

**BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE
BENCH, KOLKATA**

ORIGINAL APPLICATION NO. 154/2023/EZ

IN THE MATTER OF:

**THREAT TO LIFE ARISING
OUT OF COAL MINING IN
SOUTH GARO HILLS DISTRICT**

.....Applicant

-VERSUS-

STATE OF MEGHALAYA & OTHERS

.....Respondent(s)

INDEX

Sl. No.	Particulars	Page No.
1.	Reply Affidavit on behalf of Ministry of Environment, Forest & Climate Change (Respondent No.2) with Verification	1-8

Dated: 07.02.2024

Place: Shillong

Filed by:

Ms. Anamika Pandey
Counsel for Respondent No.2
Ministry of Environment Forest & Climate Change
Hasting Chambers,
7 C, Kiran Shankar Roy Road,
2nd Floor, Room No. 6, Kolkata-700 001
033- 46033642, +91 8336835229, +91 7439600631.

**BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE
BENCH, KOLKATA**

ORIGINAL APPLICATION NO. 154/2023/EZ

IN THE MATTER OF:

**THREAT TO LIFE ARISING
OUT OF COAL MINING IN
SOUTH GARO HILLS DISTRICT**

..... Applicant

-VERSUS-

STATE OF MEGHALAYA & OTHERS

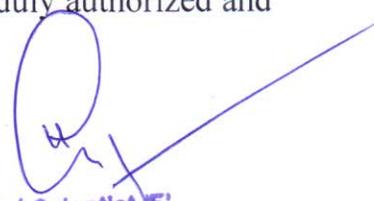
...Respondent(s)

**REPLY AFFIDAVIT FILED ON BEHALF OF MINISTRY OF
ENVIRONMENT, FOREST & CLIMATE CHANGE (RESPONDENT
NO.2)**

I, Dr. H. Tynsong, S/o (L) W. Khongkliam, aged about 45 years, presently working as Scientist-'E' in the Ministry of Environment, Forest and Climate Change (MoEF& CC), R.O, Shillong, by profession-Central Government Service and a citizen of India do hereby solemnly affirm and declare on oath as follows:

1. That, I am holding the post of Scientist-'E' in the Ministry of Environment, Forest and Climate Change, Regional Office, Shillong (MoEF&CC) and I have made myself acquainted with the facts and circumstances of this case as well as official records placed before me and I have been duly authorized and




वैज्ञानिक 'ई' / Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

SI/Instrument No 200
 Date 7.2.2024

empowered by the Respondent No.2 to make and swear this affidavit for and on behalf of MoEF&CC and I am competent to do so.

2. That the instant Affidavit-in-reply is submitted in compliance with the Hon'ble Tribunal's Order dated 09.01.2024, representing the complete stance of the respondent in the ongoing matter.

3. That this instant reply is being filed by this Answering Respondent without prejudice to his right to file a fuller and more detailed reply at a later stage, if so necessary.

4. The present proceedings originated when the Hon'ble National Green Tribunal (NGT), Principal Bench, through its Order dated 17.01.2020, endorsed the recommendations put forth by the NGT Committee in its 5th Interim Report dated 02.09.2019. The 5th Interim Report at Para 3.2.1(3) had recommended *'the State of Meghalaya shall realise royalty, GST/VAT contribution to the MEPR Fund and any other statutory tax and/levy payable on the illegal mined coal utilized by the 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 which has been imposed by the Tribunal in April, 2014'*.



वैज्ञानिक 'ई' / Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन विभाग
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

5. That the Hon'ble NGT Order dated 17.01.2020 was challenged by the Cement/Power Plants before the Hon'ble Supreme Court registered as Civil Appeal No. 3280 of 2020 titled *Star Cement v. State of Meghalaya & Ors* and other connected. The Hon'ble Supreme Court vide Order/Judgment dated 02.05.2023 at Para 12 had directed as under:

'.....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.'*



वैज्ञानिक 'ई' / Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

6. That this Answering Respondent humbly submits that the then NGT Committee headed by Justice (Retd.) B. P. Katakey was constituted vide Hon'ble NGT, Principal Bench Order dated 31.08.2018. The said NGT Committee had submitted several Interim Reports before the Hon'ble Tribunal including the impugned 5th Interim Report dated 02.09.2019 and according to the findings of the NGT Committee in the 5th Interim Report with respect to the gap of source of coal from the coal audit period of 2014-19 utilized by the Cement/Power Plants in Meghalaya is an independent finding of the Committee. However, in the interest of environment protection, it is incumbent on the Cement/Power Plants to disclose the authentic source of the coal used by them to set at rest any doubts regarding the use of illegally mined coal/rat hole mining which is banned in the State wide order of the Hon'ble NGT dated 17.04.2014.

