Clinker).

2.8.3 The Committee in the said Meeting advised the North Eastern Regional Directorate of the CPCB to undertake audit of each of the Coke Plants from which the coke has reportedly been sourced by the Jaintia Cement Limited and submit a report to the Committee within one month. The said report is awaited from North Eastern Regional Directorate of the CPCB.

## 2.9 JUD Cements Limited

2.9.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 900 TPD clinkerization facility and 1,350 TPD cement grinding unit was established by JUD Cement Limited at Wahiajer (Narpuh) village in East Jaintia Hills District. The said plant commenced its production in November 2009.

2.9.2 As per the information/documents provided to the Committee by the JUD Cement Limited, year-wise quantities of the clinker produced and the coal reportedly consumed by the JUD Cement Limited to produce such clinker during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	1,80,367	2,33,961	1,45,419	1,71,206	1,24,702	<b>8,55,655</b>
Coal consumed procured (MT)	-	16,348	2,099	377	370	<b>19,194</b>

**2.9.3** It has also been stated in documents submitted to the Committee by the JUD Cement Limited that apart from the coal they have also used Coke Breeze, soft coke and diesel as alternate fuels. Year-wise quantities of coke breeze, soft coke and diesel claimed to be consumed by the JUD Cements Limited during the Audit Period are as below:

Nature of Fuel	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
Coke Breeze (MT)	9,120	0	0	23	67	<b>9,210</b>
Soft Coke (MT)	0	0	6,055	10,875	8,560	<b>25,490</b>
Diesel (KL)	37.40	21.45	21.01	24.92	34.34	<b>139.12</b>

**2.9.4** The MSPCB has informed the Committee that the no authorization/non-objection certificate has been granted by the Board in favour of the JUD Cement Limited for use of the coke breeze or the soft coke or the diesel as an alternate fuel. In none of the Environmental Statement of the JUD Cement Limited for the years 2013-14, 2014-15 and 2015-16, a copy of which was provided to the Committee by the MSPCB, use of diesel as an alternate fuel has been reported by the JUD Cements Limited.

**2.9.5** The Committee after examination of a Techno-Economic Feasibility Report (TEFR) for the said Cement cum Clinker manufacturing plant of the JUD Cement Limited prepared by West Bengal Consultancy organization Limited, Kolkata, a copy

of which was provided to the Committee by JUD Cements Limited, noted that the said clinker production unit, as per the said TEFR, has been designed to use Meghalaya coal to be procured from locally available coal base. It has also been stated in the said TEFR that these are locally owned small mines available in the area and substandard in quality compared to coal available in ECL, BCCL, CCL, MCL etc. It has also been stated in the said TEFR that coal is the main fuel for manufacture of cement in India. The consumption of coal in a typical dry process system, as per the said TEFR, ranges from 20-25% of clinker production. In the documents submitted to the Committee by the JUD Cements Limited it has been stated that specific fuel requirement of the said clinker manufacturing plant of the JUD Cement Limited is 16.50 %. The Committee is therefore of the view that specific coal requirement of the said Clinker Manufacturing Plant of the JUD Cements Limited is 16.50%.

**2.9.6** Year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 16.50 % as given in para 2.9.5) and the coal procured by the JUD Cement Limited during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Clinker produced (MT)	1,80,367	2,33,961	1,45,419	1,71,206	1,24,702	<b>8,55,655</b>
Coal required to produced clinker (MT)	29,761	38,604	23,994	28,249	20,576	<b>1,41,183</b>
Coal consumed (MT)	0	16,348	2,099	377	370	<b>19,194</b>
Gap (MT)	29,761	22,256	21,895	27,872	20,206	<b>1,21,989</b>

## **2.10 Meghalaya Cements Limited and its Captive Thermal Power Plant**

**2.10.1** An Integrated Clinker cum Cement Manufacturing Plant of Meghalaya Cement Limited having installed capacity to produce 2,600 TPD cement is located at

Thangskai village in in East Jaintia Hills District of Meghalaya. The original plant having installed capacity to produce 900 TPD cement was commissioned in 2006. Later on, in the year 2011 installed capacity of the said plant was enhanced to 2,600 TPD. A Captive Thermal Power Plant of the Meghalaya Cement Limited having 10 MW installed capacity is also located adjacent to its said Cement Manufacturing Plant.

**2.10.2** As per the information/documents provided to the Committee by the Meghalaya Cement Limited, year-wise quantities of clinker and power produced and the coal procured by the Meghalaya Cements Limited to produce such clinker and the electrical power during the Audit Period are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Clinker/ Cement Plant	Clinker produced (MT)	7,98,378	8,43,815	6,96,071	8,39,931	8,38,237	<b>40,16,432</b>
	Coal procured (MT)	77,457	29,899	30,881	35,220	34,317	<b>2,07,774</b>
Captive Thermal Power Plant (TPP)	Power Produced (Million kwh)	27.738	54.472	58.191	68.590	69.887	<b>278.88</b>
	Coal procured (MT)	19,076	14,787	15,087	18,792	19,670	<b>87,412</b>
Total for the Clinker/ Cement and TPP	Coal procured (MT)	96,533	44,686	45,968	54,012	53,987	<b>2,95,186</b>

**2.10.3** The Meghalaya Cement Limited has informed the Committee that during the Audit Period they have also procured alternate fuel slate. Year-wise quantities of slate used by Meghalaya Cements Limited in its Cement Manufacturing Plant and the Captive Thermal Power Plant were however not provided to the Committee.

The MSPCB informed the Committee that the Meghalaya Cements Limited neither sought nor received any certificate of registration/authorization from the MSPCB for use of slate in its Cement Manufacturing Plant and Thermal Power Plant. The Commissioner and Secretary to the Government of Meghalaya, Mining and Geology informed the Committee that the Meghalaya Cement Limited, during the months of March and July 2017 has paid an amount of Rs. 1.00 crore to the State of Meghalaya as a royalty on 2.23 lakh MT slate claimed to be consumed by them.

**2.10.4** The Committee, based on a detailed analysis of a similar claim of the Star Cement Limited on use of slate as an alternate fuel in lieu of coal, as given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for the Amrit Cement Limited to replace more than half of their coal requirement by a non-fuel alternate fuel such as slate..

**2.10.5** The Committee after examination of the Techno-Economic Feasibility Report of the Augmentation of the Clinkerization capacity of the plant from 900 TPD to 2,600 prepared by Holtec Consulting Private Limited, a copy of the which was provided to the Committee by the Meghalaya Cement Limited, observed that the said plant has been designed to use 100% Meghalaya coal available locally. As per the said report, net calorific value of the local coal to be used in the clinker plants is 5,800 Kcal/kg. It has also been stated in the said reports that specific heat consumption of these plants is 840 Kcal per kg of clinker. The average estimated requirement of coal as per the information given in the said report is 14.66 %. For the detailed reasons given in para 2.2.35 above, the Committee is of the view that actual specific coal consumption for clinker manufacturing plant of the Meghalaya Cement Limited is at-least 15%.

**2.10.6** The Committee after examination of the Techno-Economic Feasibility Report of the 10 MW capacity Captive Power Plant prepared by AKB Power Consultants Pvt. Ltd., a copy of the which was provided to the Committee by the Meghalaya Cement Limited, observed that the said plant was envisaged to use coal sourced from Western parts of Meghalaya Hills. The Annual requirement of the locally sourced Meghalaya coal at 100 % capacity for the said 10 MW TPP, as per the said

report, is 63,072 MT. The specific fuel requirement for the said TPP, as per these information given in the said report, is therefore 0.72 kg/kwh. Nowhere, in the said report it has been stated that it will be feasible to run the said Thermal Power Plant by using any alternate fuel other than coal. The Committee is of the view that specific fuel requirement of the Captive Thermal Power Plant of the Meghalaya Cement Limited is same as the specific fuel requirement of the similar plant of the Star Cement Limited (viz. 0.850 kg/kwh of the power produced).

**2.10.7** The year-wise gaps in quantity of coal required to produce the reported quantity of clinker (@ 15 % as given in para 2.10.5) and electricity power (@ 0.850 kg/kwh as given in para 2.10.6) and the coal procured by the Meghalaya Cements Limited from legal sources during the Audit Period are as below:

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Clinker/ Cement Plant	Clinker produced (MT)	7,98,378	8,43,815	6,96,071	8,39,931	8,38,237	<b>40,16,432</b>
	Coal required (MT)	1,19,757	1,26,572	1,04,411	1,25,990	1,25,736	<b>6,02,465</b>
	Coal procured (MT)	77,457	29,899	30,881	35,220	34,317	<b>2,07,774</b>
	Gap (MT)	42,300	96,673	73,530	90,770	91,419	<b>3,94,691</b>
Captive Thermal Power Plant (TPP)	Power Produced (Million kwh)	27.738	54.472	58.191	68.59	69.887	<b>278.878</b>
	Coal required (MT)	23,577	46,301	49,462	58,302	59,404	<b>2,37,046</b>
	Coal procured (MT)	19,076	14,787	15,087	18,792	19,670	<b>87,412</b>
	Gap (MT)	4,501	31,514	34,375	39,510	39,734	<b>1,49,634</b>
Total for the Clinker/ Cement and TPP	Coal required (MT)	1,43,334	1,72,873	1,53,873	1,84,291	1,85,140	<b>8,39,511</b>
	Coal procured (MT)	96,533	44,686	45,968	54,012	53,987	<b>2,95,186</b>
	Gap (MT)	46,801	1,28,187	1,07,905	1,30,279	1,31,153	<b>5,44,325</b>

## 2.11 Virgo Cements Limited

2.11.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 1,060 TPD clinker and 1,452 TPD of Cement has been established by Virgo Cements Limited at Dams village in North Garo Hill district of Meghalaya.

2.11.2 The Virgo Cements Limited informed the Committee that no coal is used in their said plant as it has a Vertical Shaft Kiln (VSK) where low ash metallurgical (LAM) coke or coke breeze is used as a fuel.

2.11.3 The Committee after examination of the Techno-Economic Feasibility Report for expansion of the said plant to 1060 TPD capacity prepared by Ercom Engineers Pvt. Limited, a copy of which was provided to the Committee by the Virgo Cements Limited, observed that the said plant was envisaged to use coke breeze to be sourced from nearby area of the Guwahati as a fuel. Specific fuel requirement for the said plant, as per the said report, is 0.289 tonnes of coke breeze per tonne of clinker or 28.90 %.

2.11.4 The Committee after examination of the matter is prima-facie of the view that Virgo Cement Limited did not use illegally mined local coal during the Audit Period. The Committee however advised the North Eastern Regional Directorate of the CPCB to undertake an audit to ascertain that coke breeze or LAM coke originating from legal source has only been used by the said Plant.

## 2.12 RNB Cement Limited

2.12.1 An Integrated Clinker cum Cement Manufacturing Plant having an installed capacity of 600 TPD cement along with a 10 MW capacity Captive Thermal Power Plant was established by RNB Cement Limited at Barapani Industrial area in Ri-Bhoi District of Meghalaya in the year 2008.

2.12.2 The North East Regional Directorate of the CPCB informed the Committee that the RNB Cement Limited will not be able to provide any information or document as the plant has been taken over by the National Company Law Tribunal (NCLT) and is present managed by an Interim Resolution Professional (IRP) *w.e.f.*

13.06.2019. Information about the quantities of clinker and thermal power produced and the quantity of coal purchased by the RNB Cement Limited during the Audit Period could not be obtained by the Committee. In the absence of these information it is not feasible for the Committee to undertake Resource (coal) Audit of the RNB Cements Limited.

### 2.13 Captive Thermal Power Plant of Shyam Century Ferrous Limited

2.13.1 A Captive Thermal Power Plant of the Shyam Century Ferrous Limited having installed capacity of 13.80 MW is located in Export Promotion Industrial Park (EPIP) Byrnihat in Ri-Bhoi district of Meghalaya.

2.13.2 As per the information/documents provided to the Committee by the Shyam Century Ferrous Limited, year-wise quantities of power produced and the coal procured by the Shyam Century Ferrous Limited to produce such power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	64.117	55.246	104.403	68.898	34.702	327.366
Coal procured (MT)	43576	32461	72086	13704	4960	1,66,787

2.13.3 The Shyam Century Ferrous Limited has informed the Committee that during the Audit Period they have also procured and utilised in the said Captive Thermal Power Plant alternate fuel. Year-wise quantities of alternate fuel claimed to be purchased by Shyam Century Ferrous Limited during the audit period are as below:

(metric tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	

1	2	3	4	5	6
446	-	-	-	29	475

**2.13.4** Keeping in view that quantity of alternate fuel claimed to be purchased by Shyam Century Ferrous Alloy Limited is very low, the Committee decided to ignore the same in this resource (coal) audit.

**2.13.5** The Committee after examination of the Detailed Project Report (DPR) for the said 13.80 MW Captive Power Plant prepared by AKB Power Consultants Private Limited, a copy of which was provided to the Committee by Shyam Century Limited, observed that the said plant was designed to use both biomass fuel (with estimated calorific value of 3,500 Kcal/kg) and locally sourced Meghalaya coal (with estimated calorific value of 5,500 Kcal/kg). The annual requirement of fuel by the said plant at 100% capacity is 77,616 MT of biomass fuel and 14,256 MT of Meghalaya coal. The specific fuel requirement of the said plant, as per the said report, is thus 0.527 kg/kwh of coal or 0.827 kg/ kwh of biomass.

**2.13.6** It has also been stated in the documents handed over to the Committee by the Shyam Century Ferrous Limited that specific fuel requirement of their said Captive Thermal Power Plant is 0.50- 0.70 kg of coal per kwh and 1.00 -1.40 kg of alternate fuel such as coke fine, Tamilnadu Charcoal fines etc. per kwh.

**2.13.7** Keeping in view the detailed analysis given in para 2.2.33 and also keeping in view that though the said Thermal Power Plant has been designed to use alternate fuels other than coal, the Shyam Century Ferrous Alloy Limited has himself reported that during the entire Audit Period 475 MT alternative fuel has only been used by them, the Committee is of the view that specific coal requirement of the said Captive Thermal Power Plant of the Shyam Century Limited is atleast equal to specific coal requirement of the a Thermal Power Plant of much larger capacity of the Star Cement Limited located in Meghalaya (viz. 0.850 kg/kwh of the power produced).

**2.13.8** The year-wise gaps in quantity of coal required to produce the reported quantity of the electrical power (@ 0.850 kg/kwh as given in para 2.13.7) and the

coal procured by Shyam Century Ferrous Limited from legal sources during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	64.117	55.246	104.403	68.898	34.702	<b>327.366</b>
Coal required (MT)	54,499	46,959	88,743	58,563	29,497	<b>2,78,261</b>
Coal procured (MT)	43,576	32,461	72,086	13,704	4,960	<b>1,66,787</b>
Gap (MT)	10,923	14,498	16,657	44,859	24,537	<b>1,11,474</b>

#### 2.14 Captive Thermal Power Plant of Maithan Alloys Limited

2.14.1 A Captive Thermal Power Plant of the Maithan Alloy Limited having installed capacity of 15 MW is located in Export Promotion Industrial Park (EPIP) Byrnihat in Ri-Bhoi district of Meghalaya.

2.14.2 As per the information/documents provided to the Committee by the Maithan Alloys Limited, year-wise quantities of power produced and the coal procured by the Maithan Alloys Limited to produce such power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	62.588	49.241	97.440	89.061	33.493	<b>331.823</b>
Coal procured - Within Meghalaya (MT)	77,573	51,318	61,950	64,595	6,384	<b>2,61,820</b>
Coal procured - Outside Meghalaya (MT)	-	-	929	36,692	14,345	<b>51,966</b>

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Total Coal Procured (MT)	77,573	51,318	62,879	1,01,287	20,729	3,13,786

**2.14.3** The Maithan Alloys Limited has informed the Committee that during the Audit Period they have also procured alternate fuel. Year-wise quantities of different types of alternate fuel claimed to be purchased by Maithan Alloys Limited during the Audit Period are as below:

(metric tonne)

Type of alternate fuel	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Rice Husk	-	-	-	5,039	1,973	7,012
Saw Dust	-	-	-	275	505	780
Coke Breeze	-	-	-	0	2,354	2,354
Wood Chips	-	-	-	0	60	60
<b>Total</b>	-	-	-	<b>5,314</b>	<b>4,892</b>	<b>10,206</b>

**2.14.4** The Committee after examination of the Detailed Project Report (DPR) of the said 15 MW capacity Captive Thermal Power Plant of the Maithan Alloys Limited prepared by AKB Power Consultants Pvt. Ltd., a copy of which was provided to the Committee by the Maithan Alloys Limited, observed that the said plant has been designed to use both bamboo chips/dust (with estimated calorific value of 2914 K cal/kg) and locally sourced Meghalaya coal (with estimated calorific value of 7,142 K cal/kg). As per the said DPR, the annual requirement of fuel by the said plant at 100% capacity is 32,400 MT of bamboo chips and 37,800 MT of Meghalaya coal. The specific fuel requirement of the said plant as per the said report is therefore 0.527 kg/kwh of coal or 0.827 kg/ kwh of biomass. It has however been stated in

documents provided to the Committee by Maithan Alloys Limited that specific fuel requirement of the said TPP is 0.72 kg/kwh.

**2.14.5** As per the information provided by Maithan Alloys Limited, during the Audit Period the Maithan Alloy Limited purchased 3,13,785 MT coal to produce 331.823 Million units of power by the said 15 MW capacity Captive Thermal Power Plant. The actual specific fuel purchased for the said Captive Thermal Power Plant of Maithan Alloys Limited during the Audit Period is 0.945 kg/kwh. The same is comparable to or even higher than the estimated specific fuel consumption for other Thermal Power Plants located in the State of Meghalaya. Apart from the above, the Maithan Alloy Limited has claimed to purchase alternate fuel such as rice husk, saw dust, coke breeze and wood chips also. The Committee therefore is of the view that during the Audit Period Maithan Alloys Limited did not use any illegally mined local coal from the Meghalaya.

## **2.15 Captive Thermal Power Plant of Shree Sakambari Ferro Alloys Pvt. Ltd.**

**2.15.1** A Captive Thermal Power Plant of Shree Sakambari Ferro Alloys Pvt. Ltd having installed capacity of 10 MW is located in Riwiang Village in West Khasi Hills District, Meghalaya. The said Thermal Power Plant was commissioned in the month of June 2014.

**2.15.2** As per the Environmental Statement Submitted by Shree Shakambari Ferro Alloys Pvt. Ltd. to the MSPCB the actual specific coal consumption of the said Captive Thermal Power Plant of Shree Sakambari Ferro Alloys Pvt. Ltd. during the Audit Period is as below:

(kg/kwh)

2014-15	2015-16	2016-17	2017-18	2018-19
1	2	3	4	5
0.83	0.85	0.85	0.81	0.85

**2.15.3** On perusal of information and documents received from Shree Shakambari Ferro Alloy Limited the Committee observed that unit of power produced by the

said Thermal Power Plant stated in the Statement provided to the Committee does not appear to be correct. The Committee also observed that the quantity of coal reported to be consumed by Shree Sakambari Ferro Alloys Pvt. Ltd., as per the Statement submitted to the Committee is substantially different than the quantity of coal reportedly consumed by the said Plant as per details given in a report on coal consumption by the Thermal Power Plants and Cement Industries submitted to the Committee by North Eastern Regional Directorate of CPCB. The Committee therefore advised the North Eastern Regional Directorate of CPCB to re-examine the records relating to purchase and use of coal by said Thermal Power Plant of Shree Sakambari Ferro Alloys Pvt. Ltd. and submit a report to the Committee. The said report is still awaited by the Committee.

## 2.16 Captive Thermal Power Plant of CMJ Breweries Private Limited

**2.16.1** A Captive Thermal Power Plant of the CMJ Breweries Private Limited having installed capacity of 3.50 MW is located in Export Promotion Industrial Park (EPIP) Byrnihat in Ri-Bhoi district of Meghalaya.

**2.16.2** As per the information/documents provided to the Committee by the CMJ Breweries Private Limited, year-wise quantities of power produced and the coal procured by the CMJ Breweries Private Limited to produce such power during the Audit Period are as below:

Items	Year					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7
Power Produced (Million kwh)	5.746	7.925	4.329	8.597	6.260	<b>32.86</b>
Coal procured (MT)	15,232	16,606	10,874	15,738	2,985	<b>61,435</b>

**2.16.3** The CMJ Breweries Private Limited has informed the Committee that during the Audit Period they have also procured husk as an alternate fuel. Year-wise

quantities of rice husk claimed to be procured by CMJ Breweries Private Limited during the audit period are as below:

(metric tonne)

Year					Total
2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6
-	-	-	5,011	23,235	<b>28,246</b>

**2.16.4** The Committee after examination of the Detailed Project Report (DPR) of the CMJ Breweries Private Limited prepared by M/s. Suvidha Consultancy Limited, Guwahati noted that the said DPR does not contain anything about the nature and per unit requirement of the fuel. It has however been stated in documents provided to the Committee by the CMJ Breweries Private Limited that their Captive Thermal Power Plant has a back pressure turbine and the steam is mainly used for the process heating and the power is additionally generated using the same steam. So the fuel consumption in the back pressure turbine is not comparable to the conventional plant condensing type turbines. It has also been stated in these documents that average estimated quantity of fuel required to produce power in their said Captive Thermal Power Plant is 2.35 kg of coal per kwh or 3.50 kg of husk per kwh.

**2.16.5** The Committee noted that quantities of the coal and rice husk purchased by the CMJ Breweries Private Limited was sufficient to produce the power reportedly produced by the CMJ Breweries Private Limited during the audit period as per the reported specific fuel consumption of 2.35 kg of coal per kwh or 3.50 kg of husk per kwh. Subject to confirmation by the North Eastern Regional Directorate of the CPCB of the claim of the CMJ Breweries Private Limited regarding the use of rice husk as a fuel, the Committee is of the view that no illegally mined legal has been utilised by the CMJ Breweries Private Limited during the Audit Period.

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## CHAPTER 3: FINDINGS AND RECOMMENDATIONS

### 3.1 FINDINGS

3.1.1 Except for the clinker manufacturing plant of the Mawmluh Cherra Cement Limited (A State PSU) and Captive Power Plants of the Maithan Alloy Limited and the CMJ Breweries Private Limited, there is a huge gap in quantity of coal required to produce reported quantity of clinker and/or power and the coal reported to be purchased from legal sources during the Audit Period by all other Cement Manufacturing Plants and Thermal Power plants in the State of Meghalaya for which resource (coal) audit could be completed by the Committee. Year-wise quantities of the coal required to produce reported quantities of clinker and/or power, the coal actually purchased from legal sources and the gap between the two for each of these Plants are as below:

(metric tonnes)

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Star Cement Limited and its two subsidiaries	Coal required*	4,24,636	4,73,806	4,93,365	4,70,145	4,50,096	23,12,048
	Coal procured**	97,047	2,64,674	61,830	1,29,020	1,13,201	6,65,772
	Gap	3,27,589	2,09,132	4,31,535	3,41,125	3,36,895	16,46,276
Amrit Cement Limited and its Captive TPP	Coal required*	84,323	1,06,548	1,05,745	1,00,155	1,46,919	5,43,690
	Coal procured**	3,861	88,165	38,785	74,978	31,833	2,37,622
	Gap	80,462	18,383	66,960	25,177	1,15,086	3,06,068
Dalmia Cement (Bharat) Limited and	Coal required*	2,00,028	2,01,797	1,94,234	2,22,215	2,56,324	10,74,598
	Coal procured**	17,433	98,296	56,208	1,07,092	54,478	3,33,507

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
its Captive TPP	Gap	1,82,595	1,03,501	1,38,026	1,15,123	2,01,846	7,41,091
Goldstone Cement Limited and its Captive TPP	Coal required*	0	0	39,652	1,15,104	1,47,919	3,02,675
	Coal procured**	0	0	5,918	21,295	4,946	32,159
	Gap	0	0	33,734	93,809	1,42,973	2,70,516
Green Valley Industries Limited	Coal required*	58,205	55,262	57,505	64,673	65,398	3,01,043
	Coal procured**	44,844	50,555	46,762	51,068	30,278	2,23,507
	Gap	13,361	4,707	10,743	13,605	35,120	77,536
Hill Cement Company Limited	Coal required*	18,397	32,158	38,548	30,600	35,085	1,54,788
	Coal procured**	0	11,989	9,797	2,248	13,347	37,381
	Gap	18,397	20,169	28,751	28,352	21,738	1,17,407
JUD Cements Limited	Coal required*	29,761	38,604	23,994	28,249	20,576	1,41,184
	Coal procured**	0	16,348	2,099	377	370	19,194
	Gap	29,761	22,256	21,895	27,872	20,206	1,21,990
Meghalaya Cements Limited and its Captive TPP	Coal required*	1,43,334	1,72,873	1,53,873	1,84,291	1,85,140	8,39,511
	Coal procured**	96,533	44,686	45,968	54,012	53,987	2,95,186
	Gap	46,801	1,28,187	1,07,905	1,30,279	1,31,153	5,44,325
Captive TPP of Shyam Century	Coal required*	54,499	46,959	88,743	58,563	29,497	2,78,261
	Coal	43,576	32,461	72,086	13,704	4,960	1,66,787

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	8
Ferrous Ltd.	procured**						
	Gap	10,923	14,498	16,657	44,859	24,537	1,11,474
TOTAL	Coal required*	10,13,183	11,28,007	11,95,659	12,73,995	13,36,954	59,47,798
	Coal procured**	3,03,294	6,07,174	3,39,453	4,53,794	3,07,400	20,11,115
	Gap	7,09,889	5,20,833	8,56,206	8,20,201	10,29,554	39,36,683

\*: Coal required to produce reported quantities of clinker and/or power

\*\* : Coal reported to be procured from legal sources

**3.1.2** The Committee is of the view that the entire gap of **39.37 lakh MT** between the quantity of the coal required to produce reported quantity of the clinker and the electrical power and the coal purchased from legal sources by these Plants during the Audit Period **constituting about two-third of the coal requirement of these plants during the Audit Period has been met from the illegally mined local coal.** Demand for a huge quantity of illegally mined coal from these plants has sustained and supported a wide scale illegal rat-hole coal mining in the State of Meghalaya in flagrant violation of a ban imposed by the Hon'ble NGT.

**3.1.3** Continuance of illegal rat-hole coal mining in the State of Meghalaya to meet the huge requirement of coal for these Cement Manufacturing Plants and the Thermal Power Plants have caused huge damage to flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya. It has also made the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining virtually inoperative.

**3.1.4** No royalty, taxes and any other statutory levies has been paid to the State of Meghalaya on the illegally mined coal utilised by these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period resulting in a huge loss to the State exchequer. In fact ban on the illegal rat-hole coal mining in the State of

Meghalaya came as a boon to these Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya as it virtually exempted them from the requirement of payment of royalty, taxes and other statutory levies payable on more than two-third of the coal consumed by them. The amounts of royalty (@ Rs. 675 per MT), contribution to Meghalaya Environment Protection and Restoration Fund (MEPR Fund) at the rate of Rs. 485 per MT and GST/VAT @ 5 % of the sale value of approx. Rs. 8,000 per MT amounting to Rs 400 per MT) payable on the illegally mined coal utilised by each of these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period are as below:

(Amt.: Rupees in crore)

Sl. No.	Plant	Qt. of illegal coal used (MT)	Royalty	MEPRF	GST/ VAT	Total
1	2	3	4	5	6	7
1.	Star Cement Limited and its two subsidiaries	16,46,276	111.124	79.844	65.851	256.819
2.	Amrit Cement	3,06,068	20.660	14.844	12.243	47.747
3.	Dalmia Bharat Cement Ltd	7,41,092	50.024	35.943	29.644	115.610
4.	Goldstone Cement Ltd.	2,70,516	18.260	13.120	10.821	42.200
5.	Green Valley Industries Ltd.	77,536	5.234	3.760	3.101	12.096
6.	Hill Cement Ltd.	1,17,407	7.925	5.694	4.696	18.315
7.	JUD Cement Ltd.	1,21,990	8.234	5.917	4.880	19.030
8.	Meghalaya Cement Ltd.	5,44,325	36.742	26.400	21.773	84.915
9.	Shyam Century Ferrous Ltd.	1,11,474	7.524	5.406	4.459	17.390
<b>Total</b>		<b>39,36,684</b>	<b>265.726</b>	<b>190.929</b>	<b>157.467</b>	<b>614.123</b>

3.1.5 The royalty and VAT/GST amounting to Rs. 423.194 crore payable on illegally mined coal utilised by the Cement Manufacturing Plants and Thermal Power Plants, if realised and properly utilised, can significantly enhance living

standard of the tribal residents, especially those residing in the areas affected by such illegal coal mining, of the State. Similarly, an amount of Rs. 190.929 crore payable to MEPR Fund for the said illegally mined coal utilised by these Plants, if properly utilised, may greatly help in restoration of flora, fauna, rivers, streams, water bodies and the environment in general damaged by illegal rat-hole coal mining in the State of Meghalaya.

**3.1.6** Claim of these Cement Manufacturing Plants and Thermal Power Plants that about two-third of their coal requirement have been met by a non-fuel mineral (i.e. slate) without making any change in the design of these plants is not tenable. The Committee, based on a detailed analysis given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for these plants to replace more than two-third of their coal requirement by a non-fuel mineral such as slate.

**3.1.7** These Plants have purchased illegally mined local coal in the name of slate to circumvent the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining in the State of Meghalaya and also to evade payment of royalty, GST/VAT and other statutory levies and contribution to MEPR Fund on the coal utilised by them.

**3.1.8** Even for the sake of an argument it is assumed that the claim of these plants that more than two-third of their coal requirement during the Audit Period has been met by a non-fuel mineral (*viz.* slate) without making any change/modification in the design of these plants is true, it would have caused equal, if not more, damage to the flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya as all such slate has admittedly been mined in an unscientific and haphazard manner without any mitigative measures and without obtaining mandatory mining lease, consent to establish, consent to operate, environmental clearance and authorisation/no-objection certificate from the State Pollution Control Board in a flagrant violation of the existing mining, environmental, pollution control and labour safety laws.

