

SUBMITTED CASE PREVIEW

MA No 55/2023

in OA- 110/2022

Diary No : - 0701125013022023

Date & Time : - Wed Jul 26 11:10:32 IST 2023

Basic Details

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PARTY'S LIST

S. No.	Party name	Party address	State	District	Pincode	Mobile Number	E-mail Id
1	Amrit Cement Limited	5A, Ring Road	Delhi	SOUTH	110014	7982949186	sanampreet.singh@khaitanlegal.com

FEES SECTIONS**(Fees Total Main Fees of Sections = 500₹)****Document Fees Section**

	Document Name	No. of Pages	No. of Copies
1	INDEX.pdf	2	1
2	NGT Application Index.pdf	2	1
3	Application.pdf	14	1
4	Vakalatnam.pdf	2	1
5	Annexures.pdf	57	1
Total Amount for Document			360 ₹

S. No.	Document Filed By	Sub Document Type	No. of Pages	Document Name
1	Petitioner	Index	2	INDEX.pdf
2	Petitioner	Index	2	NGT Application Index.pdf
3	Petitioner	IA	14	Application.pdf
4	Petitioner	Vakalatnma	2	Vakalatnam.pdf
5	Petitioner	Annexures-and- Documents	57	Annexures.pdf

2308

BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL
BENCH NEW DELHI

ORIGINAL APPLICATION NO. 110 (THC) OF 2012

IN THE MATTER OF

AMRIT CEMENT

...APPLICANT

Versus

STATE OF MEGHALAYA AND ORS

...RESPONDENTS

IN THE MATTER OF:

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

...ORIGINAL APPLICANT

VERSUS

STATE OF MEGHALAYA AND ORS.

...RESPONDENT

INDEX

Sr. No.	Particular	Page No.
1.	SYNOPSIS AND LIST OF DATED AND EVENTS	1-3
2.	APPLICATION UNDER SECTION 14,15, AND 18 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010 (NGT ACT) READ WITH RULE 7 (E) AND 7 (F) OF THE NATIONAL GREEN TRIBUNAL (PRACTICE AND PROCEDURE) RULES, 2011 (NGT RULES) BY THE APPLICANT I.E AMRIT CEMENT LIMITED	4-14
3.	<u>ANNEXURE- A-1</u> COPY OF THE FINAL ORDER DATED JANUARY 17,2020, PASSED BY HON'BLE TRIBUNAL	15-60
4.	<u>ANNEXURE-A-2</u> A COPY OF THE JUDGMENT DATED MAY 2, 2023.	61-71

2309

PASSED BY THE SUPREME COURT OF INDIA IN
STAR CEMENT LIMITED AND ORS, VS. STATE OF
MEGHALAYA AND ORS, (CIVIL APPEAL NO 3280
OF 2020)

5 VAKALATNAMA

72-73

Manpreet

**MANPREET LAMBA/SANAMPREET SINGH/SHIVANI SHARMA
FOR M/S KHAITAN LEGAL ASSOCIATES**

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shivani.sharma@khaitanlegal.com

Mob No. +91-9818837777; 8800600664; 9643398454

Place: New Delhi

Dated: 10.07.2023

2310

1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 110(THC)/2012

IN THE MATTER OF:

AMRIT CEMENT LIMITED ...APPLICANT

VERSUS

STATE OF MEGHALAYA AND ORS. ...RESPONDENTS

IN THE MATTER OF:

THREAT OF LIFE ARISING OUT OF COAL MINING IN SOUTH GARO HILLS DISTRICT ...ORIGINAL APPLICANT

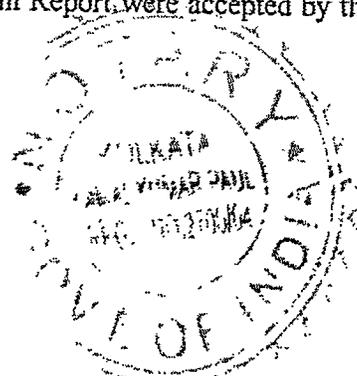
VERSUS

STATE OF MEGHALAYA AND ORS. ...RESPONDENTS

SYNOPSIS AND LIST OF DATES AND EVENTS

The present Application is filed under Section 14, 15 and 18 of the National Green Tribunal Act, 2010 ("NGT Act") read with Rule 7(e) and 7(f) of the National Green Tribunal (Practice and Procedure) Rules, 2011, by the Applicant, i.e., Amrit Cement Limited in the captioned Original Application No. 112 (THC) of 2012.

The instant Application seeks indulgence of this Hon'ble Tribunal inspection of the records in the captioned matter, including the underlying documents which were submitted by the Katakey Committee ("Committee"). On the basis of the Committee's report, all the recommendations of the Committee submitted in its Fifth Interim Report were accepted by this Hon'ble Tribunal vide Order dated



Keishan Banerjee

January 17, 2020 ("Final Order"), wherein the Chief Secretary of the State was directed to take punitive measures against the Applicant herein for the alleged illegal mining carried out in the State.