7. That this Answering Respondent humbly submits that its primary focus includes policy formulation aimed at mitigating, controlling, and preventing pollution, as well as establishing environmental standards enforced by both the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs). The Ministry of Environment, Forest and Climate Change (MoEF&CC) is responsible for overseeing conditions outlined in Environmental Clearances (ECs). Additionally, in accordance with the



वैज्ञानिक ई / Scientist E
 पर्यावरण, वन एवं जलवायु परिवर्तन विभाग / Ministry of Environment, Forest and Climate Change
 क्षेत्रीय कार्यालय, शिल्लॉंग / Regional Office, Shillong

Environment Impact Assessment (EIA) Notification of 2006, all mining projects necessitate prior Environmental Clearance (EC) from either the Central Government (MoEF&CC) or the State Environment Impact Assessment Authority (SEIAA), contingent upon the production quantity. However, based on available records, no EC has been granted for coal mining projects in the state of Meghalaya.

8. That this Answering Respondent humbly submits that in O.A No. 110 (THC)/2012, the Hon'ble NGT, Principal Bench, through its Order dated 15.03.2021, disposed of the matter by directing the establishment of a 12-member Oversight Committee. This Committee, headed by the Additional Secretary of the Ministry of Environment, Forest and Climate Change (MoEF&CC), along with the Regional Officer of the Shillong. Regional Office, has held six regular sittings, two special sittings, and regular review meetings with relevant state agencies.

9. That this Answering Respondent humbly submits that in the interest of environmental conservation and reclamation, the Oversight Committee has sanctioned various projects to restore degraded coal mining sites in Meghalaya. These projects employ soil microbial technology, and afforestation, and address the restoration of highly acidic rivers. Pilot projects

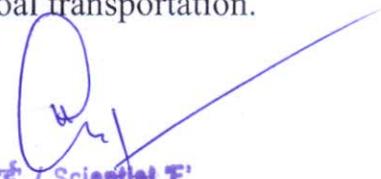


वैज्ञानिक ई / Scientist 'E'
पर्यावरण, वन एवं जलवायु परिकल्पना विभाग
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

for supplying safe drinking water to families affected by coal mining have also been approved.

10. That this Answering Respondent humbly submits that the Oversight Committee has directed the Meghalaya State Pollution Control Board (MSPCB) regarding Coke Oven Plants to add additional conditions in their Consent Letters (CTEs and CTOs). These conditions stipulate that local coal from Meghalaya can only be used for operating Coke Oven Plants if the coal mine possesses a valid Mining Lease and an approved Mining Plan. That it is further submitted that the Oversight Committee has issued directives to the Mining & Geology Department of the Government of Meghalaya concerning the transportation of legally mined coal. They have mandated the implementation of a robust digital tracking system at all checkpoints to trace the source of coal entering the state. Trucks transporting coal must be equipped with GPS tracking systems linked to GST, tax invoices, number plates, E-way bills, and other relevant documents. No coal-carrying truck will be permitted through checkpoints without proper GPS tagging and online tracking systems. The State Government has been tasked with establishing 18 Integrated Check gates across Meghalaya to oversee coal transportation.




 वैज्ञानिक 'ई' / Scientific 'E'
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
 Ministry of Environment, Forest and Climate
 क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

11. That it is respectfully submitted that, in view of the above mentioned facts, this Reply Affidavit, filed by Respondent No.-2, be admitted and accepted by this Hon'ble Court.
12. That this Answering Respondent craves leave of this Hon'ble Court to file additional information, if any, till *pendent-lite*.
13. That in view of the above submissions, this Hon'ble Court is graciously requested to pass any orders as may deem fit in the interest of justice. The Answering Respondent prays accordingly.

And I signed this affidavit on this the 7th FEBRUARY, 2024 at Shillong.

Identified by

(Mr. G. R. MASAW)
ADVOCATE, SHILLONG



MELARIKA LYNGWA
NOTARY
East Khasi Hills District
Government of Meghalaya



DEPONENT

वैज्ञानिक 'ई' / Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

VERIFICATION:

I, the above named deponent do hereby verify that the contents of the above affidavit are true and correct to my knowledge based on official records and nothing material is concealed therein.

Verified at Shillong on this^{7th} Day of.....^{FEBRUARY}..... 2024.

DEPONENT

वैज्ञानिक 'ई' / Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