**3.1.9** Transportation and use of a huge quantity of illegally mined coal by these plants could not have escaped notice of regulatory authorities, both in the State of Meghalaya and the Union of India. It could not have escaped notice of the district

and police administration. Instead of taking actions to prevent use of illegally mined coal by these plants and to initiate appropriate proceedings under relevant provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 against these Plants for use of illegally mined local coal, the regulatory authorities have tried to regularise/justify the use of illegally mined coal by accepting royalty on slate claimed to be used by these plants and by supporting the claim of these Plants that it is technically and legally feasible to replace two-third of the coal requirement of these plants by a non-fuel mineral such as slate and the slate can be used by these plants as a waste without obtaining any clearance under the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981; the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder.

**3.1.10** As per information provided to the Committee by the Mining and Geology Department in the State of Meghalaya, none of these plants participated in a public auction conducted by the State of Meghalaya to sell more than 38,000 MT of seized coal available at locations in close vicinity of majority of these plants. The Committee therefore is of the view that a major part of the coal requirement of these plants is still being met from illegally mined local coal.

## **3.2 RECOMMENDATIONS**

**3.2.1** To put a stop to the illegal rat-hole mining of the coal being undertaken in the State of Meghalaya in flagrant violation of the mining, environmental and labour safety laws as well as the orders issued by the Hon'ble Supreme Court and the Hon'ble NGT to meet the requirement of the coal for the Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya and also to restore damage caused the flora, fauna, rivers, streams, water bodies and environment in general by illegal rat-hole coal mining, the Committee recommends that the Hon'ble NGT may consider to issue the following directions:

1. The Chief Secretary of the State of Meghalaya shall undertake monthly review the quantity of clinker and/or power produced by each Cement Manufacturing Plants and Thermal Power Plant in the State of Meghalaya and the quantity of coal purchased by each such plant from legal sources to produce such reported quantities of clinker and/or power. Such review for a month shall be undertaken on or before tenth day of the next month. A quarterly report stating therein the month-wise quantities of clinker and/or power produced, quantity of coal consumed to produce such quantities of clinker and/or power by each such plant and action(s), if any, taken against any such plant in case of any anomaly observed during the review shall be submitted to this Tribunal by the Chief Secretary, Meghalaya. Such report for a quarter shall be submitted to this Tribunal on or before fifteenth day of the next quarter.
2. The State of Meghalaya; the Ministry of Environment, Forest and Climate Change, Government of India and the Meghalaya State Pollution Control Board shall initiate proceedings in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder against each of the Cement Manufacturing Plants and the Thermal Power Plants who has used illegally mined local coal after a ban on the rat-hole coal mining in the State of Meghalaya was imposed by this Tribunal in the month of April, 2014.
3. The State of Meghalaya shall realise royalty, GST/VAT, contribution to the MEPR Fund and any other statutory tax and/levy payable on the illegally mined coal utilised by these Cement Manufacturing Plants and the Thermal Power Plants in the State of Meghalaya after the ban on illegal rat-hole mining in the State of Meghalaya was imposed by this Tribunal in April 2014.
4. To restore the damage caused to the flora, fauna, rivers, streams, water bodies and the environment in general by illegal rat-hole mining of coal and also to mitigate the suffering caused to the local tribal residents by the illegal rat-hole coal mining, the State of Meghalaya shall realise from each of the aforementioned Cement Manufacturing Plants and Thermal Power Plants who have

used illegally mined local coal after a ban on illegal rat-hole coal mining was imposed by this Tribunal in the month of April 2014, an amount of Rs. 400 per tonne of coal to be utilised by each such plants on or after the date of this order and deposit the same in the MEPR Fund. Such amount for coal utilised during a month shall be realised on or before fifteenth day of the next month. Not less than fifty percent of these amounts shall be utilised for restoration of damage caused to the flora, fauna, rivers, streams, water bodies and the environment in general by illegal rat-hole mining of the coal in the State of Meghalaya. The balance amounts shall be utilised for socio-economic development of the tribal residents in areas affected by the coal mining in the State of Meghalaya. It is clarified that the afore-mentioned amount of Rs. 400 per MT of coal shall be in addition the contribution to MEPRF at the rate of Rs. 485 per MT of coal already being realised by the State in compliance of earlier orders of this Tribunal. The Chief Secretary, Meghalaya shall formulate draft guidelines for utilisation of these amounts and place the same before the Committee constituted by this Tribunal under Chairmanship of Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The Committee shall within one month from the date of receipt, examine the draft guidelines and place the same along with the comments/observation before this Tribunal for approval.

5. The North Eastern Regional Directorate of the CPCB shall complete audit of coke claimed to be utilised by the Jaintia Cement Limited and the Virgo Cement Limited and submit a report to the Committee constituted by this Tribunal under Chairmanship of the Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The North Eastern Regional Directorate of the CPCB shall also submit the report sought by the said Committee in respect of the Captive Thermal Power Plant of Shree Shakambari Ferro Alloys Pvt. Ltd.

  
(Justice Brojendra P. Katakey)  
Chairman

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 110(T<sub>HC</sub>)/2012

Threat to life arising out of coal mining  
in south garo hills district

Applicant(s)

Versus

State of Meghalaya &amp; Ors.

Respondent(s)

Date of hearing: 09.01.2020

Date of uploading on the website: 17.01.2020

**CORAM:**           **HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON**  
**HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER**  
**HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**  
**HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

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**ORDER****Background: unscientific Rat Hole mining in the State of Meghalaya – directions for preventive and remedial action**

1. This order may be read in continuation of order dated 22.08.2019. The matter pertains to remedial action against unscientific 'Rat Hole' Mining of coal in the State of Meghalaya. Proceedings commenced on the basis of a news item to the effect that on 06.07.2012, thirty coal labourers were trapped in a coal mine and fifteen of them died. After due consideration of the matter, on 17.04.2014, this Tribunal directed the State of Meghalaya to ensure that rat hole mining is stopped forthwith throughout the State and any illegal transport of coal shall not take place until further orders.
2. On 09.06.2014, to give effect to order dated 17.04.2014, a Committee was formed to quantify extracted coal and its location, assess its value and also to prescribe mode of its transportation. In the light of the report this Tribunal, on 07.10.2017, noted that 6.3 million tonnes of illegally mined coal valued at Rs. 307 Crores was lying in the State on which royalty of Rs. 400 Crores was assessed. Direction was issued for videography in the operation of the weigh bridges. The issue of quantum of coal to be permitted to be transported was to be gone into with the assistance of the Committee. Further, direction was issued to credit the amount of royalty in a separate account with 10% of the value of coal to be credited to Environment Protection Fund. On 31.03.2016, the Tribunal directed that except the coal already transported, the remaining will vest in the State. Finally, on 31.08.2018, after reviewing the earlier proceedings, this Tribunal

directed that rat hole mining will remain prohibited and so also the transportation of the mined material. The State will be the custodian of the available coal for which necessary inventory will be prepared.

**Constitution of Monitoring Committee for restoration of environment and rehabilitation of victims and other connected and incidental issues.**

3. This Tribunal, vide order dated 31.08.2018, directed constitution of a Committee to be headed by a former High Court Judge of the Guwahati High Court for restoration of the environment and rehabilitation of the victims. The Committee was at liberty to take up incidental issues. The Committee was also to supervise issues arising out of receivership/custodianship of already extracted coal, including environmental issues arising out storage and remedial steps. Other Members of the Committee were to be representatives of CPCB and Indian School of Mines, Dhanbad. The State of Meghalaya was to provide records, logistics and facilities to the Committee. The Committee was free to requisition services of technical experts from the State and to carry out field visits. The Committee was also free to set up its website for receiving and giving information and to involve educational institutions for awareness and feedback. The Committee was to meet twice in a month to review the progress and to fix further targets and send reports to this Tribunal every two months.

**Orders of this Tribunal dated 04.01.2019, 11.04.2019 and 22.08.2019 on reports received from the Committee.**

4. The Committee gave its report on 02.01.2019 which was considered vide order dated 04.01.2019 with regard to the following questions framed by the Committee:-

- “(A) Whether coal mining activities, including extraction of coal and the transportation of the same, are going on despite the order passed by the Hon’ble NGT imposing ban on coal mining and transportation?*
- (B) Quantity of extracted coal as on the date on which the ban was imposed by the Hon’ble NGT and left to be transported?*
- (C) Quantity of un-inventoried coal which has been extracted before imposition of ban by the Hon’ble NGT?*
- (D) Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?*
- (E) What are the steps required to be taken by the Committee for restoration of the environment and rehabilitation of victims of coal mining?*
- (F) The extent of execution of the Action Plan prepared by the Committee?”*

5. The Tribunal noted that a further tragic incident took place on 13.12.2018 where 15 workers were trapped. The report was that the illegal mining was still continuing. The assessed quantity of such coal was 23,25,663.54 MT. The mining was resulting in adverse impact on the environment for which a study was required to be undertaken. Action plan was proposed for restoration of the environment. In view of the consistent failure of the State in enforcing the law, this Tribunal held the State to be liable to deposit a sum of Rs. 100 Crores with the Central Pollution Control Board (CPCB) to be spent for restoration of the environment. The Tribunal also observed that the Committee may consider seizure of equipments used for illegal mining or transportation, to be released only after payment of 50% of the showroom price of such equipments. The Tribunal suggested that the Committee may consider the following:

*“36. The Committee may also consider the following:-*

- 1. Any cranes and trucks found to be involved in illegal mining or transportation which have not yet been seized may also be seized. The seized vehicles or equipments be released by the concerned District Magistrates only after*

*recovering damages to the extent of 50% of the showroom price of the vehicles or equipments. The said amount may also be credited to the restoration fund.*

2. *Efforts be expedited to identify victims who have suffered at least since 01.07.2012 and to assess loss to the environment and the manner of restoration.*
3. *Disaster Management Plan for the whole of the area 'on site' as well as 'off site' needs to be prepared and put into operation.*
4. *Appropriate technology to replace rat hole mining.*
5. *Resource (coal) audit of Meghalaya Power Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source.*
6. *The Committee may take services of NEERI Nagpur, Indian School of Mine, Dhanbad, FRI Dehradun, CPCB apart from any other agency for making assessment of the damages.*
7. *Survey of health of the habitants may also be considered.*
8. *Skill Development Programmes to provide alternative means of employment to the workers involved in rat hole mining may be considered.*
9. *Mitigation/restoration of impacted areas due to AMD.”*

6. Further report was considered on 11.04.2019. The Tribunal approved the recommendations including those for installation of digital display boards in respect of quality of water of the concerned areas and evolving mechanism for effective action against transportation of illegally mined coal such as electronic manifest system, audit of source of coal acquired by the power generation and cement plants.

7. The matter was further considered on 22.08.2019 in the light of report dated 02.08.2019 received from the Committee as follows:-

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7. Further report dated 02.08.2019 has been received from the Committee to be considered today. We may note that the Hon'ble Supreme Court, vide judgement dated 03.07.2019, in Civil Appeal No. 10720 of 2018 (State of Meghalaya v. All Dimasa Students Union, Dima Hasao District Committee and Ors) and other connected decided Appeals arising from orders of this Tribunal, directing, inter alia, as follows:

**“Conclusions:-**

191. From the foregoing discussions we arrived at following conclusions:-

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9) As per statutory regime brought in force by notification dated 15.01.2016 issued under Environment (Protection) Act, 1986, environmental clearance is required for a project of coal for mining of any extent of area. While implementing statutory regime for carrying mining operations in the Hills Districts of the State of Meghalaya, the State of Meghalaya has to ensure compliance of not only MMDR Act, 1957 but Mines Act, 1952 as well as Environment (Protection) Act, 1986.

10) In Hill District of State of Meghalaya for carrying coal mining operations in privately owned/community owned land it is not the State Government which shall grant the mining lease under Chapter V of Rules, 1960, but it is the private owner/community owner of the land, who is also the owner of the mineral, who shall grant lease for mining of coal as per provisions of Chapter V of Rules, 1960 after obtaining previous approval of the Central Government through the State Government.

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13) In event the mining is carried out by a mining lease holder as per the provisions of Act, 1957 and Rules, 1960 with an approved mining plan there can be no objections in carrying of such mining operations under the regulation and control of the State of Meghalaya. We clarify that in event mining operations are undertaken in privately owned/community owned land in Hills Districts of Meghalaya in accordance with mining lease with approved mining plan as per Act, 1957 and Mineral Concessions Rule, 1960, the ban order dated 17.04.2014 of the tribunal of the NGT shall not come in way of carrying mining operations.

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20) The coal extracted and lying in open after 15.05.2016 does not automatically vest in the State of Meghalaya and the owner of the coal or the

*person who has mined the coal shall have the proprietary right in the mineral which shall not be lost.*

- 21) *The suggestion of learned Amicus Curiae that entire extracted coal lying at various places in hills districts of Meghalaya be directed to be taken over by Coal India Ltd. is accepted. The Coal India Ltd. may dispose of the same as per its normal method of disposal and proceeds be dealt with as per directions issued.*
- 22) *The State having carried out the assessment of the coal lying in the aforesaid four districts including the details of the quantities and the details of owners being available with it, it may ensure that entire coal is handed over to the Coal India Ltd., as per the mode and manner to be formulated by Katakey Committee in consultation with officers of the Coal India Ltd. and the State of Meghalaya.*
- 23) *It is for Coal India Ltd. to decide as to venue, where they shall receive the coal, i.e., either at any of its depot or any other place in the State of Meghalaya and it is for the Coal India Ltd. to finalise the process of disposal and auction of the coal. It shall be the duty of the State of Meghalaya and its officers especially Deputy Commissioner of the area concerned to enter details of quantity of the coal, name of the owner and place from where it is collected. All concerned shall take steps to ensure weighment of the coal when it is received by Coal India Ltd.*
- 24) *The expenses of transportation shall be borne by the State of Meghalaya, Coal India Ltd. or by both, which expenses shall be deductible from the price received of the coal. The State of Meghalaya shall be entitled to royalty and payment towards MERP Fund as well as taxes out of the price of the coal. After deducting its expenses for transportation with 10% of price of the coal, the Coal India Ltd. shall remit the balance amount to the State and it is for the State after deducting the royalty and payment to the MERP Fund and taxes to pay back balance the amount to the owner.*
- 25) *The coal which has been seized by the State in illegal transportation and illegal mining for which different cases have been registered by the State, is not to be dealt with as directed above. The seized coal shall be dealt by the State in accordance with Section 21 of the Act, 1957 and on being satisfied, the State can take a decision to recover the entire quantity of coal so illegally raised without lawful authority.*

192 In view of the foregoing discussions and conclusions, all these appeals are decided in the following manner: -

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4) All I.As. seeking direction for transportation of coal are disposed of directing: -

i) All extracted coal as assessed by State of Meghalaya lying in different districts of State of Meghalaya which as per order of NGT is in custody of State of Meghalaya shall be handed over to Coal India Ltd. for proper disposal.

ii) The Katakey Committee after discussion with Coal India Ltd. and State of Meghalaya shall formulate a mechanism for transport, weighment of all assessed coal.

iii) The Coal India Ltd. shall auction the coal so received by it as per its best judgment and remit the proceed to State to the extent as directed above.

iv) All coal seized by the State for which cases have already been registered shall be dealt by the State in accordance with Section 21 of 1957 Act.”

8. We may now deal with the report of the Committee which is, inter alia, as follows:

**“It is, therefore, evident that though the learned counsel appearing for the State of Meghalaya submitted before the Hon'ble Tribunal that the compliance report in that regard shall be submitted to this committee within two weeks, the direction to install Digital Display Boards has not been fully implemented till date. As stated above, such Boards have been installed in the State Capital, i.e., in Shillong only. The same have not been installed in the coal mining affected districts and Sub-Divisions so far.**

The Committee directs the aforementioned 4(four) Cement Plants, namely, Green Valley Industries Ltd, Gold Stone Cement Ltd, Hills Cement Ltd and Virgo Cement Ltd and one Thermal Power Plant, namely, CMJ Breweries Ltd to depute their representatives to attend the next sitting of the Committee scheduled to be held on 14.08.2019 along with all required information and documents without fail.

The Secretary to the Govt. of Meghalaya, Mining and Geology Department, during the Proceeding No. 16-B held on 23.07.2019 has produced before the Committee a letter dated 22.07.2019 seeking a month's time to formulate a

comprehensive plan and proper policy of transportation and handing over of coal to the Coal India Limited for disposal/auction as per rules of the Coal India Limited. The Committee has also been informed that after finalisation, the same shall be placed before the Committee for deliberation.

Based on the said communication, one month time has been granted to the Mining and Geology Department, Govt. of Meghalaya. The second special sitting scheduled to be held in Guwahati on 26.07.2019 with the representatives of the Coal India Limited and the concerned departments of the Govt. of Meghalaya to discuss about the formulation of a policy for transportation and handing over of the coal to the Coal India Limited, has, therefore, been postponed and the next date was decided to be fixed in its Proceeding to be held on 14.08.2019.

The Committee in the said Proceeding has recorded that the majority of the directions issued by it in the Proceeding No.12 dated 25.04.2019 have not been implemented so far and hence the Commissioner & Secretary to the Govt. of Meghalaya, Mining and Geology Department has been directed to submit a report on the status of implementation of each of these directions in the sitting scheduled to be held on 14.08.2019.

**From the aforesaid position, it is, therefore, evident that the directions issued by the Committee in its Proceeding No.12 dated 25.04.2019 have not been fully complied with till date.**

**(C) CONSIDERATION OF THE RECOMMENDATIONS OF THE COMMITTEE MADE IN ITS PROCEEDING Nos. 13, 14 AND 15 DATED 03.05.2019, 03.06.2019 AND 28.06.2019, COPIES OF WHICH HAVE BEEN SENT BY MAIL IN ngp.filingAgmail.com ON 08.07.2019.**

(1) The Committee in the Proceeding No.13 dated 03.05.2019 recommended for consideration for release of an amount of Rs.40,36,500/- from the MEPR Fund to implement the pilot project for afforestation and reclamation of coal mining affected land and organisation of festival-cum-mass awareness programme submitted by the Principal Chief Conservator of Forest (Climate Change Research and Training), Govt. of Meghalaya and North Eastern Regional Office of the Central Pollution Control Board.

(2) The Committee also in the Proceeding No. 14 dated 03.06.2019 has recommended for consideration by the Hon'ble Tribunal for passing necessary order for deployment of CAPFs to assist the State Police in checking the transportation and mining of coal in the State for the

*purpose of enforcement of the direction issued from time to time to ban illegal mining and transportation of coal.*

*(3) The Committee in the said Proceeding had also recommended for consideration by the Hon'ble Tribunal to release an amount of rupees one Crore from MEPR fund to facilitate the Forest & Environment Department for afforestation of the coal mine affected areas and to ensure availability of adequate number of good quality plants.*

*(4) The Committee in the Proceeding No.15 dated 25.06.2019 has also recommended for consideration by the Hon'ble Tribunal for release of Rs.19,19,500/- from the MEPR Fund towards the cost to be incurred in the Pilot Project of Micro Algae Treatment of the acidic water in the identified stream in the coal mining affected areas to be implemented by M/S Trinity Impex International.*

*The Hon'ble Tribunal may consider the aforesaid recommendations of the Committee.*

*The Committee, on 31.08.2019 shall submit the further report relating to the status of implementation of the Action Plan prepared by it, directions issued by it from time to time and also the directions issued by the Hon'ble Supreme Court in Civil Appeal No. 10720 of 2018 (State of Meghalaya v. All Dimasa Students Union, Dima Hasao District Committee and Ors.) and other analogous matters passed In Judgment & Order dated 03.07.2019."*

9. *Learned Counsel for State of Meghalaya submitted that with regard to display boards, further steps have been taken and a report dated 03.08.2019 has been filed before this Tribunal and a report will also be filed before the Committee. The Committee may look into the same.*
10. *As regards effective action against illegal transportation, the Committee has suggested deployment of Central Armed Forces and the State Police. The Committee has also suggested release of certain funds. Learned counsel for the State submitted that the recommendations of the Committee be accepted.*
11. *We accept the recommendations of the Committee for release of the amount as presented in para (3) & (4) of recommendations as noted above. As regards deployment of Central Armed Police Forces (CAPF), our attention has been drawn to earlier proceedings before this Tribunal in order dated 25.03.2015 as follows:*

*"1. The Additional Secretary, North East in the Ministry of Home, Central Government shall, within a period of two weeks from today, hold a meeting with the Chief Secretary of the State of Meghalaya and other concerned*

*Authorities and consider the proposal of the State of Meghalaya for deployment of appropriate force to ensure compliance of orders of the Tribunal and protection of the Environment and Ecology, particularly water bodies as recorded in various orders of the Tribunal. We are hopeful, that the decision will be taken objectively and in the interest of public at large.”*

12. *We are informed that in pursuance thereof, the Central Government did provide the requisite Forces at that time. In the light thereof, the State of Meghalaya to follow the same course of approaching the Central Government. The Central Government may give due consideration to such proposal expeditiously.*
13. *Only other issue which survives for consideration is the enforcement of directions of the Hon’ble Supreme Court for handing over coal already mined and lying at various places in Meghalaya to the Coal India Ltd. As per directions of the Hon’ble Supreme Court, in the judgement dated 03.07.2019 the same may be looked into by the Committee in consultation with the officers of Coal India and the State of Meghalaya. We suggest that the Committee may fix specific timeline for the purpose.*
14. *Our attention in this regard has been drawn to a Challan dated 13.08.2019 issued by the Divisional Mining Officer, Jowai with regard to transportation of the ‘auctioned’ mineral. Learned Counsel for the State may ascertain whether the transportation is in terms of the scheme prepared by the Committee in accordance with the directions of the Hon’ble Supreme Court and if not, remedial action may be taken. The Committee may look into this aspect and applicability of online electronic manifest system for regulating movements of vehicles and issuance of challans as per the Tribunal’s order dated 11.04.2019.*
15. *The companies in question are directed to furnish the requisite information to the Committee, failing which this Tribunal may have to take coercive measures against the Chief Executive Officers of the companies. This aspect will be considered in the light of further report of the Committee. The Committee may also make its recommendations about the conduct of officers not cooperating in compliance of orders of the Hon’ble Supreme Court and this Tribunal so that the State may take appropriate action and inform this Tribunal.*
16. *The Committee has proposed to send its further report by 31.08.2019. Thereafter, a further report be sent after three months by 30.11.2019.*
17. *List again on 10.12.2019 or as and when the occasion arises.”*

**Judgement of the Hon'ble Supreme Court dated 03.07.2019 (2019) 8 SCC 177 in Appeals arising out of orders of this Tribunal**

8. We have perused the judgement of the Hon'ble Supreme Court dated 03.07.2019, (2019) 8 SCC 177 in Appeals arising out of orders of this Tribunal as the said judgement governs some of the issues dealt with by the Committee which are also to be dealt with by this Tribunal. It is clear from the judgment of the Hon'ble Supreme Court that the Hon'ble Supreme upheld the jurisdiction of this Tribunal in dealing with the matter and constituting the Monitoring Committee. Though the private owners of the land had right in the minerals, no unregulated and unscientific mining could be carried out. The Mining Policy of the State was required to be consistent with the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and mining even by owner was required to be regulated under the statutory scheme. The Environmental Clearance (EC) was required in terms of Notification dated 15.01.2016. Compliance of MMDR Act, Mines Act, 1952 as well as Environment (Protection) Act, 1986 (EP Act) is necessary. The Mineral Concession Rules 1960 are also required to be followed. Schedule VI to the Constitution does not affect the said laws. Order of the Tribunal dated 17.04.2014 was upheld banning Rat Hole mining as the manner of such mining was not consistent with the statutory scheme. However, the said ban will not bar legal and scientific mining as per statutory scheme. Order of the Tribunal constituting MEPR fund was also upheld. Order dated 04.01.2019 requiring deposit of Rs. 100 Crores with CPCB for restoration of environment was also upheld but the same could be paid out of the Meghalaya Environment Protection and Restoration Fund' (MEPR Fund). The extracted coal laying at various places was

directed to taken over by Coal India Limited. The coal was to be handed over to Coal India Limited by the State in the manner formulated by the Committee. The Hon'ble Supreme Court noted that the Committee has done commendable job in studying and examining the various environmental aspects and suggesting mitigation measures. The State of Meghalaya and Coal India Limited were directed to deliberate with the Committee to finalize plan for transportation and handling over of the coal for disposal as per Rules which may be beneficial for the owners of the mine as well as the State. The Coal India Limited was also to take steps for payment of the coal and the State of Meghalaya was entitled to royalty and taxes. After deducting cost of transportation/royalty and payment to MEPR fund and taxes plus 10% of the value of the coal, the balance was to be disbursed to the owner. The disbursement was to be made by the State. The coal seized in illegal transportation of illegal mining was to be dealt by the State under Section 21 of the MMDR Act separately.

**Resume of proceedings till 22.08.2019**

9. The above resume shows that the Committee has already furnished three reports dated 02.01.2019, 31.03.2019 and 02.08.2019 which have been dealt with by this Tribunal vide orders dated 04.01.2019, 11.04.2019 and 22.08.2019 respectively.
10. The issues dealt with in the first three reports in short are:

**“3.1 First Interim Report**

*3.1.1 The Committee submitted its First Interim Report dated 31.12.2018 to the Hon'ble NGT on 02.01.2019. The said First Interim report contains findings of the Committee on the following questions framed by the Committee:-*

- A. *Whether coal mining activities, including extraction of coal and the transportation of the same, are going on despite the order passed by the Hon'ble NGT imposing ban on coal mining and transportation?*
- B. *Quantity of extracted coal as on the date on which the ban was imposed by the Hon'ble NGT and left to be transported?*
- C. *Quantity of un-inventoried coal which has been extracted before imposition of ban by the Hon'ble NGT?*
- D. *Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?*
- E. *What are the steps required to be taken by the Committee for restoration of the environment and rehabilitation of victims of coal mining?*
- F. *The extent of execution of the Action Plan prepared by the Committee?*

### **3.2 Second Interim Report**

3.2.1 *The Committee submitted its Second Interim Report dated 30.03.2019 to the Hon'ble NGT. In the said Report, the Committee placed before the Hon'ble NGT the current status of the following issues:*

- (i) *Availability and investment of amounts available in the MEPR Fund.*
- (ii) *Monitoring of quality of water in the rivers and streams of the areas affected by coal mining.*
- (iii) *Steps taken for neutralisation of Acid Mine Drainage (AMD) contaminated water in the rivers & streams of the areas affected by coal mining activities.*
- (iv) *Status of the ongoing water supply schemes in coal mining affected areas in East Jaintia Hills District, under the Pubic Health Engineering Department.*
- (v) *Seizure of cranes, trucks etc. involved in illegal mining or transportation and release of such vehicles and equipment.*
- (vi) *Skill Development Schemes*
- (vii) *Survey of health of the habitants of the areas affected by coal mining.*
- (viii) *Framing of Disaster Management Plan, both "on site" and "off site".*
- (ix) *Verification of un-inventorised coal.*
- (x) *Procurement of coal by the Cement Companies from the local market in the State of Meghalaya.*
- (xi) *Pilot Projects to be undertaken by CIMFR-CISR, Dhanbad*
- (xii) *Awareness Camps/ Programme.*

- (xiii) Applications for compensation to the next of kin of the persons who died during illegal mining and to the persons who suffered injuries during due to illegal coal mining.
- (xiv) Preparation of Geospatial Database inputs of Planning and Restoration of areas affected by coal mining in the State of Meghalaya.
- (xv) Coal mining activities including transpiration of coal.

3.2.2 The Committee in the said Report also recommended that the Hon'ble NGT may permit release of an amount of Rs.96.59 lakh for procurement of 6(six) numbers of vehicles mounted with Water Tankers to be used for supplying potable waters to the villagers of the villages in the district of East Jaintia Hills affected by coal mining activities and where the potable water has not so far been supplied.

### 3.3 **Third Interim Report**

3.3.1 The Committee submitted its Third Interim Report dated 02.08.2019 to the Hon'ble NGT on 02.08.2019. In the said Report, the Committee placed before the Hon'ble NGT the current status of the following directions issued by the Hon'ble NGT in the Order dated 11.04.2019:

- (i) Release and utilisation of an amount of Rs.96.59 lakh from the MEPR Fund in favour of the Deputy Commissioner, East Jaintia Hills District for purchase of the six vehicles mounted with water tankers.
- (ii) Installation of Digital Display Boards at the Headquarters of coal mining affected Districts and Sub-Divisions and display thereon quality of water in ten worst polluted rivers/streams in the District/Sub-Division.
- (iii) Audit of the source of coal acquired by the power generation and cement plants in the State of Meghalaya.
- (iv) Mechanism to be adopted for effective action against illegal transportation of coal such as electronic manifest system for regulating movement of vehicles and issuance of challans.”

11. Orders of this Tribunal dated 04.01.2019, 11.04.2019 and 22.08.2019 on the above three reports in short are:-

#### **Order dated 04.01.2019:**

“4.1.2 In view of the consistent failure of the State in enforcing the law, the Hon'ble NGT held the State to be liable to deposit a sum of Rs. 100 Crores with the Central Pollution Control Board (CPCB) to be spent for restoration of the environment. The Hon'ble NGT also observed that the Committee may consider

seizure of equipment used for illegal mining or transportation, to be released only after payment of 50% of the showroom price of such equipment.

4.1.3. The Hon'ble NGT in the said order dated 04.01.2019 also suggested that the Committee may consider the following:

- (i) Any cranes and trucks found to be involved in illegal mining or transportation which have not yet been seized may also be seized. The seized vehicles or equipment be released by the 4 concerned District Magistrates only after recovering damages to the extent of 50% of the showroom price of the vehicles or equipment. The said amount may also be credited to the restoration fund.
- (ii) Efforts be expedited to identify victims who have suffered at least since 01.07.2012 and to assess loss to the environment and the manner of restoration.
- (iii) Disaster Management Plan for the whole of the area 'on site' as well as 'off site' needs to be prepared and put into operation.
- (iv) Appropriate technology to replace rat hole mining.
- (v) Resource (coal) audit of Meghalaya Power Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source.