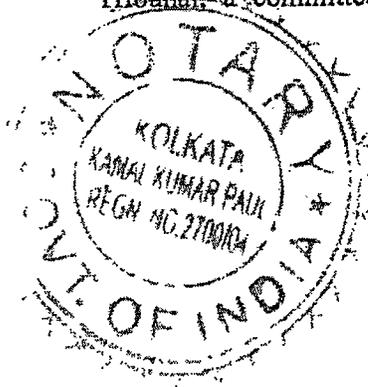
The Final Order was challenged by the Applicant, along with other similarly placed entities / companies, before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India *vide* order dated May 02, 2023, in the matter of *Star Cement Limited and Ors. V State of Meghalaya and Ors.* (Civil Appeal No. 3280 of 2020) ("Judgment"), set aside the aforesaid Final Order and, *inter alia*, granted liberty to the Applicant to seek prayers as sought in the present Application.

Pertinently, the Hon'ble Supreme Court of India was of the view that the Final Order was passed without affording the Applicant any opportunity of a fair hearing.

Hence, the present Application.

LIST OF DATES

DATE	EVENT
06.07.2012	News emerges that 30 coal labourers were trapped in a coal mine at Nongalbibra in the District of South Garo Hill because of unscientific rat-hole mining, out of which 15 coal labourers died.
2012	The Hon'ble Guwahati High Court ("High Court") registered a <i>suo motu</i> public interest litigation, <i>viz.</i> <i>Suo Motu No. (SH) 3 of 2012 ("PIL")</i> , in respect of threat to life arising out of coal mining in South Garo Hills District.
10.12.2012	The High Court directed the PIL to be transferred to this Hon'ble NGT and the same was registered as Original Application No. 110 (THC)/2012.
31.08.2018	During the course of proceedings before this Hon'ble Tribunal, a committee headed by Justice B.P. Katakey,



Krishna Kumar Banerjee

 A circular notary seal for Krishna Kumar Banerjee, a Notary Public in Kolkata, West Bengal. The seal contains the text: "NOTARY PUBLIC", "Kolkata", and "WEST BENGAL". The outer ring of the seal reads "NOTARY PUBLIC" and "WEST BENGAL".

Former Judge, Guwahati High Court ("Committee"), was constituted.

- 31.12.2018 1st Interim Report made by the Committee.
- 30.03.2019 2nd Interim Report made by the Committee.
- 22.08.2019 This Hon'ble Tribunal considered the 3rd Interim Report of the Committee dated 02.08.2019.
- 31.08.2019 The Committee gave its 4th Interim Report wherein it considered various measures to be taken *inter alia* to prevent illegal mining and transportation of coal.
- 02.12.2019 The Committee gave its 5th Interim Report. This report contained unsubstantiated, blanket allegations against the Applicant and recommended punitive measures against it.
- 03.12.2019 The Committee made its 6th Interim Report.
- 17.01.2020 This Hon'ble Tribunal accepted the recommendations contained in the 4th, 5th, and 6th Interim Reports of the Committee, and directed the Chief Secretary of the State of Meghalaya to take punitive steps against the Applicant.

For ease of reference, all Interim Reports made by the Committee have been collectively referred to as "Interim Reports")

- 2020-2022 Assailing the aforesaid Order passed by this Hon'ble Tribunal, the Applicant along with the other aggrieved cement and thermal power companies preferred an Appeal before the Hon'ble Supreme Court of India in *Star Cement Limited and Ors. V State of Meghalaya and Ors.* (Civil Appeal No. 3280 of 2020), being the lead case.
- 02.05.2023 The Hon'ble Supreme Court of India set aside the Final Order, thereby granting liberty to the Applicant to file an Inspection Application, including but not limited to the records and underlying documents submitted by the Committee before this Hon'ble Tribunal.

Hence, the present Application.



Krishan Kumar Banerjee
Kolkata

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BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 110(THC)/2012

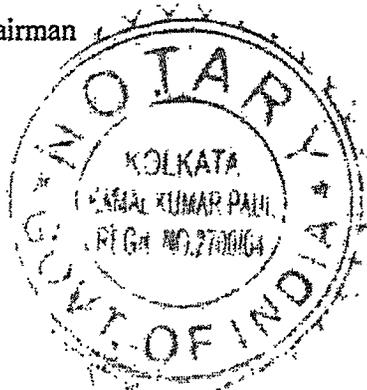
IN THE MATTER OF:

Amrit Cement Limited
having its registered office at
Opposite Horse-Shoe
Building, Lachumiere,
Shillong, Meghalaya- 793001

Applicant

Versus

1. State of Meghalaya
Through its Secretary
Mining and Geology
Department, Government of
Meghalaya, Additional
Secretariat Building, Shillong,
Meghalaya - 793001
Respondent No. 1
2. Principal Secretary to the
Government of Meghalaya,
Forest and Environment
Department, Meghalaya,
Shillong
Respondent No. 2
3. Principal Chief Conservator of
Forest, Government of
Meghalaya, Sylman House,
Lower Lachumiere, Shillong -
793001
Respondent No. 3
4. Commissioner and Secretary
to the Government of
Meghalaya, Forest and
Environment Department,
Additional Secretariat
Building, Shillong - 793001
Respondent No. 4
5. The Chairman
Respondent No. 5