**Order dated 11.04.2019:**

4.2.2 The Hon'ble NGT in the said order dated 11.04.2019 also noted the finding of the Committee that despite the order passed by the Hon'ble Supreme Court prohibiting transportation of coal, the same has not been stopped by the authorities for the reasons best known to them as well as another finding relating to non-installation of Digital Display Boards in the Sub-Division, Districts and the State Headquarters/Capital, displaying the quality of water in the respective areas for information of general public. The

*Hon'ble NGT, having regard to the submission of the learned counsel appearing for the State of Meghalaya directed that the aforesaid issues will be duly dealt with and a compliance report shall be filed before the committee within two weeks, directed the Committee to consider the same on its next sitting, i.e., on 25.04.2019. The committee was also given liberty to consider the matter and pass further orders/recommendations.*

*4.2.3 The Hon'ble NGT vide the said Order also directed that the Committee may consider requirement of foolproof mechanism to be adopted for effective action against transportation of illegally mined coal such as electronic manifest system for regulating movement of vehicles and issuance of challans and also may consider audit of resource of coal acquired by the Power Generation and Cement Plants in the State of Meghalaya.*

**Order dated 22.08.2019:**

*4.3.2 The Hon'ble NGT in the said Order dated 22.08.2019 also directed as below:*

- (i) For making available Central Armed Police Force (CAPF) the State of Meghalaya shall follow the same course of approaching the Central Government as has been done by them in the past in compliance of directions issued by the Hon'ble NGT vide order dated 25.03.2015. The Central Government may give due consideration to such proposal expeditiously.*
- (ii) As per directions of the Hon'ble Supreme Court, in the judgement dated 03.07.2019 the enforcement of directions of the Hon'ble Supreme Court for handing over coal already mined and lying at various places in Meghalaya to the Coal India Ltd may be looked into by the Committee in consultation with the officers of Coal India and the State of Meghalaya. The Committee may fix specific timeline for the purpose.*

(iii) *Learned Counsel for the State may ascertain whether the transportation under a Challan dated 13.08.2019 issued by the Divisional Mining Officer, Jowai with regard to transportation of the 'auctioned' mineral is in terms of the scheme prepared by the Committee in accordance with the directions of the Hon'ble Supreme Court and if not, remedial action may be taken. The Committee may look into this aspect and applicability of online electronic manifest system for regulating movements of vehicles and issuance of challans as per the Tribunal's order dated 11.04.2019.*

(iv) *The cement companies in question are directed to furnish the requisite information to the Committee, failing which this Tribunal may have to take coercive measures against the Chief Executive Officers of the companies. This aspect will be considered in the light of further report of the Committee.*

(v) *The Committee may also make its recommendations about the conduct of officers not cooperating in compliance of orders of the Hon'ble Supreme Court and this Tribunal so that the State may take appropriate action and inform this Tribunal.”*

**Further reports- 04<sup>th</sup> Interim Report dated 31.08.2019, 05<sup>th</sup> Interim Report dated 02.12.2019 and 06<sup>th</sup> Interim Report dated 03.12.2019**

12. After order of this Tribunal dated 22.08.2019, the Committee has dealt with the matter and furnished following further reports in the matter:-

1. 04<sup>th</sup> Interim Report dated 31.08.2019
2. 05<sup>th</sup> Interim Report dated 02.12.2019
3. 06<sup>th</sup> Interim Report dated 03.12.2019.

13. We also have for our consideration response of the State of Meghalaya to the 04<sup>th</sup> and 06<sup>th</sup> interim reports. M.A. No. 03/2020 in O.A. No. 73/2014 is being dealt with by a separate order.
14. We have heard the learned Amicus Curiae – Shri Raj Panjwani, Senior Advocate and Mr. Raju Ramachandren, Senior Advocate representing the State of Meghalaya. Other counsel representing various parties present have not made any oral submissions.
15. Accordingly, we proceed to consider the reports furnished by the Committee and the response thereto.

**4<sup>th</sup> Interim Report dated 31.08.2019**

16. In the 4<sup>th</sup> Interim Report the Committee considered the mechanism to deal with the complaints under Section 21 of the MMDR Act of illegal raising and transportation of coal, procedure for exercise of powers under Section 21 (5) of the MMDR Act, action to be taken in new cases of illegal mining/storage and transportation, action for preventing illegal mining and storage, recovery of fresh stock of coal extracted prior to ban, action for violation of Water (Prevention and Control of Pollution) Act, 1974 and EP Act apart from action under MMDR Act, steps for mitigating environment pollution caused by acidic water and emitting from the coal depots/ dumps, mechanism in term of EIA Notification of 2006, video recording of consignments for illegal transportation of coal, scheme to reward informers giving information about illegal mining/transportation, establishing coal mine surveillance system and SOP to deduct illegal mining or dumping of coal, disposal of coal confiscated under Section 21(5) of MMDR Act, preparation of geological and feasibility report for

scientific coal mining, execution of pilot project for treatment of acidic water and for afforestation and reclamation of coal mining affected land, preparation of draft guidelines for utilization of amounts of MEPR fund including amount of Rs. 100 Crore transfer to CPCB, continuation of Prof. (retired) A.K. Singh, from Indian School of Mines, Dhanbad as Member of the Committee, recording of coal depots where coal is to be handed over to Coal India Limited by joint Committee. After due consideration the Committee has suggested the following directions:-

*“The Hon'ble NGT may consider to pass the following directions:*

*1. The State of Meghalaya shall constitute a Monitoring Committee under Chairmanship of the Chief Secretary to undertake monthly review of actions taken by various 'Authorized Officers' to file complaints before concerned Courts of Law under Section 21 of the MMDR Act against the persons involved in illegal raising and transportation of coal. (para 5.1.2.12 (i))*

*2. The State of Meghalaya shall formulate guidelines stipulating therein a detailed procedure for exercise of the powers conferred on the State under sub-section (5) of section 21 of the MMDR Act to recover mineral raised unlawfully from such person or where such mineral has already been disposed to recover price thereof (para 5.1.2.12 (ii))*

*3. The State of Meghalaya shall mandatorily invoke provisions of sub-section (5) of section 21 of the MMDR Act in all new cases where illegal raising or storage or transportation of coal is detected in the State of Meghalaya. (para 5.1.2.12 (iii))*

*4. The State of Meghalaya shall in exercise of powers conferred by Section 23 (C) of the MMDR Act formulate rules for preventing illegal mining, transportation and storage of minerals and shall notify the same in the official Gazette within one month. (para 5.1.2.12 (iv))*

*5. In the cases where any person declares any fresh stock of coal purported to be extracted prior to imposition of the ban by the Hon'ble NGT, apart from other punitive actions, actions under sub-section (5) to section 21 of the MMDR Act to recover such coal shall mandatorily be initiated by the State of Meghalaya (para 5.1.2.12 (v)).*

6. Subject to provisions of the Law of Limitation, the MSPCB and CPCB shall initiate necessary action to file complaints under relevant sections of the Water Act against persons involved in raising, storage and transportation of the coal reportedly extracted prior to imposition of ban on rat hole coal mining in the State of Meghalaya by the Hon'ble NGT in April 2014, transportation of which has been allowed by the Hon'ble NGT and the Hon'ble Supreme Court. (para 5.1.3.6 (i))

7. In case any fresh illegal mining, storage or transportation of coal in the State of Meghalaya is detected by the Police or District Administration or the Mining and Geology Department, apart from initiation of proceedings under relevant provisions of the MMDR Act against the persons involved in such mining, storage and transportation of the coal, the same shall also be intimated to the MSPCB and CPCB for initiation of necessary actions to file complaint against relevant section(s) of the Water Act against such person. Details of all such cases detected after imposition of ban on illegal rat hole coal mining in April, 2017 shall also be communicated to the MSPCB and CPCB for similar actions. (para 5.1.3.6 (ii)).

8. In case any fresh raising of coal in the State of Meghalaya is detected by the Police or District Administration or the Mining and Geology Department, apart from initiation of proceedings under relevant provisions of the MMDR Act against the persons involved in such illegal raising of the coal, the same shall be intimated to the North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change, Government of India for initiation of necessary actions to file complaint against relevant section of the EP Act against such persons. Details of all such cases detected on or after 15.01.2016 shall also be communicated to the North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change, Government of India for similar actions. (para 5.1.4.3(i))

9. The CPCB and the MSPCB shall critically examine the regulatory regime presently in force to govern establishment and operation of coal depots/dumps in the State of Meghalaya and take necessary actions to fill gaps, if any, in such regime to prevent, minimize and mitigate environment pollution caused by acidic water emanating from such depots (para 5.2.3).

10. The State of Meghalaya shall within one month put in place a mechanism stipulated in Appendix XII of the EIA Notification 2006 to regulate transportation of coal in the State. No transportation of coal in the State of Meghalaya shall, after a period of one month, be allowed till such system containing all the features stipulated in the said Notifications is fully operationalized. (para 5.3.7 (i))

11. The State of Meghalaya shall operationalize a system to video record consignment of each truck passing through all probable routes likely to be used for illegal transportation of coal. The State of Meghalaya shall identify suitable

locations which may cause least disturbance to non truck traffic and install a system of Close Circuit Cameras to ensure video recording of registration number and consignment of each truck passing through each such routes. To minimize inconvenience to non-truck traffic, feasibility of installation of such system at existing toll gates, checkpoints, parking lanes/ bays etc. may be explored. In case no such toll gates, check points, parking lanes/ bays etc. exist at the required locations, the State of Meghalaya in consultation with and/or assistance of the National Highways and Infrastructure Development Corporation (NHIDCL) and/or National Highways Authority of India (NHAI) shall construct additional lanes to facilitate checking of trucks without causing inconvenience to other traffic. Temper proof continuous video recordings made at the check points shall be retained at least for a period of one year and shall periodically be reviewed / checked by the authorities in the Police, Civil Administration and Mining & Geology Department from time to time. (para 5.3.7 (ii))

12. State of Meghalaya shall within a month frame a scheme to suitable reward the informers in case the information on illegal mining and/or transportation of coal provided by such informers is found to be true. Confidentiality of the persons furnishing the information, shall at all cost be maintained so that such informer is not threatened by anyone who are interested in continuing coal mining activities. (para 5.3.7 (iii)).

13. The State of Meghalaya with the assistance of North Eastern Space Applications Centre (NESAC), Department of Space, Government of India, shall within a period of three months put in place a Coal Mine Surveillance System (CMSS) in the State of Meghalaya and also develop a Standard Operating Procedure (SoP) providing for effective follow up action, in case any illegal mining or dumping of coal is detected by the MSS. The CMSS to be developed may be similar to one which has already been developed by the Ministry of Mines and Indian Bureau of Mines (IBM) with assistance from the Bhaskaracharya Institute for Space Application and Geo-Informatics (BISAG), Gandhinagar and Ministry of Electronics and Information Technology (MEITY). {para 5.3.7 (iv)}.

14. The coal which has either been recovered by the State in exercise of powers conferred under sub-section (5) of Section 21 of the MMDR Act or has been confiscated in favour of the State of Meghalaya by an order of a Court of Law and the coal which has been seized by the Officers Authorised by the State Government in this behalf disposal of which has been permitted by the concerned Competent Court of Law, shall be disposed of only through e-auction conducted by the Coal India Limited {para 5.3.7 (v)}.

15. The State of Meghalaya shall expedite drilling of requisite number of bore-holes in 1 sq. km. area in Khliehriat-Sutnga

area in East Jaintia Hills District and complete preparation of Geological Report and Feasibility Report for scientific coal mining in the said area within two months. {para 5.4.2.2 (i)}.

16. The State of Meghalaya is allowed to use an amount of Rs. 4,15,000 (rupees four lakh fifteen thousand) only plus GST at the applicable rates for execution of a Pilot Project on treatment of acidic water at a Water Supply Scheme (WSS) under the Public Health Engineering (PHE) Department at Lelad village in East Jaintia Hills District by using micro-algae consortia as an alternative to lime solution by M/s. Trinity Impex International & Phycospectrum Environmental Research Centre. {para 5.5.6.6 (i)}.

17. The State of Meghalaya and the CPCB are allowed to utilize an amount of Rs.40,36,500/- from the MEPR Fund to implement a pilot project for afforestation and reclamation of coal mining affected land and organization of a festival-cum-mass awareness programme submitted by the Principal Chief Conservator of Forest (Climate Change Research and Training), Govt. of Meghalaya and North Eastern Regional Directorate of the CPCB. (para 5.5.8.2 (i)).

18. The State of Meghalaya shall within one month formulate draft guidelines, strictly in conformity with the broad parameters suggested by the Justice Katakey Committee in its fourteenth Sitting held on 03.06.2019, for utilization of amounts available in the MEPR Fund in an expeditious and transparent manner and submit the same to the Committee. The Committee shall examine the draft guidelines and place the same along with its comments thereon before this Tribunal within one month of receipt of the guidelines. (para 5.5.9.8 (i)).

19. The amount available in the MFPR Fund including an amount of Rs. 100 Crores transferred to the CPCB in compliance of direction issued by the Hon'ble Supreme Court in paragraph 179 of Judgment dated 03.07.2019 in the Civil Appeal No. 10720 of 2018 in the matter of State of Meghalaya versus All Dimasa Student Union, Dima-Hasao District Committee and Ors. and other connected matters and the interest accrued thereon shall be used exclusively for implementation of Action Plan prepared by the Committee for restoration of environment in areas affected by coal mining in the State of Meghalaya. The Committee based on inputs received from various stakeholders or on its own motion may periodically review, revise and update the Action Plan. (para 5.5.9.8 (ii)).

20. Even after expiry of the term of his engagement as a Chair Professor at Indian School of Mines (IIT-ISM), Dhanbad, Professor (Retd.) A.K. Singh shall continue to be a member of the Committee as a representative of the Director, IIT-ISM, Dhanbad. (para 5.7.1.3 (i)).

21. Video recording of all the coal depots where the coal to be handed over to the Coal India Limited is presently lying, to

*be recorded by joint teams consisting of a representative from the Mining and Geology Department, Meghalaya State Pollution Control Board and the Coal India Limited, in the manner as directed by the Committee in its First Special Sitting held at Shillong on 12.07.2019 and use of high resolution satellite imageries for different time-intervals since the imposition of ban on coal mining by the Hon'ble NGT to ascertain continuous existence of all such coal dumps since imposition of ban on coal mining by this Hon'ble Tribunal in April 2014, shall be essential components of the Policy being formulated by the State of Meghalaya for handing over of the coal to the Coal India Limited for disposal through e-auction. (para 5.7.4.7 (i)).*

*The Committee in this report dated 31.08.2019 has highlighted the various orders passed by the Hon'ble NGT, gist of various earlier reports submitted by it, the directions issued by the Hon'ble NGT on the said reports, relevant order passed by the Hon'ble Supreme Court and the issues examined by the Committee after submission of the second interim report, together with summary of recommendations for consideration of the Hon'ble NGT, as the Committee has completed one year from the date of its constitution by the Hon'ble NGT vide its order dated 31.08.2018.”*

#### **5<sup>th</sup> Interim Report dated 02.12.2019**

17. The 5<sup>th</sup> Interim Report mere the back ground of earlier proceedings, sums up the minutes of the meetings and analysis the information given by the industries and regulatory authorities at length and thereafter records findings and recommendations. The report has been uploaded on the website of the National Green Tribunal. The questions considered in the said report in para 2.2.6 are:-

1. Whether the specific coal requirement of afore-mentioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited and its subsidiaries is substantially lower than specific coal requirement stated in the respective TEFRs?

2. What is the actual specific coal requirement for the aforementioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited?
  3. Whether it is technically feasible to use huge quantity of slate in lieu of coal without making any modification in design of these Plants?
  4. Whether the afore-mentioned Plants of Star Cement Limited and its subsidiaries have actually used huge quantity of alternate fuel (*i.e.* Slate) in lieu of coal?
  5. Whether slate, if used, has been used after obtaining all requisite regulatory approvals?
18. After analyzing the entire data the findings recorded are:-

### **“CHAPTER 3: FINDINGS AND RECOMMENDATIONS**

#### **3.1 FINDINGS**

*3.1.1 Except for the clinker manufacturing plant of the Mawmluh Cherra Cement Limited (A State PSU) and Captive Power Plants of the Maithan Alloy Limited and the CMJ Breweries Private Limited, there is a huge gap in quantity of coal required to produce reported quantity of clinker and/or power and the coal reported to be purchased from legal sources during the Audit Period by all other Cement Manufacturing Plants and Thermal Power plants in the State of Meghalaya for which resource (coal) audit could be completed by the Committee. Year-wise quantities of the coal required to produce reported quantities of clinker and/or power, the coal actually purchased from legal sources and the gap between the two for each of these Plants are as below:*

(metric tonnes)

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	
Star Cement Limited and its two subsidiaries	Coal required *	4,24,636	4,73,806	4,93,365	4,70,145	4,50,096	<b>23,12,048</b>
	Coal procured **	97,047	2,64,674	61,830	1,29,020	1,13,201	<b>6,65,772</b>
	Gap	3,27,589	2,09,132	4,31,535	3,41,125	3,36,895	<b>16,46,276</b>
Amrit Cement Limited and its captive TPP	Coal required *	84,323	1,06,548	1,05,745	1,00,155	1,46,919	<b>5,43,690</b>
	Coal procured **	3,861	88,165	38,785	74,978	31,833	<b>2,37,622</b>
	Gap	80,462	18,383	66,960	25,177	1,15,086	<b>3,06,068</b>
Dalmia Cement (Bharat) Limited and its Captive TPP	Coal required*	2,00,028	2,01,797	1,94,234	2,22,215	2,56,324	<b>10,74,598</b>
	Coal procured **	17,433	98,296	56,208	1,07,092	54,478	<b>3,33,507</b>
	Gap	1,82,595	1,03,501	1,38,026	1,15,123	2,01,846	<b>7,41,091</b>
Goldstone Cement Limited and its Captive TPP	Coal required*	0	0	39,652	1,15,104	1,47,919	<b>3,02,675</b>
	Coal procured **	0	0	5,918	21,295	4,946	<b>32,159</b>
	Gap	0	0	33,734	93,809	1,42,973	<b>2,70,516</b>
Green Valley Industries Limited	Coal required *	58,205	55,262	57,505	64,673	65,398	<b>3,01,043</b>
	Coal procured **	44,844	50,555	46,762	51,068	30,278	<b>2,23,507</b>
	Gap	13,361	4,707	10,743	13,605	35,120	<b>77,536</b>
Hill Cement Company Limited	Coal required *	18,397	32,158	38,548	30,600	35,085	<b>1,54,788</b>
	Coal procured **	0	11,989	9,797	2,248	13,347	<b>37,381</b>
	Gap	18,397	20,169	28,751	28,352	21,738	<b>1,17,407</b>
JUD Cements Limited	Coal required *	29,761	38,604	23,994	28,249	20,576	<b>1,41,184</b>
	Coal procured **	0	16,348	2,099	377	370	<b>19,194</b>
	Gap	29,761	22,256	21,895	27,872	20,206	<b>1,21,990</b>

<i>Meghalaya Cements Limited and its Captive TPP</i>	<i>Coal required *</i>	1,43,334	1,72,873	1,53,873	1,84,291	1,85,140	<b>8,39,511</b>
	<i>Coal procured **</i>	96,533	44,686	45,968	54,012	53,987	<b>2,95,186</b>
	<i>Gap</i>	46,801	1,28,187	1,07,905	1,30,279	1,31,153	<b>5,44,325</b>
<i>Captive TPP of Shyam Century</i>	<i>Coal required *</i>	54,499	46,959	88,743	58,563	29,497	<b>2,78,261</b>
	<i>Coal procured **</i>	43,576	32,461	72,086	13,704	4,960	<b>1,66,787</b>
	<i>Gap</i>	10,923	14,498	16,657	44,859	24,537	<b>1,11,474</b>
<i>Ferrous Limited</i>	<i>Coal required *</i>	10,13,183	11,28,007	11,95,659	12,73,995	13,36,954	<b>59,47,798</b>
	<i>Coal procured **</i>	3,03,294	6,07,174	3,39,453	4,53,794	3,07,400	<b>20,11,115</b>
	<i>Gap</i>	7,09,889	5,20,833	8,56,206	8,20,201	10,29,554	<b>39,36,683</b>

\*: *Coal required to produce reported quantities of clinker and/or power*

\*\*: *Coal reported to be procured from legal sources.*

3.1.2 *The Committee is of the view that the entire gap of 39.37 lakh MT between the quantity of the coal required to produce reported quantity of the clinker and the electrical power and the coal purchased from legal sources by these Plants during the Audit Period constituting about two-third of the coal requirement of these plants during the Audit Period has been met from the illegally mined local coal. Demand for a huge quantity of illegally mined coal from these plants has sustained and supported a wide scale illegal rat-hole coal mining in the State of Meghalaya in flagrant violation of a ban imposed by the Hon'ble NGT.*

3.1.3 *Continuance of illegal rat-hole coal mining in the State of Meghalaya to meet the huge requirement of coal for these Cement Manufacturing Plants and the Thermal Power Plants have caused huge damage to flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya. It has also made the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining virtually inoperative.*

**3.1.4** *No royalty, taxes and any other statutory levies has been paid to the State of Meghalaya on the illegally mined coal utilised by these Cement Manufacturing Plants and Thermal Power Plants during the*

*Audit Period resulting in a huge loss to the State exchequer. In fact ban on the illegal rat-hole coal mining in the State of Meghalaya came as a boon to these Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya as it virtually exempted them from the requirement of payment of royalty, taxes and other statutory levies payable on more than two-third of the coal consumed by them. The amounts of royalty (@ Rs. 675 per MT), contribution to Meghalaya Environment Protection and Restoration Fund (MEPR Fund) at the rate of Rs. 485 per MT and GST/VAT @ 5 % of the sale value of approx. Rs. 8,000 per MT amounting to Rs 400 per MT) payable on the illegally mined coal utilised by each of these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period are as below:*

<b>S. No.</b>	<b>Plant</b>	<b>Qt. of illegal coal used (MT)</b>	<b>Royalty</b>	<b>MEPRF</b>	<b>GST/VAT</b>	<b>Total</b>
1.	2.	3.	4.	5.	6.	7.
1.	Star Cement Limited and its two subsidiaries	16,46,276	111.124	79.844	65.851	<b>256.819</b>
2.	Amrit Cement	3,06,068	20.660	14.844	12.243	<b>47.747</b>
3.	Dalmia Bharat Cement Ltd	7,41,092	50.024	35.943	29.644	<b>115.610</b>
4.	Goldstone Cement Ltd.	2,70,516	18.260	13.120	10.821	<b>42.200</b>
5.	Green Valley Industries Ltd.	77,536	5.234	3.760	3.101	<b>12.096</b>
6.	Hill Cement Ltd.	1,17,407	7.925	5.694	4.696	<b>18.315</b>
7.	JUD Cement Ltd.	1,21,990	8.234	5.917	4.880	<b>19.030</b>
8.	Meghalaya Cement Ltd.	5,44,325	36.742	26.400	21.773	<b>84.915</b>
9.	Shyam Century Ferrous Ltd.	1,11,474	7.524	5.406	4.459	<b>17.390</b>
	<b>Total</b>	<b>39,36,684</b>	<b>265.726</b>	<b>190.929</b>	<b>157.467</b>	<b>614.123</b>

3.1.5 The royalty and VAT/GST amounting to Rs. 423.194 Crore payable on illegally mined coal utilised by the Cement Manufacturing Plants and Thermal Power Plants, if realised and properly utilised, can significantly enhance living standard of the tribal residents, especially those residing in the areas affected by such illegal coal mining, of the State. Similarly, an amount of Rs. 190.929 Crore payable to MEPR Fund for the said illegally mined coal utilised by these Plants, if properly utilised, may greatly help in restoration of flora, fauna, rivers, streams, water bodies and the environment in general damaged by illegal rat-hole coal mining in the State of Meghalaya.

3.1.6 Claim of these Cement Manufacturing Plants and Thermal Power Plants that about two-third of their coal requirement have been met by a non-fuel mineral (i.e. slate) without making any change in the design of these plants is not tenable. The Committee, based on a detailed analysis given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for these plants to replace more than two-third of their coal requirement by a non-fuel mineral such as slate.

3.1.7 These Plants have purchased illegally mined local coal in the name of slate to circumvent the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining in the State of Meghalaya and also to evade payment of royalty, GST/VAT and other statutory levies and contribution to MEPR Fund on the coal utilised by them.

3.1.8 Even for the sake of an argument it is assumed that the claim of these plants that more than two-third of their coal requirement during the Audit Period has been met by a non-fuel mineral (viz. slate) without making any change/modification in the design of these plants is true, it would have caused equal, if not more, damage to the flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya as all such slate has admittedly been mined in an unscientific and haphazard manner without any mitigative measures and without obtaining mandatory mining lease, consent to establish, consent to operate, environmental clearance and authorisation/no-objection certificate from the State Pollution Control Board in a flagrant violation of the existing mining, environmental, pollution control and labour safety laws.

3.1.9 Transportation and use of a huge quantity of illegally mined coal by these plants could not have escaped notice of regulatory authorities, both in the State of Meghalaya and the Union of India. It could not have escaped notice to the District and police administration. Instead of taking actions to prevent use of illegally mined coal by these plants and to initiate appropriate proceedings under relevant provisions of the Mines

and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 against these Plants for use of illegally mined local coal, the regulatory authorities have tried to regularise/justify the use of illegally mined coal by accepting royalty on slate claimed to be used by these plants and by supporting the claim of these Plants that it is technically and legally feasible to replace two-third of the coal requirement of these plants by a non-fuel mineral such as slate and the slate can be used by these plants as a waste without obtaining any clearance under the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981; the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder.

3.1.10 As per information provided to the Committee by the Mining and Geology Department in the State of Meghalaya, none of these plants participated in a public auction conducted by the State of Meghalaya to sell more than 38,000 MT of seized coal available at locations in close vicinity of majority of these plants. The Committee therefore is of the view that a major part of the coal requirement of these plants is still being met from illegally mined local coal.

### **3.2 RECOMMENDATIONS**

3.2.1 To put a stop to the illegal rat-hole mining of the coal being undertaken in the State of Meghalaya in flagrant violation of the mining, environmental and labour safety laws as well as the orders issued by the Hon'ble Supreme Court and the Hon'ble NGT to meet the requirement of the coal for the Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya and also to restore damage caused the flora, fauna, rivers, streams, water bodies and environment in general by illegal rat-hole coal mining, the Committee recommends that the Hon'ble NGT may consider to issue the following directions:-

1. The Chief Secretary of the State of Meghalaya shall undertake monthly review the quantity of clinker and/or power produced by each Cement Manufacturing Plants and Thermal Power Plant in the State of Meghalaya and the quantity of coal purchased by each such plant from legal sources to produce such reported quantities of clinker and/or power. Such review for a month shall be undertaken on or before tenth day of the next month. A quarterly report stating therein the month-wise quantities of clinker and/or power produced, quantity of coal consumed to produce such quantities of clinker and/or power by each such plant and action(s), if any, taken against any such plant in case of any

*anomaly observed during the review shall be submitted to this Tribunal by the Chief Secretary, Meghalaya. Such report for a quarter shall be submitted to this Tribunal on or before fifteenth day of the next quarter.*

*2. The State of Meghalaya; the Ministry of Environment, Forest and Climate Change, Government of India and the Meghalaya State Pollution Control Board shall initiate proceedings in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder against each of the Cement Manufacturing Plants and the Thermal Power Plants who has used illegally mined local coal after a ban on the rat-hole coal mining in the State of Meghalaya was imposed by this Tribunal in the month of April, 2014.*

*3. The State of Meghalaya shall realise royalty, GST/VAT, contribution to the MEPR Fund and any other statutory tax and/levy payable on the illegally mined coal utilised by these Cement Manufacturing Plants and the Thermal Power Plants in the State of Meghalaya after the ban on illegal rat-hole mining in the State of Meghalaya was imposed by this Tribunal in April 2014.*

*4. To restore the damage caused to the flora, fauna, rivers, streams, water bodies and the environment in general by illegal rat-hole mining of coal and also to mitigate the suffering caused to the local tribal residents by the illegal rat-hole coal mining, the State of Meghalaya shall realise from each of the aforementioned Cement Manufacturing Plants and Thermal Power Plants who have used illegally mined local coal after a ban on illegal rat-hole coal mining was imposed by this Tribunal in the month of April 2014, an amount of Rs. 400 per tonne of coal to be utilised by each such plants on or after the date of this order and deposit the same in the MEPR Fund. Such amount for coal utilised during a month shall be realised on or before fifteenth day of the next month. Not less than fifty percent of these amounts shall be utilised for restoration of damage*

caused to the flora, fauna, rivers, streams, water bodies and the environment in general by illegal rat-hole mining of the coal in the State of Meghalaya. The balance amounts shall be utilised for socio-economic development of the tribal residents in areas affected by the coal mining in the State of Meghalaya. It is clarified that the aforementioned amount of Rs. 400 per MT of coal shall be in addition the contribution to MEPRF at the rate of Rs. 485 per MT of coal already being realised by the State in compliance of earlier orders of this Tribunal. The Chief Secretary, Meghalaya shall formulate draft guidelines for utilisation of these amounts and place the same before the Committee constituted by this Tribunal under Chairmanship of Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The Committee shall within one month from the date of receipt, examine the draft guidelines and place the same along with the comments/observation before this Tribunal for approval.

5. The North Eastern Regional Directorate of the CPCB shall complete audit of coke claimed to be utilised by the Jaintia Cement Limited and the Virgo Cement Limited and submit a report to the Committee constituted by this Tribunal under Chairmanship of the Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The North Eastern Regional Directorate of the CPCB shall also submit the report sought by the said Committee in respect of the Captive Thermal Power Plant of Shree Shakambari Ferro Alloys Pvt. Ltd.”

**6<sup>th</sup> Interim Report dated 3.12.2019**

19. The 6<sup>th</sup> Interim Report deal with the objections raised by the State of Meghalaya before the Committee on the ground that the same is in violation of directions of the Hon'ble Supreme Court. After elaborate discussion of each and every objections raised by the State. The Committee summarized its recommendations as follows:-

**“CHAPTER- 6: SUMMARY OF RECOMMENDATIONS**

6.1 *The Committee recommends that the Hon'ble NGT may consider to pass the following directions:*

1. *The State of Meghalaya shall, immediately, provide to the North Eastern Space Application Centre (NESAC), Department of Space, Government of India, Umiam, the location (latitude and longitude) and other details of each dump where coal to be auctioned is located. The NEASC, shall within one week from the date of receipt of these details prepare a geo-referenced map depicting the location of each of these dumps and provide a copy of the same to the Secretary to the Government of Meghalaya, Mining and Geology Department and the Coal India limited for placing a copy thereof along with a list containing name and address of the owner and quantity of coal available at each such dump on their respective websites. (Para 2.20 WI*

2. *The Secretary to the Government of Meghalaya, Mining and Geology Department shall, immediately, place on website of the Department a copy of the additional affidavit containing details of 32,56,715 MT coal stated to be available at various depots filed before the Hon'ble Supreme Court on 10.04.2019 by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department . (Para 2.20 (ii))*

3. *The North Eastern Space Application Centre (NESAC), Department of Space, Government of India, Umiam shall undertake land-use land-cover analysis of areas where coal to be handed over to the Coal India Limited is located by using high resolution satellite imageries for the following period:*

(a) *Immediately before the illegal rat-hole mining of coal was banned by this Tribunal by an order dated 17.04.2014; (Para 2.20 (iii) (a))*

(b) *Immediately before the additional affidavit dated 10.04.2019 containing details of 32,56,715 MT coal stated to be available at various depot was filed before the Hon'ble Supreme Court by the Commissioner and*

*Secretary to the Government of Meghalaya, Mining and Geology Department; and (Para 2.20 (iii) (b)).*

*(c) Once in the year 2015, 2016, 2017 and 2018, preferable in the month of April. (Para 2.20 (iii) (c))*

*4. Based on the said land-use land-cover analysis, the NESAC shall divide the coal available at each of the depot where the 32,56,715 MT coal is stated to be available into three categories namely:*

*(a) The coal continuously existing at the depot since the ban on the illegal rat-hole mining was imposed by this Tribunal on 17.04.2014; (Para 2.20 (iv) (a))*

*(b) The coal dumped at the depot after the filing of additional affidavit before the lion'ble Supreme Court on 10.04.2019; and (Para 2.20 (iv) (b))*

*(c) The coal dumped at the depot on any day between 17.04.2014 and 10.04.2019. (Para 2.20 (iv) (c)).*

*5. The finalisation of the mode and manner for handing over of the coal to the Coal India Limited and the disposal of the coal by the Coal India Limited through e-auction shall not wait completion of the afore-mentioned study by the NESAC. The amount realised from sale of such coal will however not be disbursed to the respective owner till the said study in respect of such coal is completed by the NESAC. (Para 2.20 (v))*

*6. The amount realised from auction of the coal shall be disbursed in the following manner:*

*(a) The State of Meghalaya shall exercise the powers vested on it under subsection (5) of section 21 of the Mines and Mineral (Development and Regulation) Act, 1957 and recover the amounts realised from the auction of the coal which was dumped at the depot after 10.04.2019 and transfer all such amounts along with taxes/royalty/levies realized thereon to the Consolidated Fund of the State of Meghalaya. Contribution to the MEPR Fund realised for such coal shall be transferred to the MEPR Fund. (Para 2.20 (vi) (a))*

*(b) Amounts realised from the sale of the coal which is continuously available in at the Depot shall be transferred to the respective owner. Taxes/royalty/levies realised on such coal shall be transferred to the Consolidated Fund of the*

*State of Meghalaya. Contribution to the MEPR Fund realised for such coal shall be transferred to the MEPR Fund. (Para 2.20 (vi) (b))*

*(c) Details of all such coal which was dumped at a depot between 17.04.2014 and 10.04.2019 shall be placed before the Hon'ble Supreme Court. Disbursal of amounts realised from the sale/auction of such coal shall be done in the manner the Hon'ble Supreme Court may stipulate. (Para 2.20 (vi) (c))*

*7. The State of Meghalaya and the Coal India Limited shall provide all the information and documents sought by the Katakey Committee for finalization of mode and manner of handing over of the coal available at various Depots to the Coal India Limited. The Committee shall finalize the mode and manner for handing over of the coal available at various depots to the Coal India Limited strictly in conformity with the directions issued by the Hon'ble Supreme Court. The State of Meghalaya and the Coal India Limited shall abide by the mode and manners finalised by the said Committee. (Para 2.20 (vii)).*

*8. To resolve disputes involving adulteration of coal quality in a lot between the day it is notified for auction and the day on which entire coal available in such lot is lifted by the successful bidder the collection and maintenance of reference samples by the Coal India Limited in the manner and for a period provided for collection and maintenance of such samples in the normal process of disposal of coal through e-auction by the Coal India Limited shall be an integral component of the mode and manners for handing over of the coal to the Coal India Limited. (Para 2.20 (viii)).*

*9. The mode and manner for handing over of the coal to the Coal India Limited shall contain time-lines for each step involved in handing over of the assessed coal to the CIL and its subsequent auction by the CIL. (Para 2.20 (ix))*

*10. Nature of records to be maintained and the authorities responsible to maintain each such record shall be specified in the mode and manner for handing over of the coal to the Coal India Limited. (Para 2.20 (x)).*

11. Number of officers of different ranks to be deployed by the Coal India Limited to plan, execute and monitor disposal of the coal through e-auction shall be specified in the mode and manner to be finalised by the Katakey Committee. (Para 2.20 (xi))

12. Reserve Price of the coal to be auctioned shall be fixed by the Coal India Limited as per its existing rules and policies for disposal of the coal through e-auction. (Para 2.20 (xii))

13. The Coal India Limited, the State of Meghalaya, the owner of the coal and their officers/employees shall be responsible for their respective acts of omission and commission in any dispute which may arise relating to quality and quantity of the coal stated to be available at various depots. (Para 2.20 (xiii)).

14. The mode of manner for handing over of the coal to the Coal India Limited shall provide for a legally tenable and practically feasible dispute resolution framework. (Para 2.20 (xiv)).

15. The State of Meghalaya shall install and make fully functional, within a month, a system involving establishment of a centralised server, uploading of transport permit/challans and tracking of coal loaded trucks through GPS and RFID tags as stipulated in the said Appendix-X[1 to the EIA Notification, 2016 to prevent and detect multiple use of transport permit/challans. Transportation of the coal in the State of Meghalaya shall not be permitted till the said system is made fully operational. (Para 2.20 (xv)).

16. The State of Meghalaya and the Meghalaya State Pollution Control Board shall initiate necessary actions to file compliant under relevant sections of the Mines and Mineral (Development and Regulation) Act, 1957, the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, and the Environment (Protection) Act, 1986 against the persons responsible for raising of transportation of all such coal which was dumped at any such depot on or after 10.04.2019. (Para 2.20 (xxvi)).

17. An agency not under superintendence and control of the State of Meghalaya shall enquire into the matter of export of illegally mined coal to Bangladesh, in the guise of coal permitted to be transported by various orders passed by the Hon'ble NGT and the Hon'ble Supreme from time-to-time, identify the person(s) responsible for such export and file complaint before the concerned competent Courts of Law under relevant provisions of the Law against all such persons. (Para 3.20 (i))

18. The State of Meghalaya shall place before this Tribunal the periodical details (viz. name & full address) of the exporter for each consignment of coal originating from the Meghalaya which was allowed by the Mining and Geology Department in the Government of Meghalaya for export to the Bangladesh from each of the seven LCS in Meghalaya since the ban on rat hole coal mining in Meghalaya was imposed by the Hon'ble NGT in April, 2014. (Para 3.20 (ii))

19. The State of Meghalaya shall initiate necessary actions in accordance with provisions of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 against the persons responsible for export of the illegally raised coal to the Bangladesh from each of the seven LCSs in the State of Meghalaya in the guise of the coal permitted to be transported by the Hon'ble NGT and the Hon'ble Supreme Court by order passed from time-to-time. The actions to be initiated against such persons shall include actions under sub-section (5) of Section 21 of the said Act to recover price of such illegally raised coal along with rent, royalty or tax, as the case may be, payable to the Government in respect of such coal. (Para 3.20 (iii))

20. In case the coal reported to be available at several location between the DMR Checkgate/weighbridge and the Custom exit point at Gasuapara and such other Custom exit points in the State of Meghalaya is not a part of the 32,56,715 MT assessed coal to be handed over to the Coal India Limited for disposal through e-auction the Mining and Geology Department in the State of Meghalaya initiate necessary actions in accordance with provisions of Section

*21 of the Mines and Minerals (Development and Regulation) Act, 1957 against the persons responsible for raising and transportation of such coal and submit a report to this Tribunal. Such action shall include actions under sub-section (5) of section 21 of the said Act to recover all such illegally raised coal. (Para 3.20 (iv)).*

*21. The State of Meghalaya shall within three months, establish integrated check post and temper-proof weigh-in-motion weighbridge at each of the seven LCSs in the State of Meghalaya. Each such integrated check-post and weigh-in-motion weighbridge shall jointly be manned by the representative, one each from the Mining and Geology Department and the Forests & Environment Department in the State of Meghalaya and the Border Security Force (BSF) and the Customs Department in the Union of India. Each such integrated check-post and weigh-in-motion weighbridge shall be provided with an adequate number of CCTV cameras to ensure video recording of the registration number and the consignment loaded in each truck passing through such integrated check-post and the weighbridge. The network of CCTV cameras to be installed at the weighbridge shall also ensure video recording of the display panel indicating weight of each truck passing through such weighbridge. The footage of each CCTV camera installed at each integrated check-post and the weighbridge shall be retained for a minimum period of one year. (Para 3.21 (i))*

*22. Vigilance wing in the Customs and the BSF in the Union of India and the Home (Police) Department in the State of Meghalaya shall undertake regular inspection of the integrated check-posts and weigh-in-motion weighbridge and submit a quarterly report on such inspections to the Chief Secretary, Meghalaya and their respective Departmental Heads. (Para 3.21 (ii)).*

*23. The Director General of Police, Meghalaya shall ensure that all the person and vehicles, equipment, tools and machineries involved in raising and transportation of about 80,000 MT seized by the Meghalaya Police are identified and necessary*

*action as per the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and all other relevant Statutes and the rules framed thereunder are taken against all such persons and vehicles, equipment, tools and machineries. The similar actions shall also be taken for the coal, if any, to be seized in future. A monthly report on all the cases where the persons and vehicles, equipment, tools and machineries involved in raising and transportation of the seized coal could not be identified shall be submitted. (Para 4.19. (i))*

*24. The Director General of Police shall provide to the Meghalaya State Pollution Control Board details of persons involved in illegal mining and transportation of the coal. The Meghalaya State Pollution Control Board shall file complaint before the concerned competent Court of Law under relevant sections of the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the rules, guidelines and notifications issued thereunder against such persons. (Para 4.19 (ii)).*

*25. The State of Meghalaya shall formulate a comprehensive policy for auction of the seized coal and place a copy of the same before this Tribunal within a month. The policy shall provide, among others, establishment of a centralised depot in each coal mining affected district for safe and scientific storage of the seized coal and disposal of the seized coal in a fair and transparent manner after giving wide publicity. The Policy shall specifically provide that no coal shall be disposed of without giving a prior notice of atleast thirty (30) days. The copy of each such notice shall be published in atleast two prominent dailies having wide circulation. (Para 4.19 (iii)).*

*26. The State of Meghalaya shall, within a month, formulate a simple procedure for verification of the claims for receipt of ex-gratia from the labourers who received injuries while working in illegal rat-hole coal mines in the State of the Meghalaya and also from the next-of kin of laborers who were killed while working in such mines. Such*

*procedure may contain adequate safeguards to detect, deter and reject false claims. (Para 5.4 (1)).*

*27. State of Meghalaya shall disburse an amount of rupees five lakh to next of kin of each of the labourers who were killed while working in any illegal rat-hole coal mining in the State of Meghalaya including the labourers which were killed in a tragic accident in an illegal rat-hole mine in Ksan village in East Jaintia Hill district in December 2018. {Para 5.4 (ii)}.*

*28. State of Meghalaya shall disburse an amount of rupees five lakh to next of kin of each of the labourers who were killed and rupees two lakh to each of the labourers who received serious injuries while working in any illegal rat-hole coal mining in the State of Meghalaya including the labourers which were killed or received serious injuries in a tragic accident in an illegal rat-hole mine in Ksan village in East Jaintia Hill district in December 2018 and in South Garo Hills District in the year 2012.*

*29. State of Meghalaya, Meghalaya State Pollution Control Board and Central Pollution Control Board, shall implement the Action Plan prepared by the Committee, with modification wherever required and submit periodical report.*

*Before parting with the report, the Committee expresses its sincere gratitude to the Hon'ble National Green Tribunal in giving the opportunity to work on the subject.”*

### **Consideration of objections to the Report**

20. We have perused objections to the reports of the Committee dated 31.08.2019, 02.12.2019 and 03.12.2019 filed by the State of Meghalaya. During the hearing, we confronted learned senior counsel for the State of Meghalaya with the fact that since work of the Committee has been commended by the

Hon'ble Supreme Court as well as by this Tribunal earlier, the nature of objections are not appreciable. Learned senior counsel fairly stated that he will not press the objections. In the response to the report, he merely handed over a note to submit that some of the recommendations were not feasible. We quote the relevant part of the note to consider the said objections:-

S. N.	Recommendation	Not feasible	Reasons for being non-feasible
1	i. The State of Meghalaya shall provide NESAC the Longitudes & Latitudes of each dump where coal is to be auctioned. ii. NESAC to prepare geo-reference mapping for location of each dump and give it to State and CIL. iii. State and CIL will put it on their website.	√	<ul style="list-style-type: none"> <li>• Duplication of exercise of identification of sale-points.</li> <li>• Geo-referencing details already there in affidavit filed by State which has been provided to CIL and the same will be put up on website.</li> <li>• In terms of para 48 and 187-192 of the judgment of Supreme Court this exercise is not required.</li> </ul>
2	NESAC to conduct annual land-use land cover analysis to determine continuous existence of coal on the sale point.	√	<ul style="list-style-type: none"> <li>• Unnecessary exercise.</li> <li>• Supreme Court observed in Para 189 that All this 32,56,715 coal is illegally mined.</li> <li>• Yet directed its disposal thorough CIL and disbursal of funds to owners in paras 192-192.</li> </ul>
3.	NESAC shall then divide each sale-point into 3 categories, viz. (i) Coal continuously existing (ii) Dumped after 17.04.2014 (iii) Dumped after filing of affidavit		Same as in respect of 2 above
4.	Money realized from auction of coal shall not be disbursed till NESAC study is completed		Same as in respect of 2 above
5.	Amount realized shall be disbursed in following manner: (i) For Coal existing prior to 17.04.14-immediately. (ii) For coal dumped between 17.4.14 and filing of affidavit to be placed before SC for further direction. (iii) For coal dumped thereafter – All money to be transferred to State funds.	√	<ul style="list-style-type: none"> <li>• Contrary to Supreme Court judgment. Even after observing in Para 189 that <b>ALL</b> this 32,56,715 Coal is illegally mined, SC directed its disposal thorough CIL and disbursal of funds to owners in Para 192.</li> <li>• In para 186 the Supreme Court has affirmed ownership of private miners on all this 32,56,715 MT Coal and held that their proprietary rights are not extinguished.</li> </ul>
6.	Collection and maintenance of samples from each lot for purpose of future dispute resolution.	√	<ul style="list-style-type: none"> <li>• There are more than 20,000 sale points.</li> <li>• Further, the auction is on 'As is where is' basis and <u>prospective bidders are being given 14 days' time to physically verify the</u></li> </ul>

			<p><u>quantity and quality of coal lying at the dump.</u></p> <ul style="list-style-type: none"> <li>• <u>Owners are also mandated to submit NABL accredited lab certificate as to grade and sulfur content of Coal before their dump is notified for auction</u> and the same shall be part of auction notice.</li> </ul>
7.	Reserve Price of Coal to be auctioned shall be fixed by CIL as per their existing policy.	√	<ul style="list-style-type: none"> <li>• CIL has refused to do so in meeting dated 14.10.2019 and again on 02.12.2019 on the ground that it is not practically possible or technically and financially feasible for CIL to physically verify the quality of each lot of Coal located at 20,000 sale points for fixation of reserve price which is also dependent upon the cost of transportation of the same.</li> <li>• CIL submitted that it has no experience of coal mining in conditions like Meghalaya and has no experience of lifting and transportation of coal in such terrain where most of the stocks can be assed only through smaller four-wheel trucks and the hilly roads also cannot bear the load of huge quantity of coal being transported simultaneously.</li> <li>• These factors substantially affect the reserve price fixation of Coal.</li> <li>• The State of Meghalaya is having more experience of the coal mining and coal trading practices in the State of Meghalaya and having such domain knowledge of marketability of such Coal, is better suited to fixe reserve price.</li> </ul>
8.	CIL / State of Meghalaya/ owner/employee/ officer shall be liable for disputes relating to quality and quantity	√	<ul style="list-style-type: none"> <li>• The question of providing a Dispute Resolution Process in the plan does not arise because Auction is on 'as is where is' basis and Prospective bidders are allowed to inspect the lot before bidding. Hence, no liability of CIL and State of Meghalaya thereafter.</li> <li>• However, in case of a dispute between the seller and the buyer the remedy under ordinary law of the land is always available to them.</li> </ul>
9.	To provide legally tenable and practically feasible Dispute Resolution Mechanism	√	<ul style="list-style-type: none"> <li>• Same as in respect of 8 above.</li> </ul>
10.	Enquiry by an outside Agency into compliants of alleged export of illegally mined coal to Bangladesh and prosecution of persons involved in such alleged illegality	√	<ul style="list-style-type: none"> <li>• It will be an encroachment on executive powers of the State.</li> <li>• As submitted before the Committee, enquiry has already been initiated by the State and appropriate action in accordance with law shall be taken.</li> </ul>
11.	State of Meghalaya to disburse	√	<ul style="list-style-type: none"> <li>• PIL being W.P. (C) No. 3 of 2019</li> </ul>

	an amount of 5 lakh to each labourer deceased in Ksan mine incident of Dec. 2018		<p>has been filed in Hon'ble Supreme Court on that incident.</p> <ul style="list-style-type: none"> <li>• The Hon'ble Supreme Court observed that compensation is required to be paid to kin of victims in order dated 25.02.2019.</li> <li>• State filed I.A. No. 77028/19 on 06.05.2019, inter-alia informing the Court that 3 lakh ex-gratia payments has already been made qua each victim.</li> <li>• The Hon'ble Supreme Court closed all the issues except formulation of Standard Operating Procedure to deal with such mining incidents vide order dated 12.07.2019.</li> </ul>
12.	State of Meghalaya to pay 5 lakh for each death and 2 lakh for each injury in above incident as well as for the incident reported in South Garo Hills District in 2012.	√	<ul style="list-style-type: none"> <li>• For 2012 incident, ex-gratia payment has already been made to those who came forward to make claims and whose claims were found to be genuine.</li> </ul>

21. We have considered the above objections. We are unable to appreciate the reasons for the stand that the recommendations are not feasible. Even if the exercise is considered by the State to be unnecessary, no serious difficulty is shown in doing so. We are unable to hold that any of the direction is against the order of the Hon'ble Supreme Court or not feasible. The dispute resolution process recommended is certainly conducive to the handling of the long pending issues and is necessary for facilitating compliance of the directions for disposal of illegal mined material and the mandate of law. We, thus, reject the objections of the State of Meghalaya. It is a matter of regret that State of Meghalaya, has by uncalled for objections, created a situation to hamper a credible mechanism set up by this Tribunal and approved by the Hon'ble Supreme Court by practically compelling the Chairman of the Committee to seek recusal.

**Directions**

22. Under the circumstances, while accepting all the recommendations of the Committee in its 04<sup>th</sup> Interim Report dated 31.08.2019, 05<sup>th</sup> Interim Report dated 02.12.2019 and 06<sup>th</sup> Interim Report dated 03.12.2019, we also accept the request of Justice B.P. Katakey, former Judge, Guwahati High Court to be relieved.
23. Without in any manner meaning to dilute the exhaustive recommendations of the Committee, the substance of the recommendations of the Committee can be summed up to include monitoring of illegal raising and transportation of coal by the Chief Secretary of the State; steps for punitive measures for illegal mining – filling up gaps in the regulatory regime; action for preventing minimizing and mitigating environment pollution by acidic water from coal depots; electronic recording of movement of coal including by way of GPS and RFID Tags and having a central server for the purpose; inspection of wings of BSF and vigilance department; establishing and supervising check posts and weigh bridges; utilization of the compensation amount for legitimate purposes in terms of the recommendations in the report; continuing Prof. A.K. Singh, nominee, IIT-ISM, Dhanbad as member of the Committee; monitoring of sourcing of illegally mined coal by cement manufacturing/thermal power plants for enforcement of mining law, including punitive and remedial actions for

sourcing of illegally mined material, as found by the Committee; conducting necessary audit; study of land use and land cover analysis; drilling of bore holes in Khlihirt-Sutnga area in East Jaintia Hill District; preparation of geological report and feasibility report for scientific coal mining; compiling information about location of dumps of coal; finalizing mode and manner of handling of coal and its disposal including e-auction; transfer of coal to Coal India Limited; monitoring of illegal export of coal to Bangladesh by an independent agency; adopting satellite surveillance systems; action by the State PCB for enforcement of environmental norms; verification of claims of victims and disbursement of payments to them in the manner suggested by the Committee; implementing action plan prepared by the Committee by the State PCB etc. Compliance of all the recommendations may need to be closely monitored by the Committee.

24. On suggestion of State of Meghalaya, we substitute Justice B.D. Agarwal, former Judge, Guwahati High Court as Chairman of the Committee. We are informed that Justice B.D. Agarwal is Judicial Member of Lokayukt of Manipur State but is willing to undertake the present assignment subject to the State of Manipur relieving him or otherwise permitting him to do so. The State of Manipur may consider this aspect in consultation with Justice B.D. Agarwal. Subject to there being no objection, Justice B.D. Agarwal may take up the assignment at the earliest. The Committee may furnish its

further action taken report after three months preferably by 30.04.2020 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).

A copy of this order be sent by e-mail to the Chief Secretary, Meghalaya, CPCB, State PCB, IIT-ISM, Dhanbad, who may also furnish a copy to Prof. A.K. Singh (Retired), Justice B.P. Katakey, Justice B.D. Agarwal, former Judges of Guwahati High Court.

List for further consideration on 12.05.2020.

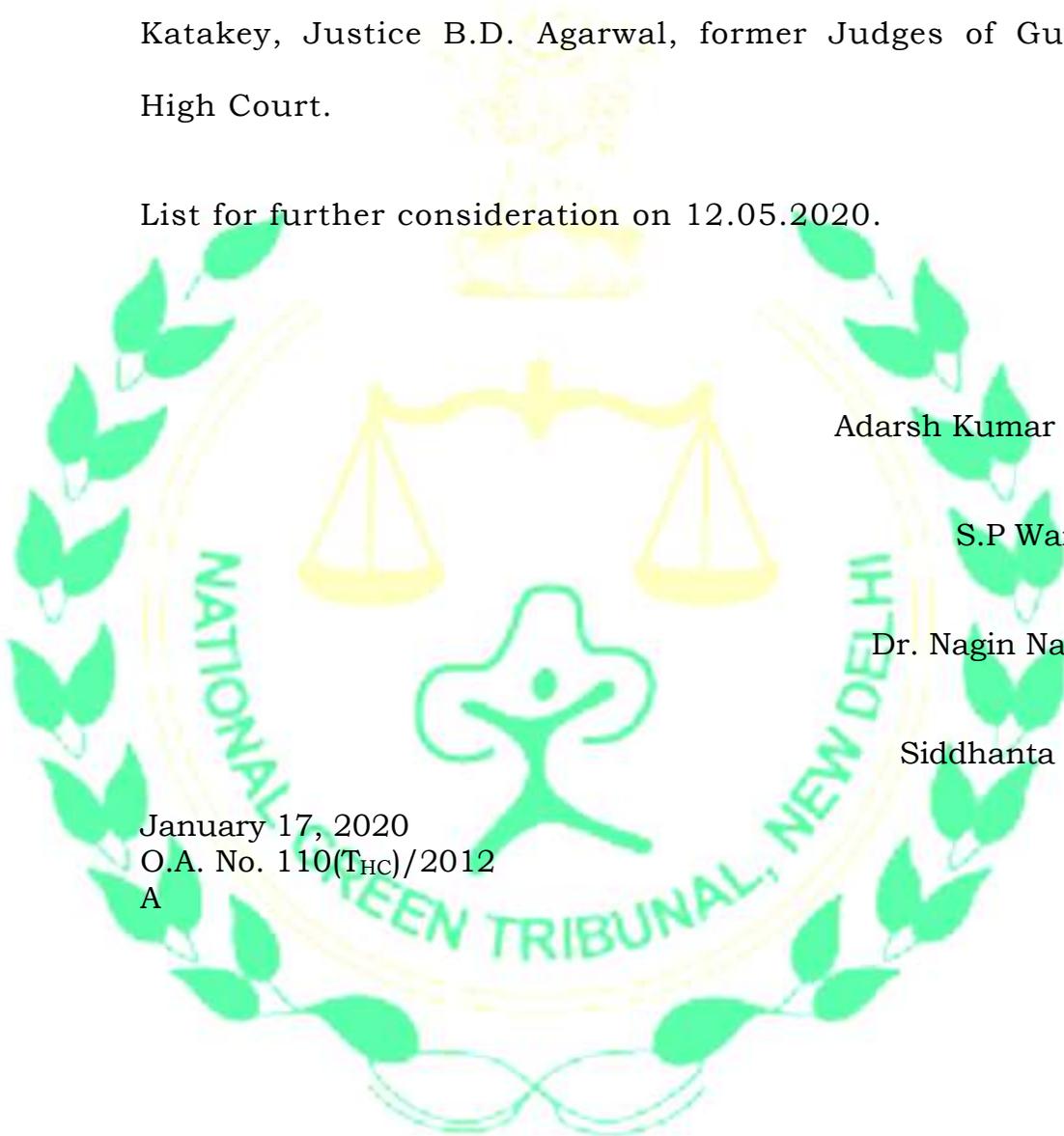
Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

January 17, 2020  
O.A. No. 110(T<sub>HC</sub>)/2012  
A



Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 110(T<sub>HC</sub>)/2012

Threat to life arising out of coal  
mining in south garo hills district

Applicant

Versus

State of Meghalaya & Ors.

Respondent

Date of hearing: 01.03.2021

Date of uploading of order on website: 15.03.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

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## ORDER

### **Background of the matter leading to prohibiting rat hole mining**

1. The matter pertains to remedial action against unscientific 'Rat Hole' Mining of coal in the State of Meghalaya. Proceedings commenced on the basis of a news item to the effect that **on 06.07.2012, thirty coal labourers were trapped in a coal mine and fifteen of them died.** After due consideration of the matter, on 17.04.2014, this Tribunal directed the State of Meghalaya to ensure **that rat hole mining is stopped forthwith throughout the State and any illegal transport of coal shall not take place until further orders.**

2. On 09.06.2014, to give effect to order dated 17.04.2014, a Committee was formed **to quantify the extracted coal and its location, assess its value and also to prescribe mode of its transportation.** In the light of the report this Tribunal, **on 07.10.2017, noted that 6.3 million tonnes of illegally mined coal valued at Rs. 307 Crores was lying in the State on which royalty of Rs. 400 Crores was assessed.** Direction was issued for videography in the operation of the weigh bridges. The issue of quantum of coal to be permitted to be transported was to be gone into with the assistance of the Committee. Further, direction was issued to **credit the amount of royalty in a separate account with 10% of the value of coal to be credited to Environment Protection Fund.** On 31.03.2016, the Tribunal directed that except the coal already transported, **the remaining will vest in the State.**

### **Constitution of Monitoring Committee**

3. Finally, **on 31.08.2018, after reviewing the earlier proceedings, this Tribunal directed that rat hole mining will remain prohibited and**

**so also the transportation of the mined material.** The State will be the custodian of the available coal for which necessary inventory will be prepared. The Tribunal also directed constitution of a Committee to be headed by a former High Court Judge of the Guwahati High Court **for restoration of the environment and rehabilitation of the victims.** The Committee was at liberty to take up incidental issues. **The Committee was also to supervise issues arising out of receivership/custodianship of already extracted coal, including environmental issues arising out storage and remedial steps.** Other Members of the Committee were to be representatives of CPCB and Indian School of Mines, Dhanbad. The State of Meghalaya was to provide records, logistics and facilities to the Committee. The Committee was free to requisition services of technical experts from the State and to carry out field visits. The Committee was also free to set up its website for receiving and giving information and to involve educational institutions for awareness and feedback. The Committee was to meet twice in a month to review the progress and to fix further targets and send reports to this Tribunal every two months.

#### **Reports of the Committee and further orders**

4. The Committee gave its report on 02.01.2019 which was considered vide order dated 04.01.2019 with regard to the following questions framed by the Committee:-

- “(A) Whether coal mining activities, including extraction of coal and the transportation of the same, are going on despite the order passed by the Hon’ble NGT imposing ban on coal mining and transportation?”*
- (B) Quantity of extracted coal as on the date on which the ban was imposed by the Hon’ble NGT and left to be transported?*
- (C) Quantity of un-inventoried coal which has been extracted before imposition of ban by the Hon’ble NGT?*
- (D) Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?*

- (E) *What are the steps required to be taken by the Committee for restoration of the environment and rehabilitation of victims of coal mining?*
- (F) *The extent of execution of the Action Plan prepared by the Committee?”*

**Incident of 13.12.2018 – 15 workers trapped**

5. The Tribunal noted that a **further tragic incident took place on 13.12.2018 where 15 workers were trapped.** The report was that the illegal mining was still continuing. **The assessed quantity of such coal was 23,25,663.54 MT.** The mining was resulting in adverse impact on the environment for which a study was required to be undertaken. Action plan was proposed for restoration of the environment. In view of the consistent failure of the State in enforcing the law, this Tribunal held the State to be liable to deposit a sum of Rs. 100 Crores with the Central Pollution Control Board (CPCB) to be spent for restoration of the environment. The Tribunal also observed that the Committee may consider seizure of equipments used for illegal mining or transportation, to be released only after payment of 50% of the showroom price of such equipments. The Tribunal suggested that the Committee may consider the following:

*“36. The Committee may also consider the following:-*

1. *Any cranes and trucks found to be involved in illegal mining or transportation which have not yet been seized may also be seized. The seized vehicles or equipments be released by the concerned District Magistrates only after recovering damages to the extent of 50% of the showroom price of the vehicles or equipments. The said amount may also be credited to the restoration fund.*
2. *Efforts be expedited to identify victims who have suffered at least since 01.07.2012 and to assess loss to the environment and the manner of restoration.*
3. *Disaster Management Plan for the whole of the area ‘on site’ as well as ‘off site’ needs to be prepared and put into operation.*
4. *Appropriate technology to replace rat hole mining.*



State of Meghalaya has to ensure compliance of not only MMDR Act, 1957 but Mines Act, 1952 as well as Environment (Protection) Act, 1986.

10) *In Hill District of State of Meghalaya **for carrying coal mining operations in privately owned/community owned land it is not the State Government which shall grant the mining lease under Chapter V of Rules, 1960, but it is the private owner/community owner of the land, who is also the owner of the mineral, who shall grant lease for mining of coal as per provisions of Chapter V of Rules, 1960 after obtaining previous approval of the Central Government through the State Government.***

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13) *In event the mining is carried out by a mining lease holder as per the provisions of Act, 1957 and Rules, 1960 with **an approved mining plan there can be no objections in carrying of such mining operations under the regulation and control of the State of Meghalaya. We clarify that in event mining operations are undertaken in privately owned/community owned land in Hills Districts of Meghalaya in accordance with mining lease with approved mining plan as per Act, 1957 and Mineral Concessions Rule, 1960, the ban order dated 17.04.2014 of the tribunal of the NGT shall not come in way of carrying mining operations.***

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20) *The coal extracted and lying in open after 15.05.2016 does not automatically vest in the State of Meghalaya and **the owner of the coal or the person who has mined the coal shall have the proprietary right in the mineral which shall not be lost.***

21) *The suggestion of learned Amicus Curiae that **entire extracted coal lying at various places in hills districts of Meghalaya be directed to be taken over by Coal India Ltd. is accepted. The Coal India Ltd. may dispose of the same as per its normal method of disposal and proceeds be dealt with as per directions issued.***

22) *The State having carried out the assessment of the coal lying in the aforesaid four districts including the details of the quantities and the details of owners being available with it, **it may ensure that entire coal is handed over to the Coal India Ltd., as per the mode and manner to be formulated by Katakey Committee in consultation with officers of the Coal India Ltd. and the State of Meghalaya.***

23) *It is for Coal India Ltd. to decide as to venue, where they shall receive the coal, i.e., either at any of its depot or any other place in the State of Meghalaya and it is for the Coal India Ltd. to finalise the process of disposal and auction of the coal. It shall be the duty of the State of Meghalaya and its officers especially Deputy Commissioner of the area concerned to enter details of quantity of the coal, name of the owner and place from where it is collected. All concerned shall take steps*

**to ensure weighment of the coal when it is received by Coal India Ltd.**

**24) The expenses of transportation shall be borne by the State of Meghalaya, Coal India Ltd. or by both, which expenses shall be deductible from the price received of the coal. The State of Meghalaya shall be entitled to royalty and payment towards MERP Fund as well as taxes out of the price of the coal. After deducting its expenses for transportation with 10% of price of the coal, the Coal India Ltd. shall remit the balance amount to the State and it is for the State after deducting the royalty and payment to the MERP Fund and taxes to pay back balance the amount to the owner.**

**25) The coal which has been seized by the State in illegal transportation and illegal mining for which different cases have been registered by the State, is not to be dealt with as directed above. The seized coal shall be dealt by the State in accordance with Section 21 of the Act, 1957 and on being satisfied, the State can take a decision to recover the entire quantity of coal so illegally raised without lawful authority.**

192 In view of the foregoing discussions and conclusions, all these appeals are decided in the following manner: -

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4) All IAs. seeking direction for transportation of coal are disposed of directing: -

- i) All extracted coal as assessed by State of Meghalaya lying in different districts of State of Meghalaya which as per order of NGT is in custody of State of Meghalaya shall be handed over to Coal India Ltd. for proper disposal.
- ii) The Katakey Committee after discussion with Coal India Ltd. and State of Meghalaya shall formulate a mechanism for transport, weighment of all assessed coal.
- iii) The Coal India Ltd. shall auction the coal so received by it as per its best judgment and remit the proceed to State to the extent as directed above.
- iv) All coal seized by the State for which cases have already been registered shall be dealt by the State in accordance with Section 21 of 1957 Act.”

8. We may now deal with the report of the Committee which is, inter alia, as follows:

**“It is, therefore, evident that though the learned counsel appearing for the State of Meghalaya submitted before the Hon’ble Tribunal that the compliance report in that regard shall be submitted to this committee within two weeks, the direction to install Digital Display Boards has not been fully implemented till date. As stated above, such Boards have been installed in the State Capital,**

***i.e., in Shillong only. The same have not been installed in the coal mining affected districts and Sub-Divisions so far.***

***The Committee directs the aforementioned 4(four) Cement Plants, namely, Green Valley Industries Ltd, Gold Stone Cement Ltd, Hills Cement Ltd and Virgo Cement Ltd and one Thermal Power Plant, namely, CMJ Breweries Ltd to depute their representatives to attend the next sitting of the Committee scheduled to be held on 14.08.2019 along with all required information and documents without fail.***

***The Secretary to the Govt. of Meghalaya, Mining and Geology Department, during the Proceeding No. 16-B held on 23.07.2019 has produced before the Committee a letter dated 22.07.2019 seeking a month's time to formulate a comprehensive plan and proper policy of transportation and handing over of coal to the Coal India Limited for disposal/auction as per rules of the Coal India Limited. The Committee has also been informed that after finalisation, the same shall be placed before the Committee for deliberation.***

*Based on the said communication, one month time has been granted to the Mining and Geology Department, Govt. of Meghalaya. The second special sitting scheduled to be held in Guwahati on 26.07.2019 with the representatives of the Coal India Limited and the concerned departments of the Govt. of Meghalaya to discuss about the formulation of a policy for transportation and handing over of the coal to the Coal India Limited, has, therefore, been postponed and the next date was decided to be fixed in its Proceeding to be held on 14.08.2019.*

*The Committee in the said Proceeding has recorded that the majority of the directions issued by it in the Proceeding No.12 dated 25.04.2019 have not been implemented so far and hence the Commissioner & Secretary to the Govt. of Meghalaya, Mining and Geology Department has been directed to submit a report on the status of implementation of each of these directions in the sitting scheduled to be held on 14.08.2019.*

***From the aforesaid position, it is, therefore, evident that the directions issued by the Committee in its Proceeding No.12 dated 25.04.2019 have not been fully complied with till date.***

**(C) CONSIDERATION OF THE RECOMMENDATIONS OF THE COMMITTEE MADE IN ITS PROCEEDING Nos. 13, 14 AND 15 DATED 03.05.2019, 03.06.2019 AND 28.06.2019, COPIES OF WHICH HAVE BEEN SENT BY MAIL IN [ngp.filing@gmail.com](mailto:ngp.filing@gmail.com) ON 08.07.2019.**

- (1) *The Committee in the Proceeding No.13 dated 03.05.2019 recommended for consideration for release of an amount of*

Rs.40,36,500/- from the MEPR Fund to implement **the pilot project for afforestation and reclamation of coal mining affected land and organisation of festival-cum-mass awareness programme submitted by the Principal Chief Conservator of Forest (Climate Change Research and Training), Govt. of Meghalaya and North Eastern Regional Office of the Central Pollution Control Board.**

- (2) The Committee also in the Proceeding No. 14 dated 03.06.2019 has recommended for consideration by the Hon'ble Tribunal for passing necessary order for deployment of CAPFs to assist the State Police in checking the transportation and mining of coal in the State for the purpose of enforcement of the direction issued from time to time to ban illegal mining and transportation of coal.
- (3) The Committee in the said Proceeding had also recommended for consideration by the Hon'ble Tribunal to release a number of rupees one Crore from MEPR fund to facilitate the Forest & Environment Department for afforestation of the coal mine affected areas and to ensure availability of adequate number of good quality plants.
- (4) The Committee in the Proceeding No.15 dated 25.06.2019 has also recommended for consideration by the Hon'ble Tribunal for release of Rs.19,19,500/- from the MEPR Fund towards the cost to be incurred in **the Pilot Project of Micro Algae Treatment of the acidic water in the identified stream in the coal mining affected areas to be implemented by M/S Trinity Impex International.**

The Hon'ble Tribunal may consider the aforesaid recommendations of the Committee.

The Committee, on 31.08.2019 shall submit the further report relating to the status of implementation of the Action Plan prepared by it, directions issued by it from time to time and also the directions issued by the Hon'ble Supreme Court in Civil Appeal No. 10720 of 2018 (State of Meghalaya v. All Dimasa Students Union, Dima Hasao District Committee and Ors.) and other analogous matters passed In Judgment & Order dated 03.07.2019.”

9. Learned Counsel for State of Meghalaya submitted that with regard to display boards, further steps have been taken and a report dated 03.08.2019 has been filed before this Tribunal and a report will also be filed before the Committee. The Committee may look into the same.
10. As regards effective action against illegal transportation, the Committee has suggested deployment of Central Armed Forces and the State Police. The Committee has also suggested release of certain funds. Learned counsel for the State submitted that the recommendations of the Committee be accepted.

11. **We accept the recommendations of the Committee for release of the amount as presented in para (3) & (4) of recommendations as noted above.** As regards deployment of Central Armed Police Forces (CAPF), our attention has been drawn to earlier proceedings before this Tribunal in order dated 25.03.2015 as follows:
- “1. The Additional Secretary, North East in the Ministry of Home, Central Government shall, within a period of two weeks from today, hold a meeting with the Chief Secretary of the State of Meghalaya and other concerned Authorities and consider the proposal of the State of Meghalaya for deployment of appropriate force to ensure compliance of orders of the Tribunal and protection of the Environment and Ecology, particularly water bodies as recorded in various orders of the Tribunal. We are hopeful, that the decision will be taken objectively and in the interest of public at large.”*
12. We are informed that in pursuance thereof, the Central Government did provide the requisite Forces at that time. In the light thereof, the State of Meghalaya to follow the same course of approaching the Central Government. The Central Government may give due consideration to such proposal expeditiously.
13. Only other issue which survives for consideration is the enforcement of directions of the Hon'ble Supreme Court **for handing over coal already mined and lying at various places in Meghalaya to the Coal India Ltd. As per directions of the Hon'ble Supreme Court, in the judgement dated 03.07.2019 the same may be looked into by the Committee in consultation with the officers of Coal India and the State of Meghalaya. We suggest that the Committee may fix specific timeline for the purpose.**
14. Our attention in this regard has been drawn to a Challan dated 13.08.2019 issued by the Divisional Mining Officer, Jowai with regard to transportation of the 'auctioned' mineral. Learned Counsel for the State may ascertain whether the transportation is in terms of the scheme prepared by the Committee in accordance with the directions of the Hon'ble Supreme Court and if not, remedial action may be taken. The Committee may look into this aspect and applicability of online electronic manifest system for regulating movements of vehicles and issuance of challans as per the Tribunal's order dated 11.04.2019.
15. The companies in question are directed to furnish the requisite information to the Committee, failing which this Tribunal may have to take coercive measures against the Chief Executive Officers of the companies. This aspect will be considered in the light of further report of the Committee. The Committee may also make its recommendations about the conduct of officers

*not cooperating in compliance of orders of the Hon'ble Supreme Court and this Tribunal so that the State may take appropriate action and inform this Tribunal.*

16. *The Committee has proposed to send its further report by 31.08.2019. Thereafter, a further report be sent after three months by 30.11.2019.*
17. *List again on 10.12.2019 or as and when the occasion arises."*

### **Supreme Court judgement in appeal from NGT orders**

8. We have perused the judgement of the Hon'ble Supreme Court in (2019) 8 SCC 177 in Appeals arising out of orders of this Tribunal. The Hon'ble Supreme has upheld the jurisdiction of this Tribunal in dealing with the matter and constituting the Monitoring Committee. Though the private owners of the land had right in the minerals after deducting handling charges, royalty and Environment Protection Fund, no unregulated and unscientific mining could be carried out. The Mining Policy of the State was required to be consistent with the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and mining, even by owner, is required to be regulated under the statutory scheme. The Environmental Clearance (EC) is required in terms of the relevant Notification. Compliance of MMDR Act, Mines Act, 1952 as well as Environment (Protection) Act, 1986 (EP Act) is necessary. The Mineral Concession Rules 1960 are also required to be followed. **Schedule VI to the Constitution does not affect the said laws.** Order of the Tribunal dated 17.04.2014 was upheld banning Rat Hole mining, as the manner of such mining is not consistent with the statutory scheme. However, the said ban will not bar legal and scientific mining as per statutory scheme. Order of the Tribunal constituting MEPR fund was also upheld. Order dated 04.01.2019 requiring deposit of Rs. 100 Crores with CPCB for restoration of environment was also upheld but the same could be paid

out of the Meghalaya Environment Protection and Restoration Fund' (MEPR Fund). The extracted coal laying at various places was directed to taken over by Coal India Limited. The coal is to be handed over to Coal India Limited by the State in the manner formulated by the Committee. The State of Meghalaya and Coal India Limited are to deliberate with the Committee to finalize plan for transportation and handling over of the coal for disposal as per Rules which may be beneficial for the owners of the mine as well as the State. The Coal India Limited is also to take steps for payment of the coal and the State of Meghalaya is entitled to royalty and taxes. After deducting cost of transportation/royalty and payment to MEPR fund and taxes plus 10% of the value of the coal, the balance is to be disbursed to the owner. The disbursement is to be made by the State. The coal seized in illegal transportation of illegal mining is to be dealt by the State under Section 21 of the MMDR Act separately.

**17.1.2020 order of NGT on 4<sup>th</sup> to 6<sup>th</sup> report and change of Chairperson of the Committee**

9. The matter was thereafter dealt with on 17.01.2020 in the light of 04<sup>th</sup>, 05<sup>th</sup> and 06<sup>th</sup> Reports of the Committee dated 31.08.2019, 02.12.2019 and 03.12.2019. Before referring the same, we may first refer to the extracts from the first 3 reports dated 02.01.2019, 31.03.2019 and 02.08.2019 which also consider the earlier orders of the Tribunal dated 04.01.2019, 11.04.2019 and 22.08.2019 as follows:-

***“Reports***

***“3.1 First Interim Report***

*3.1.1 The Committee submitted its First Interim Report dated 31.12.2018 to the Hon'ble NGT on 02.01.2019. The said First Interim report contains findings of the Committee on the following questions framed by the Committee:-*

- A. *Whether coal mining activities, including extraction of coal and the transportation of the same, are going on despite the order passed by the Hon'ble NGT imposing ban on coal mining and transportation?*
- B. *Quantity of extracted coal as on the date on which the ban was imposed by the Hon'ble NGT and left to be transported?*
- C. *Quantity of un-inventoried coal which has been extracted before imposition of ban by the Hon'ble NGT?*
- D. *Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?*
- E. *What are the steps required to be taken by the Committee for restoration of the environment and rehabilitation of victims of coal mining?*
- F. *The extent of execution of the Action Plan prepared by the Committee?*

### **3.2 Second Interim Report**

*3.2.1 The Committee submitted its Second Interim Report dated 30.03.2019 to the Hon'ble NGT. In the said Report, the Committee placed before the Hon'ble NGT the current status of the following issues:*

- (i) Availability and investment of amounts available in the MEPR Fund.*
- (ii) Monitoring of quality of water in the rivers and streams of the areas affected by coal mining.*
- (iii) Steps taken for neutralisation of Acid Mine Drainage (AMD) contaminated water in the rivers & streams of the areas affected by coal mining activities.*
- (iv) Status of the ongoing water supply schemes in coal mining affected areas in East Jaintia Hills District, under the Public Health Engineering Department.*
- (v) Seizure of cranes, trucks etc. involved in illegal mining or transportation and release of such vehicles and equipment.*
- (vi) Skill Development Schemes*
- (vii) Survey of health of the habitants of the areas affected by coal mining.*
- (viii) Framing of Disaster Management Plan, both "on site" and "off site".*
- (ix) Verification of un-inventorised coal.*
- (x) Procurement of coal by the Cement Companies from the local market in the State of Meghalaya.*
- (xi) Pilot Projects to be undertaken by CIMFR-CISR, Dhanbad*
- (xii) Awareness Camps/ Programme.*

- (xiii) *Applications for compensation to the next of kin of the persons who died during illegal mining and to the persons who suffered injuries during due to illegal coal mining.*
- (xiv) *Preparation of Geospatial Database inputs of Planning and Restoration of areas affected by coal mining in the State of Meghalaya.*
- (xv) *Coal mining activities including transpiration of coal.*

3.2.2 *The Committee in the said Report also recommended that the Hon'ble NGT may permit release of an amount of Rs.96.59 lakh for procurement of 6(six) numbers of vehicles mounted with Water Tankers to be used for supplying potable waters to the villagers of the villages in the district of East Jaintia Hills affected by coal mining activities and where the potable water has not so far been supplied.*

### 3.3 **Third Interim Report**

3.3.1 *The Committee submitted its Third Interim Report dated 02.08.2019 to the Hon'ble NGT on 02.08.2019. In the said Report, the Committee placed before the Hon'ble NGT the current status of the following directions issued by the Hon'ble NGT in the Order dated 11.04.2019:*

- (i) *Release and utilisation of an amount of Rs.96.59 lakh from the MEPR Fund in favour of the Deputy Commissioner, East Jaintia Hills District for purchase of the six vehicles mounted with water tankers.*
- (ii) *Installation of Digital Display Boards at the Headquarters of coal mining affected Districts and Sub-Divisions and display thereon quality of water in ten worst polluted rivers/streams in the District/Sub-Division.*
- (iii) *Audit of the source of coal acquired by the power generation and cement plants in the State of Meghalaya.*
- (iv) *Mechanism to be adopted for effective action against illegal transportation of coal such as electronic manifest system for regulating movement of vehicles and issuance of challans.”*

#### **Order dated 04.01.2019:**

“4.1.2 *In view of the consistent failure of the State in enforcing the law, the Hon'ble NGT held the State to be liable to deposit a sum of Rs. 100 Crores with the Central Pollution Control Board (CPCB) to be spent for restoration of the environment. The Hon'ble NGT also observed that the Committee may consider seizure of equipment used for illegal mining or transportation, to be released only after payment of 50% of the showroom price of such equipment.*

4.1.3. *The Hon'ble NGT in the said order dated 04.01.2019 also suggested that the Committee may consider the following:*

- (i) *Any cranes and trucks found to be involved in illegal mining or transportation which have not yet been seized may also be seized. The seized vehicles or equipment be released by the 4*

concerned District Magistrates only after recovering damages to the extent of 50% of the showroom price of the vehicles or equipment. The said amount may also be credited to the restoration fund.

(ii) Efforts be expedited to identify victims who have suffered at least since 01.07.2012 and to assess loss to the environment and the manner of restoration.

(iii) Disaster Management Plan for the whole of the area 'on site' as well as 'off site' needs to be prepared and put into operation.

(iv) Appropriate technology to replace rat hole mining.

(v) Resource (coal) audit of Meghalaya Power Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source.

**Order dated 11.04.2019:**

4.2.2 The Hon'ble NGT in the said order dated 11.04.2019 also noted the finding of the Committee that despite the order passed by the Hon'ble Supreme Court prohibiting transportation of coal, the same has not been stopped by the authorities for the reasons best known to them as well as another finding relating to non-installation of Digital Display Boards in the Sub-Division, Districts and the State Headquarters/Capital, displaying the quality of water in the respective areas for information of general public. The Hon'ble NGT, having regard to the submission of the learned counsel appearing for the State of Meghalaya directed that the aforesaid issues will be duly dealt with and a compliance report shall be filed before the committee within two weeks, directed the Committee to consider the same on its next sitting, i.e., on 25.04.2019. The committee was also given liberty to consider the matter and pass further orders/recommendations.

4.2.3 The Hon'ble NGT vide the said Order also directed that the Committee may consider requirement of foolproof mechanism to be adopted for effective action against transportation of illegally mined coal such as electronic manifest system for regulating movement of vehicles and issuance of challans and also may consider audit of resource of coal acquired by the Power Generation and Cement Plants in the State of Meghalaya.

**Order dated 22.08.2019:**

4.3.2 The Hon'ble NGT in the said Order dated 22.08.2019 also directed as below:

(i) For making available Central Armed Police Force (CAPF) the State of Meghalaya shall follow the same course of approaching the Central Government as has been done by them in the past in compliance of directions issued by the Hon'ble NGT vide order dated 25.03.2015. The Central Government may give due consideration to such proposal expeditiously.

(ii) *As per directions of the Hon'ble Supreme Court, in the judgement dated 03.07.2019 the enforcement of directions of the Hon'ble Supreme Court for handing over coal already mined and lying at various places in Meghalaya to the Coal India Ltd may be looked into by the Committee in consultation with the officers of Coal India and the State of Meghalaya. The Committee may fix specific timeline for the purpose.*

(iii) *Learned Counsel for the State may ascertain whether the transportation under a Challan dated 13.08.2019 issued by the Divisional Mining Officer, Jowai with regard to transportation of the 'auctioned' mineral is in terms of the scheme prepared by the Committee in accordance with the directions of the Hon'ble Supreme Court and if not, remedial action may be taken. The Committee may look into this aspect and applicability of online electronic manifest system for regulating movements of vehicles and issuance of challans as per the Tribunal's order dated 11.04.2019.*

(iv) *The cement companies in question are directed to furnish the requisite information to the Committee, failing which this Tribunal may have to take coercive measures against the Chief Executive Officers of the companies. This aspect will be considered in the light of further report of the Committee.*

(v) *The Committee may also make its recommendations about the conduct of officers not cooperating in compliance of orders of the Hon'ble Supreme Court and this Tribunal so that the State may take appropriate action and inform this Tribunal.”*

10. Thereafter 04<sup>th</sup>, 05<sup>th</sup> and 06<sup>th</sup> reports were dealt with which are extracted below:-

**“4<sup>th</sup> Interim Report dated 31.08.2019**

In the 4<sup>th</sup> Interim Report the Committee considered the mechanism to deal with the complaints under Section 21 of the MMDR Act of illegal raising and transportation of coal, procedure for exercise of powers under Section 21 (5) of the MMDR Act, action to be taken in new cases of illegal mining/storage and transportation, action for preventing illegal mining and storage, recovery of fresh stock of coal extracted prior to ban, action for violation of Water (Prevention and Control of Pollution) Act, 1974 and EP Act apart from action under MMDR Act, steps for mitigating environment pollution caused by acidic water and emitting from the coal depots/dumps, mechanism in term of EIA Notification of 2006, video recording of consignments for illegal transportation of coal, scheme to reward informers giving information about illegal mining/transportation, establishing coal mine surveillance system and SOP to deduct illegal mining or dumping of coal, disposal of coal confiscated under Section 21(5) of MMDR Act, preparation of geological and feasibility report for scientific coal mining, execution of pilot project for treatment of acidic water and for afforestation and reclamation of coal mining affected land, preparation of draft

guidelines for utilization of amounts of MEPR fund including amount of Rs. 100 Crore transfer to CPCB, continuation of Prof. (retired) A.K. Singh, from Indian School of Mines, Dhanbad as Member of the Committee, recording of coal depots where coal is to be handed over to Coal India Limited by joint Committee. After due consideration the Committee has suggested the following directions:-

*“The Hon'ble NGT may consider to pass the following directions:*

*1. The State of Meghalaya shall constitute a Monitoring Committee under Chairmanship of the Chief Secretary to undertake monthly review of actions taken by various 'Authorized Officers' to file complaints before concerned Courts of Law under Section 21 of the MMDR Act against the persons involved in illegal raising and transportation of coal. (para 5.1.2.12 (i))*

*2. The State of Meghalaya shall formulate guidelines stipulating therein a detailed procedure for exercise of the powers conferred on the State under sub-section (5) of section 21 of the MMDR Act to recover mineral raised unlawfully from such person or where such mineral has already been disposed to recover price thereof (para 5.1.2.12 (ii))*

*3. The State of Meghalaya shall mandatorily invoke provisions of sub-section (5) of section 21 of the MMDR Act in all new cases where illegal raising or storage or transportation of coal is detected in the State of Meghalaya. (para 5.1.2.12 (iii))*

*4. The State of Meghalaya shall in exercise of powers conferred by Section 23 (C) of the MMDR Act formulate rules for preventing illegal mining, transportation and storage of minerals and shall notify the same in the official Gazette within one month. (para 5.1.2.12 (iv))*

*5. In the cases where any person declares any fresh stock of coal purported to be extracted prior to imposition of the ban by the Hon'ble NGT, apart from other punitive actions, actions under sub-section (5) to section 21 of the MMDR Act to recover such coal shall mandatorily be initiated by the State of Meghalaya (para 5.1.2.12 (v)).*

*6. Subject to provisions of the Law of Limitation, the MSPCB and CPCB shall initiate necessary action to file complaints under relevant sections of the Water Act against persons involved in raising, storage and transportation of the coal reportedly extracted prior to imposition of ban on rat hole coal mining in the State of Meghalaya by the Hon'ble NGT in April 2014, transportation of which has been allowed by the Hon'ble NGT and the Hon'ble Supreme Court. (para 5.1.3.6 (i))*

*7. In case any fresh illegal mining, storage or transportation of coal in the State of Meghalaya is detected by the Police or District Administration or the Mining and Geology*

*Department, apart from initiation of proceedings under relevant provisions of the MMDR Act against the persons involved in such mining, storage and transportation of the coal, the same shall also be intimated to the MSPCB and CPCB for initiation of necessary actions to file complaint against relevant section(s) of the Water Act against such person. Details of all such cases detected after imposition of ban on illegal rat hole coal mining in April, 2017 shall also be communicated to the MSPCB and CPCB for similar actions. (para 5.1.3.6 (ii)).*

*8. In case any fresh raising of coal in the State of Meghalaya is detected by the Police or District Administration or the Mining and Geology Department, apart from initiation of proceedings under relevant provisions of the MMDR Act against the persons involved in such illegal raising of the coal, the same shall be intimated to the North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change, Government of India for initiation of necessary actions to file complaint against relevant section of the EP Act against such persons. Details of all such cases detected on or after 15.01.2016 shall also be communicated to the North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change, Government of India for similar actions. (para 5.1.4.3(i))*

*9. The CPCB and the MSPCB shall critically examine the regulatory regime presently in force to govern establishment and operation of coal depots/dumps in the State of Meghalaya and take necessary actions to fill gaps, if any, in such regime to prevent, minimize and mitigate environment pollution caused by acidic water emanating from such depots (para 5.2.3).*

*10. The State of Meghalaya shall within one month put in place a mechanism stipulated in Appendix XII of the EIA Notification 2006 to regulate transportation of coal in the State. No transportation of coal in the State of Meghalaya shall, after a period of one month, be allowed till such system containing all the features stipulated in the said Notifications is fully operationalized. (para 5.3.7 (i))*

*11. The State of Meghalaya shall operationalize a system to video record consignment of each truck passing through all probable routes likely to be used for illegal transportation of coal. The State of Meghalaya shall identify suitable locations which may cause least disturbance to non truck traffic and install a system of Close Circuit Cameras to ensure video recording of registration number and consignment of each truck passing through each such routes. To minimize inconvenience to non-truck traffic, feasibility of installation of such system at existing toll gates, checkpoints, parking lanes/ bays etc. may be explored. In case no such toll gates, check points, parking lanes/ bays etc. exist at the required locations, the State of Meghalaya in consultation with and/or assistance of the National Highways and Infrastructure Development Corporation*

*(NHIDCL) and/or National Highways Authority of India (NHAI) shall construct additional lanes to facilitate checking of trucks without causing inconvenience to other traffic. Temper proof continuous video recordings made at the check points shall be retained at least for a period of one year and shall periodically be reviewed / checked by the authorities in the Police, Civil Administration and Mining & Geology Department from time to time. (para 5.3.7 (ii))*

*12. State of Meghalaya shall within a month frame a scheme to suitable reward the informers in case the information on illegal mining and/or transportation of coal provided by such informers is found to be true. Confidentiality of the persons furnishing the information, shall at all cost be maintained so that such informer is not threatened by anyone who are interested in continuing coal mining activities. (para 5.3.7 (iii)).*

*13. The State of Meghalaya with the assistance of North Eastern Space Applications Centre (NESAC), Department of Space, Government of India, shall within a period of three months put in place a Coal Mine Surveillance System (CMSS) in the State of Meghalaya and also develop a Standard Operating Procedure (SoP) providing for effective follow up action, in case any illegal mining or dumping of coal is detected by the MSS. The CMSS to be developed may be similar to one which has already been developed by the Ministry of Mines and Indian Bureau of Mines (IBM) with assistance from the Bhaskaracharya Institute for Space Application and Geo-Informatics (BISAG), Gandhinagar and Ministry of Electronics and Information Technology (MEITY). {para 5.3.7 (iv)}.*

*14. The coal which has either been recovered by the State in exercise of powers conferred under sub-section (5) of Section 21 of the MMDR Act or has been confiscated in favour of the State of Meghalaya by an order of a Court of Law and the coal which has been seized by the Officers Authorised by the State Government in this behalf disposal of which has been permitted by the concerned Competent Court of Law, shall be disposed of only through e-auction conducted by the Coal India Limited {para 5.3.7 (v)}.*

*15. The State of Meghalaya shall expedite drilling of requisite number of bore-holes in 1 sq. km. area in Khliehriat-Sutnga area in East Jaintia Hills District and complete preparation of Geological Report and Feasibility Report for scientific coal mining in the said area within two months. {para 5.4.2.2 (i)}.*

*16. The State of Meghalaya is allowed to use an amount of Rs. 4,15,000 (rupees four lakh fifteen thousand) only plus GST at the applicable rates for execution of a Pilot Project on treatment of acidic water at a Water Supply Scheme (WSS) under the Public Health Engineering (PHE) Department at Lelad village in East Jaintia Hills District by using micro-algae consortia as an alternative to lime solution by M/s.*

*Trinity Impex International & Phycospectrum Environmental Research Centre. {para 5.5.6.6 (i)}.*

*17. The State of Meghalaya and the CPCB are allowed to utilize an amount of Rs.40,36,500/- from the MEPR Fund to implement a pilot project for afforestation and reclamation of coal mining affected land and organization of a festival-cum-mass awareness programme submitted by the Principal Chief Conservator of Forest (Climate Change Research and Training), Govt. of Meghalaya and North Eastern Regional Directorate of the CPCB. (para 5.5.8.2 (i)).*

*18. The State of Meghalaya shall within one month formulate draft guidelines, strictly in conformity with the broad parameters suggested by the Justice Katakey Committee in its fourteenth Sitting held on 03.06.2019, for utilization of amounts available in the MEPR Fund in an expeditious and transparent manner and submit the same to the Committee. The Committee shall examine the draft guidelines and place the same along with its comments thereon before this Tribunal within one month of receipt of the guidelines. (para 5.5.9.8 (i)).*

*19. The amount available in the MFPR Fund including an amount of Rs. 100 Crores transferred to the CPCB in compliance of direction issued by the Hon'ble Supreme Court in paragraph 179 of Judgment dated 03.07.2019 in the Civil Appeal No. 10720 of 2018 in the matter of State of Meghalaya versus All Dimasa Student Union, Dima-Hasao District Committee and Ors. and other connected matters and the interest accrued thereon shall be used exclusively for implementation of Action Plan prepared by the Committee for restoration of environment in areas affected by coal mining in the State of Meghalaya. The Committee based on inputs received from various stakeholders or on its own motion may periodically review, revise and update the Action Plan. (para 5.5.9.8 (ii)).*

*20. Even after expiry of the term of his engagement as a Chair Professor at Indian School of Mines (IIT-ISM), Dhanbad, Professor (Retd.) A.K. Singh shall continue to be a member of the Committee as a representative of the Director, IIT-ISM, Dhanbad. (para 5.7.1.3 (i)).*

*21. Video recording of all the coal depots where the coal to be handed over to the Coal India Limited is presently lying, to be recorded by joint teams consisting of a representative from the Mining and Geology Department, Meghalaya State Pollution Control Board and the Coal India Limited, in the manner as directed by the Committee in its First Special Sitting held at Shillong on 12.07.2019 and use of high resolution satellite imageries for different time-intervals since the imposition of ban on coal mining by the Hon'ble NGT to ascertain continuous existence of all such coal dumps since imposition of ban on coal mining by this Hon'ble Tribunal in April 2014, shall be essential components of the Policy being formulated by the State*

*of Meghalaya for handing over of the coal to the Coal India Limited for disposal through e-auction. (para 5.7.4.7 (i)).*

*The Committee in this report dated 31.08.2019 has highlighted the various orders passed by the Hon'ble NGT, gist of various earlier reports submitted by it, the directions issued by the Hon'ble NGT on the said reports, relevant order passed by the Hon'ble Supreme Court and the issues examined by the Committee after submission of the second interim report, together with summary of recommendations for consideration of the Hon'ble NGT, as the Committee has completed one year from the date of its constitution by the Hon'ble NGT vide its order dated 31.08.2018.”*

### **5<sup>th</sup> Interim Report dated 02.12.2019**

The 5<sup>th</sup> Interim Report mere the back ground of earlier proceedings, sums up the minutes of the meetings and analysis the information given by the industries and regulatory authorities at length and thereafter records findings and recommendations. The report has been uploaded on the website of the National Green Tribunal. The questions considered in the said report in para 2.2.6 are:-

1. Whether the specific coal requirement of aforementioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited and its subsidiaries is substantially lower than specific coal requirement stated in the respective TEFRs?
2. What is the actual specific coal requirement for the aforementioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited?
3. Whether it is technically feasible to use huge quantity of slate in lieu of coal without making any modification in design of these Plants?
4. Whether the afore-mentioned Plants of Star Cement Limited and its subsidiaries have actually used huge quantity of alternate fuel (*i.e.* Slate) in lieu of coal?
5. Whether slate, if used, has been used after obtaining all requisite regulatory approvals?

After analyzing the entire data the findings recorded are:-

### **“CHAPTER 3: FINDINGS AND RECOMMENDATIONS**

#### **1.1.1 FINDINGS**

- 1.1.2 3.1.1 *Except for the clinker manufacturing plant of the Mawmluh Cherra Cement Limited (A State PSU) and Captive Power Plants of the Maithan Alloy Limited and the CMJ Breweries Private Limited, there is a huge gap in quantity of coal required to produce reported quantity of clinker and/or power and the coal reported to be purchased from legal sources during the Audit Period by all other*

*Cement Manufacturing Plants and Thermal Power plants in the State of Meghalaya for which resource (coal) audit could be completed by the Committee. Year-wise quantities of the coal required to produce reported quantities of clinker and/or power, the coal actually purchased from legal sources and the gap between the two for each of these Plants are as below:*

*(metric tonnes)*

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	
Star Cement Limited and its two subsidiaries	Coal required *	4,24,636	4,73,806	4,93,365	4,70,145	4,50,096	<b>23,12,048</b>
	Coal procured **	97,047	2,64,674	61,830	1,29,020	1,13,201	<b>6,65,772</b>
	Gap	3,27,589	2,09,132	4,31,535	3,41,125	3,36,895	<b>16,46,276</b>
Amrit Cement Limited and its captive TPP	Coal required *	84,323	1,06,548	1,05,745	1,00,155	1,46,919	<b>5,43,690</b>
	Coal procured **	3,861	88,165	38,785	74,978	31,833	<b>2,37,622</b>
	Gap	80,462	18,383	66,960	25,177	1,15,086	<b>3,06,068</b>
Dalmia Cement (Bharat) Limited and its Captive TPP	Coal required*	2,00,028	2,01,797	1,94,234	2,22,215	2,56,324	<b>10,74,598</b>
	Coal procured **	17,433	98,296	56,208	1,07,092	54,478	<b>3,33,507</b>
	Gap	1,82,595	1,03,501	1,38,026	1,15,123	2,01,846	<b>7,41,091</b>
Goldstone Cement Limited and its Captive TPP	Coal required*	0	0	39,652	1,15,104	1,47,919	<b>3,02,675</b>
	Coal procured **	0	0	5,918	21,295	4,946	<b>32,159</b>
	Gap	0	0	33,734	93,809	1,42,973	<b>2,70,516</b>
Green Valley Industries Limited	Coal required *	58,205	55,262	57,505	64,673	65,398	<b>3,01,043</b>
	Coal procured **	44,844	50,555	46,762	51,068	30,278	<b>2,23,507</b>
	Gap	13,361	4,707	10,743	13,605	35,120	<b>77,536</b>
Hill Cement Company Limited	Coal required *	18,397	32,158	38,548	30,600	35,085	<b>1,54,788</b>
	Coal procured **	0	11,989	9,797	2,248	13,347	<b>37,381</b>
	Gap	18,397	20,169	28,751	28,352	21,738	<b>1,17,407</b>

<i>JUD Cements Limited</i>	<i>Coal required *</i>	29,761	38,604	23,994	28,249	20,576	<b>1,41,184</b>
	<i>Coal procured **</i>	0	16,348	2,099	377	370	<b>19,194</b>
	<i>Gap</i>	29,761	22,256	21,895	27,872	20,206	<b>1,21,990</b>
<i>Meghalaya Cements Limited and its Captive TPP</i>	<i>Coal required *</i>	1,43,334	1,72,873	1,53,873	1,84,291	1,85,140	<b>8,39,511</b>
	<i>Coal procured **</i>	96,533	44,686	45,968	54,012	53,987	<b>2,95,186</b>
	<i>Gap</i>	46,801	1,28,187	1,07,905	1,30,279	1,31,153	<b>5,44,325</b>
<i>Captive TPP of Shyam Century</i>	<i>Coal required *</i>	54,499	46,959	88,743	58,563	29,497	<b>2,78,261</b>
	<i>Coal procured **</i>	43,576	32,461	72,086	13,704	4,960	<b>1,66,787</b>
	<i>Gap</i>	10,923	14,498	16,657	44,859	24,537	<b>1,11,474</b>
<i>Ferrous Limited</i>	<i>Coal required *</i>	10,13,18 3	11,28,007	11,95,65 9	12,73,99 5	13,36,95 4	<b>59,47,798</b>
	<i>Coal procured **</i>	3,03,294	6,07,174	3,39,453	4,53,794	3,07,400	<b>20,11,115</b>
	<i>Gap</i>	7,09,889	5,20,833	8,56,206	8,20,201	10,29,55 4	<b>39,36,683</b>

\*: Coal required to produce reported quantities of clinker and/or power

\*\* : Coal reported to be procured from legal sources.

3.1.2 The Committee is of the view that the entire gap of 39.37 lakh MT between the quantity of the coal required to produce reported quantity of the clinker and the electrical power and the coal purchased from legal sources by these Plants during the Audit Period constituting about two-third of the coal requirement of these plants during the Audit Period has been met from the illegally mined local coal. Demand for a huge quantity of illegally mined coal from these plants has sustained and supported a wide scale illegal rat-hole coal mining in the State of Meghalaya in flagrant violation of a ban imposed by the Hon'ble NGT.

3.1.3 Continuance of illegal rat-hole coal mining in the State of Meghalaya to meet the huge requirement of coal for these Cement Manufacturing Plants and the Thermal Power Plants have caused huge damage to flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya. It has also made

*the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining virtually inoperative.*

**3.1.4** *No royalty, taxes and any other statutory levies has been paid to the State of Meghalaya on the illegally mined coal utilised by these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period resulting in a huge loss to the State exchequer. In fact ban on the illegal rat-hole coal mining in the State of Meghalaya came as a boon to these Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya as it virtually exempted them from the requirement of payment of royalty, taxes and other statutory levies payable on more than two-third of the coal consumed by them. The amounts of royalty (@ Rs. 675 per MT), contribution to Meghalaya Environment Protection and Restoration Fund (MEPR Fund) at the rate of Rs. 485 per MT and GST/VAT @ 5 % of the sale value of approx. Rs. 8,000 per MT amounting to Rs 400 per MT) payable on the illegally mined coal utilised by each of these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period are as below:*

<b>S. No.</b>	<b>Plant</b>	<b>Qt. of illegal coal used (MT)</b>	<b>Royalty</b>	<b>MEPRF</b>	<b>GST/VAT</b>	<b>Total</b>
1.	2.	3.	4.	5.	6.	7
1.	Star Cement Limited and its two subsidiaries	16,46,276	111.124	79.844	65.851	<b>256.819</b>
2.	Amrit Cement	3,06,068	20.660	14.844	12.243	<b>47.747</b>
3.	Dalmia Bharat Cement Ltd	7,41,092	50.024	35.943	29.644	<b>115.610</b>
4.	Goldstone Cement Ltd.	2,70,516	18.260	13.120	10.821	<b>42.200</b>
5.	Green Valley Industries Ltd.	77,536	5.234	3.760	3.101	<b>12.096</b>
6.	Hill Cement Ltd.	1,17,407	7.925	5.694	4.696	<b>18.315</b>

7.	JUD Cement Ltd.	1,21,990	8.234	5.917	4.880	<b>19.030</b>
8.	Meghalaya Cement Ltd.	5,44,325	36.742	26.400	21.773	<b>84.915</b>
9.	Shyam Century Ferrous Ltd.	1,11,474	7.524	5.406	4.459	<b>17.390</b>
	Total	<b>39,36,684</b>	<b>265.726</b>	<b>190.929</b>	<b>157.467</b>	<b>614.123</b>

3.1.5 *The royalty and VAT/GST amounting to Rs. 423.194 Crore payable on illegally mined coal utilised by the Cement Manufacturing Plants and Thermal Power Plants, if realised and properly utilised, can significantly enhance living standard of the tribal residents, especially those residing in the areas affected by such illegal coal mining, of the State. Similarly, an amount of Rs. 190.929 Crore payable to MEPR Fund for the said illegally mined coal utilised by these Plants, if properly utilised, may greatly help in restoration of flora, fauna, rivers, streams, water bodies and the environment in general damaged by illegal rat-hole coal mining in the State of Meghalaya.*

3.1.6 *Claim of these Cement Manufacturing Plants and Thermal Power Plants that about two-third of their coal requirement have been met by a non-fuel mineral (i.e. slate) without making any change in the design of these plants is not tenable. The Committee, based on a detailed analysis given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for these plants to replace more than two-third of their coal requirement by a non-fuel mineral such as slate.*

3.1.7 *These Plants have purchased illegally mined local coal in the name of slate to circumvent the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining in the State of Meghalaya and also to evade payment of royalty, GST/VAT and other statutory levies and contribution to MEPR Fund on the coal utilised by them.*

3.1.8 *Even for the sake of an argument it is assumed that the claim of these plants that more than two-third of their coal requirement during the Audit Period has been met by a non-fuel mineral (viz. slate) without making any change/modification in the design of these plants is true, it would have caused equal, if not more, damage to the flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya as all such slate has admittedly been mined in an unscientific and haphazard*

*manner without any mitigative measures and without obtaining mandatory mining lease, consent to establish, consent to operate, environmental clearance and authorisation/no-objection certificate from the State Pollution Control Board in a flagrant violation of the existing mining, environmental, pollution control and labour safety laws.*

*3.1.9 Transportation and use of a huge quantity of illegally mined coal by these plants could not have escaped notice of regulatory authorities, both in the State of Meghalaya and the Union of India. It could not have escaped notice to the District and police administration. Instead of taking actions to prevent use of illegally mined coal by these plants and to initiate appropriate proceedings under relevant provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 against these Plants for use of illegally mined local coal, the regulatory authorities have tried to regularise/justify the use of illegally mined coal by accepting royalty on slate claimed to be used by these plants and by supporting the claim of these Plants that it is technically and legally feasible to replace two-third of the coal requirement of these plants by a non-fuel mineral such as slate and the slate can be used by these plants as a waste without obtaining any clearance under the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981; the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder.*

*3.1.10 As per information provided to the Committee by the Mining and Geology Department in the State of Meghalaya, none of these plants participated in a public auction conducted by the State of Meghalaya to sell more than 38,000 MT of seized coal available at locations in close vicinity of majority of these plants. The Committee therefore is of the view that a major part of the coal requirement of these plants is still being met from illegally mined local coal.*

### **3.2 RECOMMENDATIONS**

*3.2.1 To put a stop to the illegal rat-hole mining of the coal being undertaken in the State of Meghalaya in flagrant violation of the mining, environmental and labour safety laws as well as the orders issued by the Hon'ble Supreme Court and the Hon'ble NGT to meet the requirement of the coal for the Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya and also to restore damage caused the flora, fauna, rivers, streams, water bodies and environment in general by illegal rat-hole coal mining, the Committee recommends that the Hon'ble NGT may consider to issue the following directions:-*

1. *The Chief Secretary of the State of Meghalaya shall undertake monthly review the quantity of clinker and/or power produced by each Cement Manufacturing Plants and Thermal Power Plant in the State of Meghalaya and the quantity of coal purchased by each such plant from legal sources to produce such reported quantities of clinker and/or power. Such review for a month shall be undertaken on or before tenth day of the next month. A quarterly report stating therein the month-wise quantities of clinker and/or power produced, quantity of coal consumed to produce such quantities of clinker and/or power by each such plant and action(s), if any, taken against any such plant in case of any anomaly observed during the review shall be submitted to this Tribunal by the Chief Secretary, Meghalaya. Such report for a quarter shall be submitted to this Tribunal on or before fifteenth day of the next quarter.*

2. *The State of Meghalaya; the Ministry of Environment, Forest and Climate Change, Government of India and the Meghalaya State Pollution Control Board shall initiate proceedings in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder against each of the Cement Manufacturing Plants and the Thermal Power Plants who has used illegally mined local coal after a ban on the rat-hole coal mining in the State of Meghalaya was imposed by this Tribunal in the month of April, 2014.*

3. *The State of Meghalaya shall realise royalty, GST/VAT, contribution to the MEPR Fund and any other statutory tax and/levy payable on the illegally mined coal utilised by these Cement Manufacturing Plants and the Thermal Power Plants in the State of Meghalaya after the ban on illegal rat-hole mining in the State of Meghalaya was imposed by this Tribunal in April 2014.*

4. *To restore the damage caused to the flora, fauna, rivers, streams, water bodies and the environment in general by illegal rat-hole mining of coal and also to mitigate the suffering caused to the local tribal residents by the illegal rat-hole coal mining, the State of Meghalaya shall realise from each of the aforementioned Cement Manufacturing Plants and Thermal Power Plants who have used illegally mined local coal after a ban on illegal rat-hole coal mining was imposed by this Tribunal in the month of April 2014, an amount of Rs. 400 per tonne of coal to be utilised by each such plants on or after the date of this order and deposit the same in the MEPR Fund. Such amount for coal utilised during a month shall be realised on or before fifteenth day of the next month. Not less than fifty percent of these amounts shall be utilised for restoration of damage caused to the flora, fauna, rivers,*

*streams, water bodies and the environment in general by illegal rat-hole mining of the coal in the State of Meghalaya. The balance amounts shall be utilised for socio-economic development of the tribal residents in areas affected by the coal mining in the State of Meghalaya. It is clarified that the afore-mentioned amount of Rs. 400 per MT of coal shall be in addition the contribution to MEPRF at the rate of Rs. 485 per MT of coal already being realised by the State in compliance of earlier orders of this Tribunal. The Chief Secretary, Meghalaya shall formulate draft guidelines for utilisation of these amounts and place the same before the Committee constituted by this Tribunal under Chairmanship of Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The Committee shall within one month from the date of receipt, examine the draft guidelines and place the same along with the comments/observation before this Tribunal for approval.*

*5. The North Eastern Regional Directorate of the CPCB shall complete audit of coke claimed to be utilised by the Jaintia Cement Limited and the Virgo Cement Limited and submit a report to the Committee constituted by this Tribunal under Chairmanship of the Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The North Eastern Regional Directorate of the CPCB shall also submit the report sought by the said Committee in respect of the Captive Thermal Power Plant of Shree Shakambari Ferro Alloys Pvt. Ltd.”*

### **6<sup>th</sup> Interim Report dated 3.12.2019**

The 6<sup>th</sup> Interim Report deal with the objections raised by the State of Meghalaya before the Committee on the ground that the same is in violation of directions of the Hon'ble Supreme Court. After elaborate discussion of each and every objections raised by the State. The Committee summarized its recommendations as follows:-

#### **“CHAPTER- 6: SUMMARY OF RECOMMENDATIONS**

*6.1 The Committee recommends that the Hon'ble NGT may consider to pass the following directions:*

*1. The State of Meghalaya shall, immediately, provide to the North Eastern Space Application Centre (NESAC), Department of Space, Government of India, Umiam, the location (latitude and longitude) and other details of each dump where coal to be auctioned is located. The NEASC, shall within one week from the date of receipt of these details prepare a geo-referenced map depicting the*

*location of each of these dumps and provide a copy of the same to the Secretary to the Government of Meghalaya, Mining and Geology Department and the Coal India limited for placing a copy thereof along with a list containing name and address of the owner and quantity of coal available at each such dump on their respective websites. (Para 2.20 WI*

2. *The Secretary to the Government of Meghalaya, Mining and Geology Department shall, immediately, place on website of the Department a copy of the additional affidavit containing details of 32,56,715 MT coal stated to be available at various depots filed before the Hon'ble Supreme Court on 10.04.2019 by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department . (Para 2.20 (ii))*

3. *The North Eastern Space Application Centre (NESAC), Department of Space, Government of India, Umiam shall undertake land-use land-cover analysis of areas where coal to be handed over to the Coal India Limited is located by using high resolution satellite imageries for the following period:*

(a) *Immediately before the illegal rat-hole mining of coal was banned by this Tribunal by an order dated 17.04.2014; (Para 2.20 (iii) (a))*

(b) *Immediately before the additional affidavit dated 10.04.2019 containing details of 32,56,715 MT coal stated to be available at various depot was filed before the Hon'ble Supreme Court by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department; and (Para 2.20 (iii) (b)).*

(c) *Once in the year 2015, 2016, 2017 and 2018, preferable in the month of April. (Para 2.20 (iii) (c))*

4. *Based on the said land-use land-cover analysis, the NESAC shall divide the coal available at each of the depot where the 32,56,715 MT coal is stated to be available into three categories namely:*

(a) *The coal continuously existing at the depot since the ban on the illegal rat-hole mining was imposed by this Tribunal on 17.04.2014; (Para 2.20 (iv) (a))*

(b) *The coal dumped at the depot after the filing of additional affidavit before the Hon'ble Supreme Court on 10.04.2019; and (Para 2.20 (iv) (b))*

(c) *The coal dumped at the depot on any day between 17.04.2014 and 10.04.2019. (Para 2.20 (iv) (c)).*

5. *The finalisation of the mode and manner for handing over of the coal to the Coal India Limited and the disposal of the coal by the Coal India Limited through e-auction shall*

*not wait completion of the afore-mentioned study by the NESAC the amount realised from sale of such coal will however not be disbursed to the respective owner till the said study in respect of such coal is completed by the NESAC. (Para 2.20 (v))*

6. *The amount realised from auction of the coal shall be disbursed in the following manner:*

(a) *The State of Meghalaya shall exercise the powers vested on it under subsection (5) of section 21 of the Mines and Mineral (Development and Regulation) Act, 1957 and recover the amounts realised from the auction of the coal which was dumped at the depot after 10.04.2019 and transfer all such amounts along with taxes/royalty/levies realized thereon to the Consolidated Fund of the State of Meghalaya. Contribution to the MEPR Fund realised for such coal shall be transferred to the MEPR Fund. (Para 2.20 (vi) (a))*

(b) *Amounts realised from the sale of the coal which is continuously available in at the Depot shall be transferred to the respective owner. Taxes/royalty/levies realised on such coal shall be transferred to the Consolidated Fund of the State of Meghalaya. Contribution to the MEPR Fund realised for such coal shall be transferred to the MEPR Fund. (Para 2.20 (vi) (b))*

(c) *Details of all such coal which was dumped at a depot between 17.04.2014 and 10.04.2019 shall be placed before the Hon'ble Supreme Court. Disbursal of amounts realised from the sale/auction of such coal shall be done in the manner the Hon'ble Supreme Court may stipulate. (Para 2.20 (vi) (c))*

7. *The State of Meghalaya and the Coal India Limited shall provide all the information and documents sought by the Katakey Committee for finalization of mode and manner of handing over of the coal available at various Depots to the Coal India Limited. The Committee shall finalize the mode and manner for handing over of the coal available at various depots to the Coal India Limited strictly in conformity with the directions issued by the Hon'ble Supreme Court. The State of Meghalaya and the Coal India Limited shall abide by the mode and manners finalised by the said Committee. (Para 2.20 (vii)).*

8. *To resolve disputes involving adulteration of coal quality in a lot between the day it is notified for auction and the day on which entire coal available in such lot is lifted*

*by the successful bidder the collection and maintenance of reference samples by the Coal India Limited in the manner and for a period provided for collection and maintenance of such samples in the normal process of disposal of coal through e-auction by the Coal India Limited shall be an integral component of the mode and manners for handing over of the coal to the Coal India Limited. (Para 2.20 (viii)).*

9. *The mode and manner for handing over of the coal to the Coal India Limited shall contain time-lines for each step involved in handing over of the assessed coal to the CIL and its subsequent auction by the CIL. (Para 2.20 (ix))*

10. *Nature of records to be maintained and the authorities responsible to maintain each such record shall be specified in the mode and manner for handing over of the coal to the Coal India Limited. (Para 2.20 (x)).*

11. *Number of officers of different ranks to be deployed by the Coal India Limited to plan, execute and monitor disposal of the coal through e-auction shall be specified in the mode and manner to be finalised by the Katakey Committee. (Para 2.20 (xi))*

12. *Reserve Price of the coal to be auctioned shall be fixed by the Coal India Limited as per its existing rules and policies for disposal of the coal through e-auction. (Para 2.20 (xii))*

13. *The Coal India Limited, the State of Meghalaya, the owner of the coal and their officers/employees shall be responsible for their respective acts of omission and commission in any dispute which may arise relating to quality and quantity of the coal stated to be available at various depots. (Para 2.20 (xiii)).*

14. *The mode of manner for handing over of the coal to the Coal India Limited shall provide for a legally tenable and practically feasible dispute resolution framework. (Para 2.20 (xiv)).*

15. *The State of Meghalaya shall install and make fully functional, within a month, a system involving establishment of a centralised server, uploading of transport permit/challans and tracking of coal loaded trucks through GPS and RFID tags as stipulated in the said Appendix-X[1 to the EIA Notification, 2016 to prevent and detect multiple use of transport permit/challans. Transportation of the coal in the State of Meghalaya shall not be permitted till the said system is made fully operational. (Para 2.20 (xv)).*

16. *The State of Meghalaya and the Meghalaya State Pollution Control Board shall initiate necessary actions to file compliant under relevant sections of the Mines and Mineral (Development and Regulation) Act, 1957, the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, and the Environment (Protection) Act, 1986 against the persons responsible for raising of transportation of all such coal which was dumped at any such depot on or after 10.04.2019. (Para 2.20 (xxvi)).*

17. *An agency not under superintendence and control of the State of Meghalaya shall enquire into the matter of export of illegally mined coal to Bangladesh, in the guise of coal permitted to be transported by various orders passed by the Hon'ble NGT and the Hon'ble Supreme from time-to-time, identify the person(s) responsible for such export and file complaint before the concerned competent Courts of Law under relevant provisions of the Law against all such persons. (Para 3.20 (i))*

18. *The State of Meghalaya shall place before this Tribunal the periodical details (viz. name & full address) of the exporter for each consignment of coal originating from the Meghalaya which was allowed by the Mining and Geology Department in the Government of Meghalaya for export to the Bangladesh from each of the seven LCS in Meghalaya since the ban on rat hole coal mining in Meghalaya was imposed by the Hon'ble NGT in April, 2014. (Para 3.20 (ii))*

19. *The State of Meghalaya shall initiate necessary actions in accordance with provisions of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 against the persons responsible for export of the illegally raised coal to the Bangladesh from each of the seven LCSs in the State of Meghalaya in the guise of the coal permitted to be transported by the Hon'ble NGT and the Hon'ble Supreme Court by order passed from time-to-time. The actions to be initiated against such persons shall include actions under sub-section (5) of Section 21 of the said Act to recover price of such illegally raised coal along with rent, royalty or tax, as the case may be, payable to the Government in respect of such coal. (Para 3.20 (iii))*

20. *In case the coal reported to be available at several location between the DMR Checkgate/ weighbridge and the Custom exit point at Gasuapara and such other Custom exit points in the State of Meghalaya is not a part of the 32,56,715 MT assessed coal to be handed over to the Coal India Limited for disposal through e-auction the Mining and Geology Department in the State of Meghalaya initiate necessary actions in accordance with provisions of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 against the persons responsible for raising and transportation of such coal and submit a report to this Tribunal. Such action shall include actions under sub-section (5) of section 21 of the said Act to recover all such illegally raised coal. (Para 3.20 (iv)).*

21. *The State of Meghalaya shall within three months, establish integrated check post and temper-proof weigh-in-motion weighbridge at each of the seven LCSs in the State of Meghalaya. Each such integrated check-post and weigh-in-motion weighbridge shall jointly be manned by the representative, one each from the Mining and Geology Department and the Forests & Environment Department in the State of Meghalaya and the Border Security Force (BSF) and the Customs Department in the Union of India. Each such integrated check-post and weigh-in-motion*

*weighbridge shall be provided with an adequate number of CCTV cameras to ensure video recording of the registration number and the consignment loaded in each truck passing through such integrated check-post and the weighbridge. The network of CCTV cameras to be installed at the weighbridge shall also ensure video recording of the display panel indicating weight of each truck passing through such weighbridge. The footage of each CCTV camera installed at each integrated check-post and the weighbridge shall be retained for a minimum period of one year. (Para 3.21 (i))*

*22. Vigilance wing in the Customs and the BSF in the Union of India and the Home (Police) Department in the State of Meghalaya shall undertake regular inspection of the integrated check-posts and weigh-in-motion weighbridge and submit a quarterly report on such inspections to the Chief Secretary, Meghalaya and their respective Departmental Heads. (Para 3.21 (ii)).*

*23. The Director General of Police, Meghalaya shall ensure that all the person and vehicles, equipment, tools and machineries involved in raising and transportation of about 80,000 MT seized by the Meghalaya Police are identified and necessary action as per the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and all other relevant Statutes and the rules framed thereunder are taken against all such persons and vehicles, equipment, tools and machineries. The similar actions shall also be taken for the coal, if any, to be seized in future. A monthly report on all the cases where the persons and vehicles, equipment, tools and machineries involved in raising and transportation of the seized coal could not be identified shall be submitted. (Para 4.19. (i))*

*24. The Director General of Police shall provide to the Meghalaya State Pollution Control Board details of persons involved in illegal mining and transportation of the coal. The Meghalaya State Pollution Control Board shall file complaint before the concerned competent Court of Law under relevant sections of the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the rules, guidelines and notifications issued thereunder against such persons. (Para 4.19 (ii)).*

*25. The State of Meghalaya shall formulate a comprehensive policy for auction of the seized coal and place a copy of the same before this Tribunal within a month. The policy shall provide, among others, establishment of a centralised depot in each coal mining affected district for safe and scientific storage of the seized coal and disposal of the seized coal in a fair and transparent manner after giving wide publicity. The Policy shall specifically provide that no coal shall be disposed of without giving a prior notice of atleast thirty (30) days. The copy of each such notice shall be published in atleast two prominent dailies having wide circulation. (Para 4.19 (iii)).*

26. The State of Meghalaya shall, within a month, formulate a simple procedure for verification of the claims for receipt of ex-gratia from the labourers who received injuries while working in illegal rat-hole coal mines in the State of the Meghalaya and also from the next-of kin of laborers who were killed while working in such mines. Such procedure may contain adequate safeguards to detect, deter and reject false claims. (Para 5.4 (1)).

27. State of Meghalaya shall disburse an amount of rupees five lakh to next of kin of each of the labourers who were killed while working in any illegal rat-hole coal mining in the State of Meghalaya including the labourers which were killed in a tragic accident in an illegal rat-hole mine in Ksan village in East Jaintia Hill district in December 2018. {Para 5.4 (ii)}.

28. State of Meghalaya shall disburse an amount of rupees five lakh to next of kin of each of the labourers who were killed and rupees two lakh to each of the labourers who received serious injuries while working in any illegal rat-hole coal mining in the State of Meghalaya including the labourers which were killed or received serious injuries in a tragic accident in an illegal rat-hole mine in Ksan village in East Jaintia Hill district in December 2018 and in South Garo Hills District in the year 2012.

29. State of Meghalaya, Meghalaya State Pollution Control Board and Central Pollution Control Board, shall implement the Action Plan prepared by the Committee, with modification wherever required and submit periodical report.

Before parting with the report, the Committee expresses its sincere gratitude to the Hon'ble National Green Tribunal in giving the opportunity to work on the subject.”

11. The said three reports were considered as follows:-

“1to19...xxx.....xxx.....xxx

20. We have perused objections to the reports of the Committee dated 31.08.2019, 02.12.2019 and 03.12.2019 filed by the State of Meghalaya. During the hearing, we confronted learned senior counsel for the State of Meghalaya with the fact that since work of the Committee has been commended by the Hon'ble Supreme Court as well as by this Tribunal earlier, the nature of objections is not appreciable. Learned senior counsel fairly stated that he will not press the objections. In the response to the report, he merely handed over a note to submit that some of the recommendations were not feasible. We quote the relevant part of the note to consider the said objections:-

“

S. N.	Recommendation	Not feasible	Reasons for being non-feasible
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1	<p>i. The State of Meghalaya shall provide NESAC the Longitudes &amp; Latitudes of each dump where coal is to be auctioned.</p> <p>ii. NESAC to prepare geo-reference mapping for location of each dump and give it to State and CIL.</p> <p>iii. State and CIL will put it on their website.</p>	√	<ul style="list-style-type: none"> <li>• Duplication of exercise of identification of sale-points.</li> <li>• Geo-referencing details already there in affidavit filed by State which has been provided to CIL and the same will be put up on website.</li> <li>• In terms of para 48 and 187-192 of the judgment of Supreme Court this exercise is not required.</li> </ul>
2	NESAC to conduct annual land-use land cover analysis to determine continuous existence of coal on the sale point.	√	<ul style="list-style-type: none"> <li>• Unnecessary exercise.</li> <li>• Supreme Court observed in Para 189 that All this 32,56,715 coal is illegally mined.</li> <li>• Yet directed its disposal thorough CIL and disbursal of funds to owners in paras 192-192.</li> </ul>
3.	NESAC shall then divide each sale-point into 3 categories, viz. (i) Coal continuously existing (ii) Dumped after 17.04.2014 (iii) Dumped after filing of affidavit		Same as in respect of 2 above
4.	Money realized from auction of coal shall not be disbursed till NESAC study is completed		Same as in respect of 2 above
5.	Amount realized shall be disbursed in following manner: (i) For Coal existing prior to 17.04.14-immediately. (ii) For coal dumped between 17.4.14 and filing of affidavit to be placed before SC for further direction. (iii) For coal dumped thereafter – All money to be transferred to State funds.	√	<ul style="list-style-type: none"> <li>• Contrary to Supreme Court judgment. Even after observing in Para 189 that <b>ALL</b> this 32,56,715 Coal is illegally mined, SC directed its disposal thorough CIL and disbursal of funds to owners in Para 192.</li> <li>• In para 186 the Supreme Court has affirmed ownership of private miners on all this 32,56,715 MT Coal and held that their proprietary rights are not extinguished.</li> </ul>
6.	Collection and maintenance of samples from each lot for purpose of future dispute resolution.	√	<ul style="list-style-type: none"> <li>• There are more than 20,000 sale points.</li> <li>• Further, the auction is on '<u>As is where is</u>' basis and <u>prospective bidders are being given 14 days' time to physically verify the quantity and quality of coal lying at the dump.</u></li> <li>• <u>Owners are also mandated to submit NABL accredited lab certificate as to grade and sulfur content of Coal before their dump is notified for auction and the same shall be part of auction notice.</u></li> </ul>
7.	Reserve Price of Coal to be auctioned shall be fixed by CIL as per their existing policy.	√	<ul style="list-style-type: none"> <li>• CIL has refused to do so in meeting dated 14.10.2019 and again on 02.12.2019 on the ground that it is not practically possible or technically and financially feasible for CIL to physically verify the quality of each lot of Coal located at 20,000 sale points for fixation of reserve price which is also dependent upon the cost of transportation of the same.</li> <li>• CIL submitted that it has no experience of coal mining in</li> </ul>

			<p>conditions like Meghalaya and has no experience of lifting and transportation of coal in such terrain where most of the stocks can be assed only through smaller four-wheel trucks and the hilly roads also cannot bear the load of huge quantity of coal being transported simultaneously.</p> <ul style="list-style-type: none"> <li>• These factors substantially affect the reserve price fixation of Coal.</li> <li>• The State of Meghalaya is having more experience of the coal mining and coal trading practices in the State of Meghalaya and having such domain knowledge of marketability of such Coal, is better suited to fixe reserve price.</li> </ul>
8.	<i>CIL / State of Meghalaya/ owner/employee/ officer shall be liable for disputes relating to quality and quantity</i>	√	<ul style="list-style-type: none"> <li>• The question of providing a Dispute Resolution Process in the plan does not arise because Auction is on 'as is where is' basis and Prospective bidders are allowed to inspect the lot before bidding. Hence, no liability of CIL and State of Meghalaya thereafter.</li> <li>• However, in case of a dispute between the seller and the buyer the remedy under ordinary law of the land is always available to them.</li> </ul>
9.	<i>To provide legally tenable and practically feasible Dispute Resolution Mechanism</i>	√	<ul style="list-style-type: none"> <li>• Same as in respect of 8 above.</li> </ul>
10.	<i>Enquiry by an outside Agency into compliants of alleged export of illegally mined coal to Bangladesh and prosecution of persons involved in such alleged illegality</i>	√	<ul style="list-style-type: none"> <li>• It will be an encroachment on executive powers of the State.</li> <li>• As submitted before the Committee, enquiry has already been initiated by the State and appropriate action in accordance with law shall be taken.</li> </ul>
11.	<i>State of Meghalaya to disburse an amount of 5 lakh to each labourer deceased in Ksan mine incident of Dec. 2018</i>	√	<ul style="list-style-type: none"> <li>• PIL being W.P. (C) No. 3 of 2019 has been filed in Hon'ble Supreme Court on that incident.</li> <li>• The Hon'ble Supreme Court observed that compensation is required to be paid to kin of victims in order dated 25.02.2019.</li> <li>• State filed I.A. No. 77028/19 on 06.05.2019, inter-alia informing the Court that 3 lakh ex-gratia payments has already been made qua each victim.</li> <li>• The Hon'ble Supreme Court closed all the issues except formulation of Standard Operating Procedure to deal with such mining incidents vide order dated 12.07.2019.</li> </ul>
12.	<i>State of Meghalaya to pay 5 lakh for each death and 2 lakh for each injury in above incident as well as for the incident reported in South Garo Hills District in 2012.</i>	√	<ul style="list-style-type: none"> <li>• For 2012 incident, ex-gratia payment has already been made to those who came forward to make claims and whose claims were found to be genuine.</li> </ul>

”

21. We have considered the above objections. We are unable to appreciate the reasons for the stand that the recommendations are not feasible. Even if the exercise is considered by the State to be unnecessary, no serious difficulty is shown in doing so. We are unable to hold that any of the direction is against the order of the Hon'ble Supreme Court or not feasible. The dispute resolution process recommended is certainly conducive to the handling of the long pending issues and is necessary for facilitating compliance of the directions for disposal of illegal mined material and the mandate of law. We, thus, reject the objections of the State of Meghalaya. It is a matter of regret that State of Meghalaya, has by uncalled for objections, created a situation to hamper a credible mechanism set up by this Tribunal and approved by the Hon'ble Supreme Court by practically compelling the Chairman of the Committee to seek recusal.

### **Directions**

22. Under the circumstances, while accepting all the recommendations of the Committee in its 04<sup>th</sup> Interim Report dated 31.08.2019, 05<sup>th</sup> Interim Report dated 02.12.2019 and 06<sup>th</sup> Interim Report dated 03.12.2019, we also accept the request of Justice B.P. Katakey, former Judge, Guwahati High Court to be relieved.

23. Without in any manner meaning to dilute the exhaustive recommendations of the Committee, the substance of the recommendations of the Committee can be summed up to include monitoring of illegal raising and transportation of coal by the Chief Secretary of the State; steps for punitive measures for illegal mining – filling up gaps in the regulatory regime; action for preventing minimizing and mitigating environment pollution by acidic water from coal depots; electronic recording of movement of coal including by way of GPS and RFID Tags and having a central server for the purpose; inspection of wings of BSF and vigilance department; establishing and supervising check posts and weigh bridges; utilization of the compensation amount for legitimate purposes in terms of the recommendations in the report; continuing Prof. A.K. Singh, nominee, IIT-ISM, Dhanbad as member of the Committee; monitoring of sourcing of illegally mined coal by cement manufacturing/thermal power plants for enforcement of mining law, including punitive and remedial actions for sourcing of illegally mined material, as found by the Committee; conducting necessary audit; study of land use and land cover analysis; drilling of bore holes in Khlihirt-Sutnga area in East Jaintia Hill District; preparation of geological report and feasibility report for scientific coal mining; compiling information about location of dumps of coal; finalizing mode and manner of handling of coal and its disposal including e-auction; transfer of coal to Coal India Limited; monitoring of illegal export of coal to Bangladesh by an independent agency; adopting satellite surveillance systems; action by the State PCB for enforcement of environmental norms; verification of

*claims of victims and disbursement of payments to them in the manner suggested by the Committee; implementing action plan prepared by the Committee by the State PCB etc. Compliance of all the recommendations may need to be closely monitored by the Committee.*

**24. On suggestion of State of Meghalaya, we substitute Justice B.D. Agarwal, former Judge, Guwahati High Court as Chairman of the Committee. We are informed that Justice B.D. Agarwal is Judicial Member of Lokayukt of Manipur State but is willing to undertake the present assignment subject to the State of Manipur relieving him or otherwise permitting him to do so. The State of Manipur may consider this aspect in consultation with Justice B.D. Agarwal. Subject to there being no objection, Justice B.D. Agarwal may take up the assignment at the earliest. The Committee may furnish its further action taken report after three months preferably by 30.04.2020 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).”**

#### **Consideration of 7<sup>th</sup> report - NGT order dated 27.07.2020**

12. The matter was last considered on 27.07.2020 in the light of 7<sup>th</sup> report of the Committee filed on 30.04.2020 as follows:-

“1to7..xxx.....xxx.....xxx

8. We have gone through the report with the assistance of the learned Counsel appearing today. The report substantially deals with finalization of comprehensive plan prepared by the Government of Meghalaya for handing over of extracted coal to CIL for auction and measures for restoration of the environment.

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

“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.***

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.”*

10. *With regard to restoration of the environment, the commendations of the Committee are:*

*“1. Clause A of the Action Plan which relates to prevention of human and animal deaths by accidental falling in coal mine shafts comprises various subcomponents. With respect to clause A.1 - identification and delineation of coal fields as well as each coal mine coal shaft coal dump etc. in continuation with the earlier similar exercise initiated by NESAC they are requested to furnish a detailed cost estimate for preparation of such maps for the remaining districts viz., West Khasi Hills. South Garo Hills and South West Khasi Hills and submit a report to this Committee before the date of next sitting of the Committee.*

*2. Education Department may furnish a status report on the progress of implementation of A2 of the Action Plan which relates to creation of awareness about ill effects of illegal coal mining and also furnish information on the status of submission of APOs to the Committee notified in the guidelines for utilization of MEPR fund for their further processing of the same.*

3. A.3 of the Action Plan which relates to installation of sign boards in areas having presence of coal mines was reported to have been implemented by the Mining & Geology Department.

4. With respect to A4 of the action plan- Erection of physical barriers at periphery of shafts of mines where coal reserve has not been exhausted-the Deputy Commissioners of all Districts shall submit a report on progress on erection of physical barriers at periphery of shafts of mines where coal reserves have not been exhausted by the mine owners and steps taken by the District Administration to obtain such proposals from the mine owners who have not embarked on any such activity.

5. With respect to A5 of the action plan — Closure of shafts of mines where coal reserve has already been exhausted - Mining & Geology Department shall submit through an appropriate APO the further fund requirement for the purpose of installation of sign boards in areas having presence of coal mines to the concerned Committee notified in the guidelines for utilisation of MEPR fund. The Department shall also submit APOs incorporating other requirements to the Committee notified in the guidelines for utilisation of MEPRF. The Deputy Commissioners shall take steps to create awareness on erection of physical barriers around the coal shafts where the reserves are exhausted.

6. In respect of item A.5.1 of the Action Plan- Controlled blast to secure closure of shafts of mines where coal reserve has already been exhausted- the Member Secretary of Meghalaya State Pollution Control Board (MSPCB) is requested to intimate CIMFR —CSIR to give a power-point presentation on the matter to the Committee on the next date of its sitting. The Deputy Commissioners of the districts affected by coal mining shall furnish an appropriate report to the Committee on this matter before actually proceeding with controlled blasting. The Member Secretary, Meghalaya State Pollution Control Board is requested to submit a status report on development of safe and cost effective control blasting techniques in Meghalaya and the progress made by CIMGR-CSIR in this regard. The presentation of the CIMFR-CSIR during the next sitting of the Committee as referred above shall cover the techniques which could be applied in Meghalaya to secure controlled blasting. The Director DMR is requested to identify at least one abandoned coal mine where a pilot project can be undertaken by CIMFR-CSIR in respect of the safe and cost effective technique of control blasting and intimate the Committee on its next date of sitting.

7. Component B of the action plan relates to prevention of Acid Mine Drainage (AMD) through various devices. B.1 refers to coal dumps of cement factories and their captive power plants. The components B.1.1 to B.1.3 are as follows:

- i. Covering of dumps by permanent sheds/ water proof tarpaulin
- ii. Construction of garland drains along with acid mine drain storage tanks
- iii. Treatment of acid mine drain collected in storage tanks

*The Deputy Commissioners of East Khliehriat and Ri Bhoi Districts where cement factories and captive power plants are set up shall direct the cement factories and captive power plant owners to develop such devices and obtain a road map from each of them in this regard and submit the same to the Committee within two months.*

*8. With respect to item B.1.4 relating to amendment of Environmental Clearance (EC) already granted to the above mentioned cement plants and captive power plants to stipulate additional conditions in such ECs to provide for above measures incase such measures have not been stipulated. a status report on the implementation in this regard shall be furnished by the Member Secretary SEIAA and the Regional Office for North East region of MoEF&CC, Shillong.*

*9. With respect to item B.1.5 — Revocation/withdrawal of EC and launch of prosecution in case of non-implementation of aforementioned measures-it was reported that action has already been concluded by the MPSCB. A report in this regard may be submitted by MSPCB to the Committee before the next date of sitting of the Committee.*

*10. With respect to item B 1.6 — Revocation/withdrawal of CTE and launch of prosecution in case of non-implementation of afore-mentioned measures - it was stated by the Member Secretary MSPCB that there was no instance of withdrawal of CTE since all units which were directed by the MSPCB for compliance have complied.*

*11. Item B.2 relates to dumps of assessed coal. The sub-items are as follows:*

- i. Covering of dumps by water-proof tarpaulin/ permanent sheds*
- ii. Construction of garland drains along with acid mine drain storage tanks*
- iii. Treatment of acid mine drain collected in storage tanks*
- iv. Promulgation of order under section 144 or any other relevant Section(s) of Cr. P.C. to prohibit open/uncovered dumping of assessed coal*

*Sub items (i) to (iii) are to be implemented by the plant owners. The Deputy Commissioners of all Districts where occurrence of coal mining is noticed are requested to furnish status report within one month on the implementation of item B.2 to the Director of Mineral resources who in turn shall in turn submit a report to the Committee in this regard within two months.*

*12. With respect to item B.3 —Dumps of seized coal- the Director of Mineral Resources is requested to submit APOs within two weeks to the Committee notified under MEPR detailing the fund requirement to secure implementation of the sub-items listed under this item. The sub-items of B.3 are as below:*

- i. Construction of permanent depots for seized coal*
- ii. Covering of dumps by tarpaulin/ permanent sheds*

- iii. Construction of garland drains along with acid mine drain storage tanks
- iv. Treatment of acid mine drain collected in storage tanks

13. B.5 relates to insulating coal while in transit. The sub-items are:

- i. Covering of coal by waterproof tarpaulin while its transportation by road
- ii. Seizure of trucks carrying coal without covering it with waterproof tarpaulin
- iii. Promulgation of order under section 144 or any other relevant section(s) of Cr PC to prohibit open/uncovered dumping of assessed coal

The Deputy Commissioners of all coal mine affected districts are requested to furnish status report within one month on the implementation of item B.2 to the Director of Mineral resources who in turn shall in turn submit a consolidated report to the Committee in this regard.

14. With respect to item B.6- Rat hole coal mine openings- deliberation is postponed till CIMFR-CSIR make presentation in this regard to the Committee.

15. With respect to item B.7- Coal mine shafts located in river/ stream bed- deliberation is postponed till CIMFR-CSIR make presentation in this regard to the Committee.

16. With respect to item C which deals with restoration of water quality in rivers/ streams affected by Acid Mine Drains (AMD) the Chief Engineer, PHE is requested to submit status report on implementation of item C.1- Identification and prioritisation of rivers/ streams to be restored- and a road map for full implementation of the same to the Committee before its next date of sitting.

17. With respect to item C.2- Development refinement and transfer of AMD treatment technology- Professor O. P. Singh, NEHU is requested to make a presentation to the Committee on the day of its next sitting along with a report on the pilot project run by his team in this regard. The Mining & Geology Department suggested that an independent monitoring agency, in respect of which MSPCB is currently suitable, be requested to monitor the progress and success of the three pilot projects currently underway in respect of item C .2 and submit the same to the Committee within two months.”

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. Further, as per "Sixth Report" of the Committee quoted in para 19 of the last order dated 17.01.2020, the State was to provide the location of the places where coal was located to NESAC. NESAC was to prepare a geo-reference map and provide the same to CIL. NESAC was also to undertake analysis of the area where coal was to be handed over to CIL, using high resolution satellite imageries for the period in question.*

12. *As against the above, the Committee has now observed that the recommendations in the Sixth Report are unworkable for certain period. We are of the view that the said issue having already attained finality, there is no reason to reconsider the requirement of such exercise. However, if NESAC is not able to undertake the said exercise, the same may be entrusted to National Remote Sensing Centre (NRSC), Hyderabad. The CPCB may coordinate with the NRSC for the purpose.*

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.*

14. *As regards restoration plan, the remediation plan may be duly executed which may be supervised by the Committee. The steps suggested by the Committee may be taken. With regard to item no.10 relating to withdrawal of CTE, it is not clear whether any CTE had ever been granted. If no CTE had been granted, question of withdrawal did not arise.*

15. *The Committee may continue its functions including that of overseeing the remediation plan and furnish its report of status as on 31.12.2020 by 15.01.2021 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF."*

### **8<sup>th</sup> report of the Committee, stand of the State and the Applicant**

13. Accordingly, the Committee has filed its 8<sup>th</sup> report dated 14.01.2021

as follows:-

#### **"PROGRESS ACHIEVED BY THE COMMITTEE AFTER FILING OF THE REPORT DATED 30.04.2020**

*The progress achieved by the Committee since filing of the last report on 30<sup>th</sup> April 2020 is substantially compliance of the*

directions of the Hon'ble NGT issued vide their order dated 27<sup>th</sup> July 2020 in OA No.110(THC)/2012 and IA NO 244/2020 in OA NO. 110(THC)/2012:

- (i) *The first direction of the Hon'ble NGT is contained in para 12 of their order which is extracted below again for the purpose of quick reference:*

*"12. As against the above the Committee has now observed that the recommendations in the Sixth Report are unworkable for certain period. We are of the view that the said issue having already attained finality there is no reason to reconsider the requirement of such exercise. However, if NESAC is not able to undertake the said exercise the same may be entrusted to National Remote Sensing Centre (NRSC), Hyderabad. The CPCB may coordinate with the NRSC for the purpose.*

*In compliance of the above direction the Committee deliberated over the matter in the 24<sup>th</sup> sitting of the Committee on 03.08.2020. A copy of the minutes of the sitting of the Committee on 03.08.2020 is annexed herewith as **Annexure 1**.*

*To recapitulate the background of the matter, attention of the Hon'ble Tribunal is invited again to the portion pertaining to recommendations of the Committee in its e Report submitted by the Committee to the Hon'ble Tribunal pertaining to GIS and remote sensing studies to be conducted by NESAC. The same has been dealt-with in a very detailed manner in the 7<sup>th</sup> Report of the Committee (Chapter 3 page 27-31). Reference of the Hon'ble Tribunal is invited to recommendations at SI No. 1, 3-5 of the r Report, which primarily pertain to application of GIS technique to map the coal dumps in Meghalaya. Estimation of quantity of coal in the dumps through GIS technique, and land use analysis of these coal dump sites through geospatial techniques etc. These recommendations are again extracted below for easy reference.*

*"1. The State of Meghalaya shall, immediately, provide to the North Eastern Space Application Centre (NESAC), Department of Space, Government of India, Umiam, the location (latitude and longitude) and other details of each dump where coal to be auctioned is located. The NEASC, shall within one week from the date of receipt of these details prepare a geo-referenced map depicting the location of each of these dumps and provide a copy of the same to the Secretary to the Government of Meghalaya. Mining and Geology Department and the Coal India limited for placing a copy thereof along with a list containing name and address of the owner and quantity of coal available at each such dump on their respective websites.*

*2. The Secretary to the Government of Meghalaya, Mining and Geology Department shall, immediately place*

on website of the Department a copy of the additional affidavit containing details of 32,56,715 MT coal stated to be available at various depots filed before the Hon'ble Supreme Court on 10.04.2019 by the Commissioner and Secretary to the Government of Meghalaya. Mining and Geology Department.

3. The North Eastern Space Application Centre (NESAC), Department of Space, Government of India. Umiam shall undertake land-use land-cover analysis of areas where coal to be handed over to the Coal India Limited is located by using high resolution satellite imageries for the following period:

- (a) Immediately before the illegal rat-hole mining of coal was banned by the Tribunal by an order dated 17.04.2014:
- (b) Immediately before the additional affidavit dated 10.04.2019 containing details of 32,56,715 MT Coal stated to be available at various depots was filed before the Hon'ble Supreme Court by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department:
- (c) Once in the year 2015, 2016, 2017 and 2018, preferably in the month of April

4. Based on the said land-use land-cover analysis the NESAC shall divide the coal available at each of the depot where the 32,56,715 MT coal is stated to be available into three categories namely:

- (a) The coal continuously existing at the depot since the ban on the illegal rat-hole mining was imposed by this Tribunal on 17.04.2014:
- (b) The coal dumped at the depot after the filing of additional affidavit before the Hon'ble Supreme Court on 10.04.2019:
- (c) The coal dumped at the depot on any day between 17.04.2014 and 10.04.2019.

5. The finalization of the mode and manner for handing over of the coal to the Coal India Limited and the disposal of the coal by the Coal India Limited through e-auction shall not wait completion of the afore-mentioned study by the NESAC. The amount released from sale of such coal will however not be disbursed to the respective owner till the said study in respect of such coal is completed by the NESAC."

The recommendation at SI 1, which has substantial nexus with the objective of preparation of a proper plan for handing over coal to Coal India Limited. its auction and transport thereafter, has been complied with by the North Eastern Space Application Centre (NESAC). Shillong.

*The recommendation at SI 2 too has been complied with by the Mining & Geology Department.*

*With reference to recommendation at SI 3 and 4, the Committee in its meeting on 14 02.2020 requested the NESAC to respond to the same with regard to cost estimate for carrying out this task, time required for the purpose, feasibility to undertake the study as would be evident from the minutes of the meeting on the said date annexed to the 7th report as Annexure 2 therein.*

*In response, the NESAC submitted a report (comprising slides of power point presentation) with regard to the cost estimate for carrying out land use analysis in some of the coal bearing districts of Meghalaya pertaining to different years as suggested in the aforementioned recommendation. The NESAC Officials led by the Director of NESAC submitted during the course of meeting on 02.03.2020 that the requisite high resolution satellite imageries corresponding to the past years viz., 2014, 15, 16 and 17 in relation to the coal bearing areas may not be available entirely since there are very few satellite passes (technically called as paths and rows) corresponding to the said geographic co-ordinates by satellites equipped with cameras (IKONOS, QUICKBIRD) which can record high resolution imageries. The Director also submitted that in view of the exorbitant cost factor involved unless a vendor orders for high resolution satellite imageries corresponding to a particular location in advance the corresponding foreign based companies rarely align their cameras to such sites resulting in their non-availability. In view of this constraint, he said he would explore availability of high resolution satellite imageries only for the years 2018-19 and respond. The presentation made by NESAC thereafter on 12 03.2020 (enclosed as Annexure 7 to the 7<sup>th</sup> Report) centered on satellite data availability for major coal bearing districts of Meghalaya viz., East Jaintia Hills, South Garo Hills, West Khasi Hills and South West Khasi Hills districts. Data availability was absent for some portions of East Jaintia Hills even considering satellite imageries of 1.5 m resolution (which would enable capture of coal dumps larger than 1.5 m diameter). Gap area for South Garo Hills for 2018 was 1384 sq km which is substantial. Similar picture was presented for other two districts as well (West Khasi hills presented gap of 1340 sq km for 2019 in respect of 1.5 m resolution satellite imageries).*

*However in spite of gaps in availability of satellite data in each of the districts NESAC has been asked to undertake land use and land cover study in the aforesaid four districts of Meghalaya where rat hole coal mining has been practiced since such a study would help in planning the environment restoration in these areas. For this study the final estimate of fund requirement for a total sum of Rs 90.80.445/-, which has been placed by NESAC with the Committee, has been considered and*

approved by the Committee in the 28<sup>th</sup> sitting of the Committee on 8<sup>th</sup> December 2020. Further details of the study to be undertaken by NESAC, which the Committee has agreed in principle, are available in the minutes of the 23<sup>rd</sup> sitting of the Committee held on 1<sup>st</sup> July 2020 (para 1 under Agenda I of the minutes), and minutes of the 26<sup>th</sup> sitting of the Committee held on 18<sup>th</sup> November 2020 (para A.1 under Agenda II of the minutes) both of which would be again adverted to in the subsequent paras of this Chapter.

Insofar as recommendation at sl 4 is concerned the NESAC Director submitted orally on 02.03.2020 that it is not technically feasible to estimate quantity of coal remotely since they do not present a uniform surface. The report of the Director NESAC stating that it is not technically feasible to undertake such a study requiring quantitative estimation of coal is at last para of his report dated 21<sup>st</sup> April 2020 (which has already been enclosed as Annexure 8 to the 7<sup>th</sup> Report of the Committee)

It is in this background that the Committee in its 7<sup>th</sup> Report had suggested that it is not technically feasible to carry out recommendation No. 4 in view of express submission of NESAC in this regard and recommendation at SI No.5 being connected with recommendation No. 4 is unworkable too.

However, the Honble NGT in consideration of the 7<sup>th</sup> Report vide their order dated 27<sup>th</sup> July 2020, as already detailed in the preceding pages, directed that the said study may be entrusted to NRSC, Hyderabad, if NESAC expresses inability to undertake the same.

Pursuant to the aforesaid direction the matter was deliberated by the Committee in its 24<sup>th</sup> sitting. The issue pertaining to assessing the quantity of the coal at various coal dump sites provided by the Mining & Geology Department, Govt of Meghalaya to NESAC through remote sensing technique has been dealt under agenda III of the minutes of the 24<sup>th</sup> sitting of the Committee on 03.08.2020. A copy of the minutes of the sitting of the Committee on 03.08.2020 has already been annexed as Annexure 1.

In view of the direction of the Honble NGT to entrust the said study to National Remote Sensing Centre, Hyderabad (NRSC) to be duly co-ordinated by CPCB the Committee decided to write to NRSC to take up the said study. Pursuant to the decision of the Committee the letter in this regard addressed by the Committee to the Director, NRSC is annexed herewith as **Annexure 2**.

On receipt of the aforesaid letter, the reply of the NRSC is annexed herewith as **Annexure 3**. The NRSC too have stated that it is not technically feasible to undertake this study and approved the stand of NESAC that it is not

*technically feasible to undertake study of this nature for the reasons stated in their letter dated 21<sup>st</sup> April 2020 (Annexure 8 of the 7<sup>th</sup> Report).*

*The Honble NGT is requested to kindly consider the reply of NRSC dated 31<sup>st</sup> August 2020 and approve the same or give any further advice/direction in the matter as deemed fit and appropriate by them.*

*From the foregoing it appears to the Committee that though estimation of the quantity of coal in the coal dumps is not technically feasible as elaborately explained in the preceding paras it is technically feasible and also useful to have the land use and land cover map prepared for the coal mining areas in Meghalaya to help plan restoration of environment in those coal bearing districts. The Committee has held several rounds of discussion with NESAC in this regard who have finally submitted an estimate for a total sum of Rs 90,80.445/-, which has been considered and approved by the Committee in its 28<sup>th</sup> sitting on 8<sup>th</sup> December 2020. At clause (v) of this report this remote sensing - GIS study to be undertaken by NESAC is being further elaborated in a detailed manner for consideration of the Hon'ble NGT.*

- (ii) *The second direction of the Honble NGT is contained in para 13 of their order which is extracted below again for the purpose of ready reference:*

*'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 judgment of the Honble Supreme Court is not permissible. The Committee may revise its report accordingly.'*

*In compliance of the above direction the Committee deliberated over the matter in the 24<sup>th</sup> sitting of the Committee on 03.08.2020. A copy of the minutes of the sitting of the Committee on 03.08 2020 is already annexed as Annexure 1. The matter pertaining to revising the comprehensive plan for auction and transportation of coal is dealt under agenda II of the minutes. In compliance of the decisions of the Committee in accordance with the directions of the Hon'ble NGT, the revised comprehensive plan prepared by the Mining & Geology Department in consultation with Coal India Limited and duly approved by the Committee is annexed herewith as **Annexure 4**, which has been duly uploaded in the website of the Mining & Geology Department of the Government of Meghalaya.*

*The Mining & Geology Department is likely to commence auction of coal through e-auction portal shortly after due fulfilment of all requirements in this regard.*

- (iii) *The third direction of the Honble NGT is contained in para 14 of their order which is extracted below again for the purpose of ready reference:*

*"14. As regards restoration plan the remediation plan may be duly executed which may be supervised by the Committee. The steps suggested by the Committee may be taken. With regard to item no.10 relating to withdrawal of CTE it is not clear whether any CTE had ever been granted. If no CTE had been granted, question of withdrawal did not arise."*

*The matter pertaining to execution of the action plan prepared by the Committee for restoration of the environment damaged on account of rat hole coal mining in Meghalaya has been considered in 23<sup>rd</sup>, 25<sup>th</sup> and 26<sup>th</sup> and 27<sup>th</sup> sittings of the Committee held on 01<sup>st</sup> July, 01<sup>st</sup> September, 01<sup>st</sup> October and 18<sup>th</sup> November 2020 respectively. A copy of the minutes of the aforesaid sittings of the Committee on 01<sup>st</sup> September and 01<sup>st</sup> October 2020 respectively are annexed herewith as **Annexure 5, Annexure 6, and Annexure land Annexure 8 respectively**. The matter pertaining to execution of the action plan prepared by the Committee for restoration of the environment damaged on account of rat hole coal mining is dealt under agenda I, agenda II and III of the minutes dated 01<sup>st</sup> July, 01<sup>st</sup> September 2020 respectively under agenda II of the minutes dated 01<sup>st</sup> October 2020 and Agenda I of the minutes dated 18<sup>th</sup> November 2020.*

*Insofar as CTE is concerned it is clarified that the same pertains to cement and thermal power plants in Meghalaya which use coal and does not pertain to coal mines. These cement and thermal power plants have been granted environmental clearance and also CTE by the Meghalaya State Pollution Control.*

- (iv) *Availability of fund is a vital requirement for execution of the Action Plan which is to be sourced from MEPR fund collected from transporters of coal as per earlier direction of the Hon'ble NGT. The Committee vide its 4<sup>th</sup> report dated 31<sup>st</sup> August 2019, at SI. No. 18 of their recommendations, which is extracted below. had recommended preparation of guidelines for utilization of MEPR Fund:*

*"18. The State of Meghalaya shall within one month formulate draft guidelines, strictly in conformity with the broad parameters suggested by the Justice Katakey*

*Committee in its fourteenth sitting held on 03.06.2019. for utilization of amounts available in the MEPR Fund in an expeditious and transparent manner and submit the same to the Committee. The Committee shall examine the draft guidelines and place the same along with its comments thereon before this Tribunal within one month of receipt of the guidelines. (para 5. 5. 9. 8 (i).*

*Accordingly, the Mining & Geology Department, Govt of Meghalaya, had submitted the draft guidelines for utilization of MEPR Fund which has been carefully considered by the Committee in their 22<sup>nd</sup> sitting on 19<sup>th</sup> June 2020.*

*Several components of the guidelines have been duly edited by the Committee and the final approved version of the guidelines which have been notified by the Govt of Meghalaya is annexed herein as **Annexure 9**. The Hon'ble NGT is requested to kindly consider and approve the same to facilitate expeditious utilization of the MEPR Fund which would eventually pave the way for effective implementation of the Action Plan for restoration of the environment in Meghalaya.*

- (v) *Another vital component of the Action Plan is preparation of land use and land cover map of the rat hole coal mining affected areas in several districts of Meghalaya by NESAC (North Eastern Space Application Centre), Umiam, Meghalaya. The said issue has been considered in several sittings of the Committee as would be evident from the aforesaid minutes of various sittings of the Committee. The final estimate of fund requirement for a total sum of Rs 90,80,445/- which has been placed by NESAC with the Committee, has been considered and approved by the Committee in the 28<sup>th</sup> sitting of the Committee on 8<sup>th</sup> December 2020. A copy of the minutes of the said sitting is annexed herein as **Annexure 10**.*

*The Hon'ble NGT is requested to kindly approve release of the aforesaid sum of Rs 90.80,4451- to Director, NEAC from MEPR fund to facilitate execution of the aforesaid study by NESAC, Umiam, Meghalaya.*

- (vi) *The Hon'ble NGT had also considered IA No 244/2020 in OA No. 110(THC)/2012 filed by applicant Pawan Sharma. The direction passed by the Hon'ble NGT on the said IA vide their order dated 27<sup>th</sup> July 2020 is extracted below:*

*“We also take notice of the application filed by one Shri Pawan Sharma. G. S. Road, Shillong, East Khasi Hills District, Meghalaya on 30.06.2020 to bring on record non-compliance of the directions of this Tribunal dated 17.01.2020. The application may be forwarded to the*

*Committee headed by Justice B.D. Agatwal. former judge of the Gauhati High Court, for being looked into and taking such further action as may be found necessary.*

*In compliance of the above direction of the Hon'ble NGT the aforesaid IA was considered by the Committee in its 24<sup>th</sup> sitting on 03.08.2020. A copy of the minutes of the sitting of the Committee on 03.08.2020 is already annexed as Annexure 1. The Govt of Meghalaya was directed to file their counter to the averments contained in the IA of Shri Pawan Sharma. Accordingly, the counter affidavit in the matter was submitted to the Committee by the Mining & Geology Department, Govt of Meghalaya which was replied to by Pawan Sharma. A copy of the counter affidavit of Govt of Meghalaya and reply filed by the applicant are annexed herewith as **Annexure 11** and **Annexure 12** respectively. The pleadings of the parties having been completed the said matter was considered by the Committee in its 28<sup>th</sup> sitting on 8<sup>th</sup> December 2020.*

*The complaint of Shri Pawan Sharma was finally disposed-of vide Order dated 08.12.2020. The relevant directions given to the Chief Secretary and DGP, Meghalaya are reproduced below for ready reference:*

*"8. Hence, the Committee directs the Government and, more particularly to the DGP, Meghalaya to take the following actions immediately to arrest the offence of transportation of illegally mined coal:-*

*(i) File Charge-sheets in all the cases. registered u/s 21 of the MMDR Act within a period of 2 (two) months from the date of registration of the case. This will deter the coal smugglers from violating the ban order of the Honble NGT.*

*(ii) The Chief Secretary and DGP, Meghalaya are also directed to issue necessary instructions to the investigating officers and other concerned officers to sell the seized coal within a period of 3 (three) months. This step will also discourage the owners of coal from transporting it illegally without payment of royalty and taxes. In case there is any delay in giving orders for auction of the seized coal and equipments by the courts/magistrates the Government should approach the Honble Meghalaya High Court for appropriate directions to the concerned magistrates. Till now the seized coal are lying in open causing environment hazardous. Hence, disposal of seized coal at the earliest is also imperative on this count.*

*(iii) The Chief Secretary and DGP, Meghalaya are also directed to issue necessary instructions to the investigating officers and other concerned officers to confiscate and sell the seized trucks, dumpers, conveyances and equipments in accordance with law*

*within a period of 3 (three) months. This step will also discourage the owners of coal and trucks from transporting it illegally without payment of royalty and taxes.*

*(iv) As per resolutions taken by this Committee in various meetings and recommendations to the Hon'ble NGT (subsequently approved by the Hon'ble NGT by its Order dated 17.01.2020) the Govt. of Meghalaya is directed to install centralized server, uploading of transport permits/challans and tracking of coal laden trucks through GPS and RFID tags. as stipulated in Appendix XII to the E1A Notification. 2016 and also introduce high security mineral challans to prevent and detect multiple use of transport challans within a period of four weeks. It is further ordered that no new challan for coal transportation shall be issued by the Director of Mineral Resources, Meghalaya till the aforesaid system is put in place.*

*(v) Take legal action against the officials who fail to detect and detain the trucks and other conveyances from their respective check points.*

*(vi) To increase the Police patrolling in the coal bearing areas to prevent illegal coal mining, if any. “*

*The order of the Committee in the matter disposing of the IA of the applicant is annexed herewith as **Annexure 13**. The Hon'ble NGT is requested to kindly peruse the same and pass further orders as they deem fit and appropriate in the matter.*

*(vii) The Hon'ble National Green Tribunal had considered the earlier reports filed by the Committee and vide judgment dated 17.01.2020 had issued further directions in OA 110 (THC)/2012 for compliance of all concerned as already stated earlier in Chapter I of this report. The direction pertaining to the Committee is at para 23 of the judgment (page 45) wherein the Committee has been entrusted with the responsibility to monitor the compliance of recommendation furnished by the Committee to the Hon'ble NGT in its 4<sup>th</sup> 5<sup>th</sup> and 6<sup>th</sup> Reports submitted to the Hon'ble NGT. Accordingly the Committee has taken stock of the progress in implementation of its recommendations furnished to the NGT as aforesaid in its 23<sup>rd</sup> sitting on 15<sup>th</sup> July 2020 a copy of which has been already annexed as Annexure 5. The action taken in the matter has been discussed under Agenda II of the minutes. The Mining & Geology Department was instructed to submit report of compliance of the directions pertaining to them who have submitted the same. Copies of the compliance reports dated 24<sup>th</sup> July 2020 and 30<sup>th</sup> September 2020 submitted by the Mining & Geology Department are annexed herein as*

**Annexure 14** and **Annexure 15** respectively. Similarly, the Meghalaya Police too were directed to submit report of crime statistics pertaining to coal in Meghalaya. The latest report submitted by the Police in this regard furnishing details of cases registered cases charge-sheeted quantity of contraband coal seized etc is enclosed herewith as **Annexure 16**.

(viii) During the 28<sup>th</sup> sitting held on 8<sup>th</sup> December 2020 the Committee deliberated over scientific mining of coal in Meghalaya. A copy of the minutes of 28<sup>th</sup> sitting held on 8<sup>th</sup> December 2020 has already been annexed herein as **Annexure 10**. The Hon'ble Supreme Court vide order dated 03.07.2019 in Civil Appeal No. 10720/2018 State of Meghalaya Vrs All Dimasa Student Union Dima-Hasao District Committee, directed that mining of coal could be allowed in Meghalaya only in compliance with Mines and Minerals (Development and Regulation) Act 1958. Mines Act 1952, the Environment Protection Act 1985 which would necessitate mining in accordance with approved mining plan. The mining plan for mining coal in Meghalaya needs to be scientific, environment friendly and least hazardous and suggest the mining method best suitable to Meghalaya. The aforesaid mining plan would also require the approval of the Ministry of Coal. The Committee agreed to request the Indian School of Mines Dhanbad and the Central Mine Planning and Design Institute (CMPDI) to suggest mining methods best suitable for Meghalaya in the manner indicated above to help the State undertake coal mining in the State in a scientific and environment friendly manner. The Hon'ble NGT may kindly approve the decision of the Committee in this regard.

(ix) The Committee has also been in receipt of a report filed by the CPCB pursuant to the directions of the Committee in its 18<sup>th</sup> sitting on 15<sup>th</sup> September 2019 in relation to the coke oven plants operating in Meghalaya suggesting that they have been using illegally mined coal of Meghalaya. The Committee has considered the said report in its various sittings viz., 24<sup>th</sup> sitting held on 3<sup>rd</sup> August 2020. 26<sup>th</sup> sitting held on 1<sup>st</sup> October 2020. 27<sup>th</sup> sitting held on 18<sup>th</sup> November 2020 and 28<sup>th</sup> sitting held on 8<sup>th</sup> December 2020. A copy of the minutes of 28<sup>th</sup> sitting held on 8<sup>th</sup> December 2020 has already been annexed herein as **Annexure 10**. Copies of the minutes of the remaining sittings of the Committee have already been annexed in this report. The issue continues to be under active consideration of the Committee.

#### **CHAPTER IV**

#### **RECOMMENDATIONS OF THE COMMITTEE**

The recommendations of the Committee on various issues under consideration of the Committee for acceptance of the Hon'ble NGT are as below:

1. The Hon'ble NGT may kindly approve the guidelines for operating Meghalaya Environment Protection and Restoration Fund (MEPRF) notified by the State Government (**Annexure 9**), which has been duly approved by the Committee in its 22<sup>nd</sup> sitting held on 1<sup>st</sup> June 2020.
2. The Hon'ble NGT may kindly approve for release of a sum of Rs 90.80.445/- from MEPR fund to NESAC, Umiam, Meghalaya, being the estimate of fund requirement of NESAC for preparation of land use and land cover map of the districts in Meghalaya affected adversely on account of illegal coal mining, which has been approved by the Committee in its 28<sup>th</sup> sitting held on 8<sup>th</sup> December 2020.
3. The Hon'ble NGT may kindly approve the directions of this Committee to the Indian School of Mines, Dhanbad and Central Mine Planning and Design Institute (CMPDI), Dhanbad, to advise the Govt of Meghalaya on the method of coal mining, suitable for Meghalaya, for the purpose of preparation of mining plan to enable scientific coal mining in Meghalaya with minimum impact on the environment.
4. The Hon'ble NGT may kindly ratify the approval granted by the Committee to the revised comprehensive plan prepared by the Mining & Geology Department, Govt of Meghalaya in consultation with Coal India Limited for the purpose of transport and auction of coal (**Annexure 4**).
5. The Hon'ble NGT may kindly approve the directions given to the Chief Secretary and the DGP of Meghalaya while disposing of the complaint of Shri Pawan Sharma (**Annexure 13**).

The Hon'ble NGT may kindly approve the final order passed by the Committee disposing of the application filed by the applicant in IA No 244/2020 transferred by the Hon'ble NGT to the Committee (Annexure 13).”

#### **Stand of the State**

14. Before filing the above report, the State of Meghalaya has filed its additional affidavit dated 24.09.2020 explaining its position with regard to the suggestion of draw of lots to select the owner for transportation of the coal, which aspect has already been mentioned in the report of the Committee already quoted above.

### **Stand of the Applicant**

15. The applicant has filed a rejoinder to the reply affidavit filed on behalf of the State of Meghalaya on 24.09.2020 to the effect that illegal mining and transportation was still continuing. Reference has been made to the media report as follows:-

“

**(i) The Shillong Times dated 12.03.2020**

*East Jaintia Hills Police seized 23 coal laden trucks illegally transporting coal which include 12 (twelve) trucks on 10.03.2020 at Kuliang; 9 (nine) trucks on 11.03.2020 at Sonapur Umkiang and accordingly several cases were registered by the Police at Lumshnong Police Station.*

**(ii) The Shillong Times dated 19.03.2020**

*Illegal coal transportation on March 16 around 4.30 p.m Police detected two containers transport vehicles, transporting coal in violation of N.G.T. order at Lumshnong Eat Khasi Hills. However, driver of the truck managed to escape.*

*On March 15, around 3 a.m. Police detected one truck transporting coal in violation of N.G.T. order at Mukhep, Lad Longkaluh East Khasi Hills*

**(iii) The Shillong Times dated 29.03.2020**

*Despite curfew and lockdown illegal transportation of coal continues. According to Police on March, 26 around 1.30 p.m. 10 ten coal laden trucks were detected and seized from Umbir Village in Ri-Bhoi District for violation of N.G.T. order.*

*On 24.03.2020 around 7.30 p.m. Police detected 2 (two) trucks while transporting coal in violation of the N.G.T. ORDER OF Umkiang check gate, East Jaintia Hills.*

**(iv) The Shillong Times dated 07.04.2020**

*Despite the curfew and lockdown in the State, illegal transportation of coal trucks in violation of the N.G.T. orders, continues in the State.*

*Only recently 5 (five) coal laden trucks at Nongsning and Mynkre Village from East Jaintia Hills District were seized. At Mynkre Village, however the members of the Village Defence Party VDP were ones to seize 4 (four) trucks for flouting the lockdown and N.G.T. order.*

**(v) The Shillong Times dated 10.04.2020**

*Illegal coal transportation on April, 3 around 7.30 p.m. Police seized 3 (three) coal laden trucks at Mawlien Mawkhoon village in Ri-Bhoi District.*

**(vi) The Shillong Times dated 13.04.2020**

*In violation of the N.G.T. Order as well as lockdown imposed in the State along with the rest of the Nation, Police on April, 7 around 2.05 A.M. detected one stationary coal laden dumper truck MH-12-TRDK-2796 without driver at Rymbai Road, East Jaintia Hills.*

**(vii) The Shillong Times dated 14.04.2020**

*Shri S. Marwein, E.A.C. Khliehriat lodged a complaint that on April, 11 around 11.30 A.M. while conducting mine raids along with the Police at Moopynien, Khliehriat East, 6 to 8 labourers were seen mining in 2 (two) coal mines, however they managed to escaped. 2 (two) mining equipments were seized from the spot.*

**(viii) The Shillong Times dated 09.05.2020**

*Coal truck seized - A.Nongdhar, Mines and Royalty Inspector, D.M.R. Umkiang, East Jaitia Hills lodged a complaint that on May, 6 around 4 A.M. 1 (one) truck was detected at Umkiang check gate while illegally transporting coal in violation of the N.G.T. order.*

**(ix) The Shillong Times dated 21.05.2020**

*Workers unload freshly mined coal at Moolang village in East Jaintia Hills on Wednesday. Earlier on May 13 the Police seized 22 trucks carrying coal illegally which were parked at Ratacherra and Malidor in East Jaintia Hills.*

**(x) The Shillong Times Dated 26.05.2020**

*Despite the ongoing lockdown and restrictions there seems to be no end to illegal coal mining in the State. The Ri-Bhoi District Police in the last one week have detected as many as 4 (four) trucks laden with unauthorized coals.*

**(xi) The Shillong Times Dated 16.07.2020**

*On July 11, around 5 p.m., the Police detected and seized 1 (one) truck while illegally transporting coal under Shillong Police Station in West Garo Hills.*

**(xii) The Shillong Times Dated 06.10.2020**

*On 1 October around 9.30 A.M. Police detected transporting coal in violation of N.G.T. order at Sohiong petrol pump East Khasi Hills.*

**(xiii) The Shillong Times Dated 07.10.2020**

*According to media report in Assam , 150 trucks entered Assam on the night of October 5 and only 2 were detained in Beltolla in Guwahati, while on the morning of October 6 as many as 650 trucks entered Assam. There is no way anyone can check the veracity of the numbers quoted but it is an incontrovertible fact that is being clandestinely sold in Assam Shri Lakhmen Rymbui was entrusted with the Home Portfolio in controversial circumstances when his predecessor James Sangma's name figured in smuggling of coal — a lucrative trade for the coal rich State. Informed sources claimed that the State Police are like a caged parrot unable to function freely i.e. **they sometimes intercept coal laden lorries as an eyewash***

*It may be mentioned that the issue pertaining to the illegal transportation of coal even forced a group of Cabinet Ministers to take it up with the Chief Minister, Conrad Sangma. Although the Home Portfolio got shifted from one minister to another, not much change seems to have occurred and the coal seems to be finding their way out of the State, inspite of the N.G.T. ban.*

**(xiv) The Shillong Times Dated 08.10.2020**

*While the M.D.A. Government continues to be on denial mode on the allegation of syndicated supply of coal to Assam led to James Sangma being stripped from his portfolio earlier this year*

**(xv) The Shillong Times Dated 10.10.2020**

*The clamour for action against coal racketeering in the State is apparently getting louder. For its part, the N.P.P. led M.D.A. Government seems to be getting concerned with unremitting allegations over illegal transportation of coal from several quarters.*

*Soon after B.J.P., an ally in the M.D.A., demanded arrest of Power Minister James Sangma over the matter, civil society groups in the State are now demanding a C.B.I. inquiry into the alleged coal syndicate.*

**(xvi) The Shillong Times Dated 12.10.2020**

*Meghalaya B.J.P. which has been demanding arrest of Power Minister James Sangma for his alleged involvement in illegal transportation of coal has asserted that they would approach the Prime Minister's Office, P.M.O., on the matter.*

**(xvii) The Shillong Times Dated 13.10.2020**

*Sangma further said that the Government was serious about dealing with the illegal transportation of coal and hence the Government has also prepared selling up of integrated check gates which will have live C. C. T. V. cameras along with other technological solutions to check all the trucks.”*

16. It is further stated that:

*“4. That the Applicant has set up a case for the failure of the State to comply with the direction of this Hon'ble Tribunal. In para 3 of the*

*Application the Applicant has specifically mentioned about the 19 directions of this Hon'ble Tribunal which has not been complied been with.*

*For instance no steps have been taken:—*

- a) For electronic recording of movement of coal including by way of G.P.S and R.F.LD. Tags and having Central Server for the purpose.*
- b) Monitoring of sourcing of illegally mined coal by Cement Manufacturing / Thermal Power Plant for enforcement of Mining Law including punitive and remedial action for*

*sourcing of illegally mined materials as found by the Committee.*

- c) Building of Board's home in Khliehriat and Sutnga area in East Jaintia Hills District, Meghalaya for preparation of Geological Report and Feasibility Report for scientific coal mining.*
- d) Compiling information about locations of dumps of coal.*
- e) Finalizing mode and manner of handling of coal and its disposal including e-auction;*
- f) Transfer of coal to Coal India Limited;*
- g) Adopting Satellite Surveillance systems;*

*5. That had the aforementioned directions of this Hon'ble Tribunal been complied with the illegal extractions of coal by way of rat-hole mining and transportation would have stopped but as would transpire from the above media reporting that thousands of illegally mined coal laden trucks would not have been moving out of Meghalaya.*

*6. That it took almost 9(nine) months for the Chief Minister of the State to declare that it was serious about the dealing with the illegal transportation of coal and hence, the government is proposing to setup integrated check gates which will have live CCTV cameras along with other technical solutions to check all the trucks as published\* in The Shillong Times dated 13.10.2020 (Annexure XVII) and that to mere lip service to cover up the inaction in complying with the Hon'ble Tribunal's direction.*

*7. That as stated in the above media report i.e. the Shillong Times dated 07.10.2020 (Annexure - XVII) the police as an eyewitness has been detecting merely one or two trucks while leaving hundreds of trucks to pass through unchecked, which speaks volume of the conspiracy of the coal syndicate causing immense loss to the public exchequer.”*

### **Consideration of the Eighth Report and directions**

17. We have given due consideration to the report and heard learned Senior Counsel Shri Panjwani for the applicant and other appearing Counsel. We have also considered the written submissions filed on 10.03.2021 by Shri Panjwani, Senior Advocate.

18. It is patent that the problem of rat hole mining in Meghalaya continues and progress of restoration of environment and disposal of illegally mined material is inadequate. The Tribunal has already recorded its findings which have been substantially affirmed by the Hon'ble

Supreme Court. Proceedings commenced on the basis of media reports on 6.7.2012 that 30 persons were trapped in illegal mining and 15 died. The Tribunal vide order dated 17.4.2014 directed stopping of rat hole mining and also sought information about the quantity of illegally mined material. On 31.3.2016, illegally mined material was directed to vest in the State. The mined material was as per order dated 7.10.2017 found to be of value of Rs. 307 crore and loss of royalty was found to be 400 crore. 10% amount was directed to be credited to Environment Protection Fund. Transportation of illegally mined material was required to be stopped vide order dated 31.8.2018. Further incident of illegal mining came to light on 13.12.2018 when 15 workers engaged in illegal mining were trapped resulting in casualties. There does not appear to be any explanation as to why if the quantity of mined coal was found to be 6.3 million tonne as per order of this Tribunal dated 07.10.2017 (referred to in Para 2 above), the said quantity was found to be 2.3 million tonne (was actually available) in the report of the Committee dated 02.01.2019 as noted in Para 4 above. There is a possibility of large amount of mined coal having been pilfered or illegally disposed of even though the same was to be custody of the State. This aspect may be looked into by the State of Meghalaya.

19. As per Supreme Court judgment dated 3.7.2019, it was held that mining can be done only after EC as per mining plan and owner's share will be the residue of sale proceeds after deducting charges payable to Coal India, Royalty amount for environmental protection and for illegally extracted coal, action under section 21 of the MMDR Act was to be taken by the State. The Committee has done substantial work in the form of eight reports details of which have already been mentioned. As already noted, the Committee formed on 31.08.2018. The Committee filed its first report on 02.01.2019 which was considered on 04.01.2019. The said report is

that illegal mining is going on and deals with the quantity of extracted coal, uninventorised coal, impact on environment and steps for restoration. The 2<sup>nd</sup> report inter-alia recommended installing digital display boards in respect of water quality, evolving mechanism for transportation of illegally mined coal, audit of sources of acquisition of coal by the power generation and cement companies. The same was considered on 11.04.2019, as already mentioned. The 3<sup>rd</sup> report dated 02.08.2019 inter-alia dealt with the remedial measures in the form of afforestation, reclamation of affected area, organizing awareness programs, protection of the mined coal, treatment of acidic water in identified streams. The same was considered on 22.08.2019. The 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> reports were considered on 17.01.2020. The 4<sup>th</sup> report dated 31.08.2019 is with regard to illegal raising and transportation of coal and action under Section 21(5) of the MMDR Act, Water and EP Act establishing coal mine surveillance system and considers mechanism for disposal of coal. The 5<sup>th</sup> report dated 02.12.2019 is inter-alia with regard to sources of coal used by the power and cement plants in the State. The 6<sup>th</sup> report dated 03.12.2019 is with regard to use of satellite to verify the details of the coal to be auctioned and to verify details of the location of the coal to be auctioned. The 7<sup>th</sup> report dated 30.04.2020 further considered the issue of transportation of the mined coal to designated place. Thus, the reports have deliberated in detail about the strategies for preventing illegal mining, taking action against violators, creating awareness, restoration of water quality, water supply to affected areas, compensation to the victims, scientific mining, handing over the mined material to Coal India for disposal and all related issues. However, disturbing fact is that even after 1 year and 8 months of the judgment of the Hon'ble Supreme Court, directing disposal of mined coal, the issue is still hanging fire. There is a possibility of such material being stolen or

pilfered and its value diminishing unless timebound action is taken for its disposal. Similarly, steps for restoration of environment need to be taken on war footing.

20. The newspaper reports filed on behalf of the applicant clearly show that illegal mining is still continuing. Restoration of environment, particularly water quality and rehabilitation of affected victims in terms of health, water supply, skill development, protection against illegal mining as well as steps to handle the illegally mined material remain a challenge which requires constant planning and action. Since sufficient deliberations have taken place and **to an extent road-map for further action has been laid out, it is now the implementation which needs to be expedited.** We propose to conclude the proceedings before this Tribunal and before the Committee so that the designated authorities now proceed further in the matter subject to the oversight of a joint Committee of Officers of the Central and the State Government, as follows.

21. We may however deal with the recommendations of the Committee in the 8<sup>th</sup> Report. We approve the release of sum of Rs. 90,80,445/- in favour of NESAC. The recommendations for handling the MEPRF is approved with the modification that the steering Committee will comprise of the Oversight Committee which we are hereby constituting. The recommendations with regard to method of coal mining and for preparation of mining plan for scientific coal mining consistent with the concern for the environment is accepted, subject to the modification that the final view in the matter may be taken by the Oversight Committee which we are hereby constituting. Same is our direction with regard to recommendation for revised comprehensive plan prepared by the Mining & Geology Department, Govt. of Meghalaya in consultation

with Coal India Limited for the purpose of transport and auction of coal. We also approve the directions given to the Chief Secretary and DGP, Meghalaya on complaint of Shri Pawan Sharma. We also approve the final order passed by the Committee disposing of the application i.e. IA No. 244/2020 filed by the applicant and transferred by the Hon'ble NGT to the Committee.

22. **While placing on record our appreciation for the onerous task undertaken by the Committee, we are of the view that since the Monitoring by the Tribunal or Tribunal appointed Committee cannot continue forever, consistent with the orders passed so far and taking into account the deliberations by the Committee, further task needs to be taken over by the Executive Authorities in the manner we are hereby directing. Needless to say, under the public trust doctrine, the State authorities are bound to work for protection of scarce natural resources, the environment and public health. There is need in change of attitude towards the subject after the Hon'ble Supreme Court has pronounced in the matter.**

23. Accordingly, we dispose of these proceedings with a direction that ownership of the task of compliance of the Judgment of the Hon'ble Supreme Court with regard to preventing unscientific and unregulated mining, restoring the environment, rehabilitating the victims and handling of illegally mined coal should be taken over by the State Authorities, to be overseen by an **Oversight Committee of 12 members, headed by Additional Secretary, MoEF&CC (dealing with the environment and abatement of pollution issues) and comprising Chairman of the EAC, MoEF&CC, dealing with EIA of coal mining, Chairman Coal India, Joint Secretary, Ministry of Mining, Government of India, Director**

**General of Mines Safety, Senior Scientist, Indian School of Mines/ IIT, Dhanbad, Regional Officers MoEF&CC and CPCB, Chairman, State PCB, Additional Chief Secretary dealing with the subject of mining in the Government of Meghalaya, PCCF (HoFF) Meghalaya and Additional DGP, nominated by the DGP, Meghalaya.** The Regional Officer, MoEF&CC, Shillong will be the Member Secretary of the Committee to coordinate the working of the Committee and to deal with day-to-day issues as per decisions of the Committee. The Committee may meet within one month, take stock of situation and plan future course of action. **Its task will be to take forward compliance of judgment of the Hon'ble Supreme Court and further orders of this Tribunal for preventing unscientific and unregulated mining, handling the already mined material and all other incidental issues.** At the cost of repetition, we direct that the Committee may inter alia ensure that no illegal/unauthorized mining takes place, keeping combat plan and mining mishap management plan ready to avoid eventualities. Further, the Committee may take necessary measures for rejuvenating contaminated streams and rivers. The Committee will be at liberty to take assistance of any other institution/individual. The Chief Secretary Meghalaya will provide necessary logistics for functioning of the Committee. All concerned will be bound by the directions of the Committee, subject to any objection being considered by this Tribunal.

24. We further direct that compliance reports dated 24.07.2020 and 30.09.2020 and latest report submitted by Meghalaya Police with regard to crime statistics (Annexures -14, 15 and 16) may now be looked into by the Oversight Committee. All other surviving issues which may emerge from the report or otherwise will be finally looked into by the Oversight Committee. The Oversight Committee will give its periodical reports to the

Secretaries, Mines, Coal and MoEF&CC, GoI and also place the same on the website of the State of Meghalaya and the MoEF&CC. The said Secretaries may issue such directions as may be necessary in relation to their respective subjects, subject to any unresolved issue being raised before this Tribunal. The Regional Officer, MoEF&CC may take over the records from the Committee for further proceedings as per decisions of the newly constituted Committee.

25. We place on record our appreciation for the valuable assistance rendered by learned Amicus Curiae in dealing with the matter.

A copy of this order be forwarded to the Secretaries, Ministries of MoEF&CC, Coal and Mines, GoI, the Director General of Mines Safety, GoI, Indian School of Mines/ IIT, Dhanbad, CPCB, State PCB, Additional Chief Secretary dealing with the subject in the Government of Meghalaya, PCCF (HoFF) Meghalaya and DGP, Meghalaya by e-mail for compliance.

A copy of this order be also forwarded to Justice B.D. Aggarwal, former judge of Gauhati High Court.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

March 15, 2021  
Original Application No. 110(T<sub>HC</sub>)/2012  
A