Krishan Kumar Paul
Kolkata

2314

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Meghalaya State Pollution
Control Board, Government of
Meghalaya. "ARDEN"
Lumphyngngad, Shillong -
793014

- | | |
|--|------------------|
| 6. Commissioner and Secretary
to the Government of
Meghalaya Mining and
Geology Department, Shillong | Respondent No. 6 |
| 7. Director of Mineral Resources,
Government of Meghalaya,
Shillong | Respondent No. 7 |
| 8. Additional Principal Chief
Conservator of Forest
(Planning, Development and
Legal) Meghalaya, Shillong | Respondent No. 8 |

IN

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

...ORIGINAL
APPLICANT

VERSUS

STATE OF MEGHALAYA AND ORS.

...RESPONDENTS

APPLICATION UNDER SECTIONS 14, 15 AND 18 OF THE NATIONAL
GREEN TRIBUNAL ACT, 2010 ("NGT ACT") READ WITH RULE 7(e)
AND 7(f) OF THE NATIONAL GREEN TRIBUNAL (PRACTISE AND
PROCEDURE) RULES, 2011, ("NGT RULES") BY THE APPLICANT,
i.e., AMRIT CEMENT LIMITED.

MOST RESPECTFULLY SHOWETH:

1. That the present Application is being filed under Sections 14, 15 and 18 of the NGT Act read with Rules 7(e) and 7(f) of the NGT Rules seeking



Krishanku Bhowmik

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permission of this Hon'ble Tribunal to inspect the records in Original Application No. 110(THC) / 2012, including but not limited to the underlying documents submitted by the Committee before this Hon'ble Tribunal.

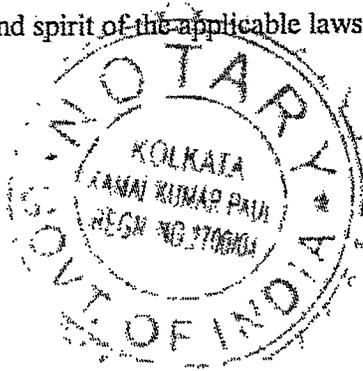
2. The said Application has been filed pursuant to the final order and Judgment of the Hon'ble Supreme Court of India dated May 2, 2023, passed in *Star Cement Limited and Ors. V State of Meghalaya and Ors.* (Civil Appeal No. 3280 of 2020).

A copy of the Final Order dated January 17, 2020, passed by this Hon'ble Tribunal in the captioned Application is annexed hereto and marked as ANNEXURE "A-1"

A copy of the Judgment dated May 2, 2023, passed in *Star Cement Limited and Ors. V State of Meghalaya and Ors.* (Civil Appeal No. 3280 of 2020) is annexed hereto and marked as ANNEXURE "A-2"

FACTS IN BRIEF

3. The Applicant is a public limited company incorporated in January 2008 under the Companies Act, 1956 having its registered office at Opposite Horse-Shoe Building, Lower Lachumiere, Shillong, Meghalaya- 793001. The Applicant is a technologically advanced cement manufacturing facility located at Umlaper in Jaintia Hills of Meghalaya, which was commissioned on December 21, 2012, and has set up an integrated facility to manufacture 2000 TPD of Clinker and 1850 TPD of cement with a captive power plant of 12 MW Captive Power Plant to ensure uninterrupted cement production all year round.
4. It is most humbly stated that the Applicant has been carrying on its business from the time of its commissioning and in strict adherence to the letter and spirit of the applicable laws.



Krishan Kumar Bose
Kolkata

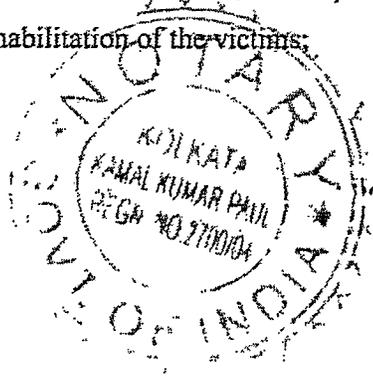
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5. That sometime in or around 2012, the Hon'ble Guwahati High Court registered a *suo motu* public interest litigation in respect of threat to life arising out of illegal coal mining in South Garo Hills District being, *Suo Moto No. (SH) 3 of 2012*, on the basis of a news report dated July 6, 2012, wherein 30 coal labourers were trapped inside a coal mine at Nongalbibra in the District of South Garo Hill. Unfortunately, 15 out of the 30 labourers had died inside the coal mine as a result of unscientific rat-hole mining being carried on in the State of Meghalaya.
6. *Vide* order dated December 10, 2012, the Hon'ble Guwahati High Court directed that the matter(s) be transferred to this Hon'ble Tribunal. The application bearing Original Application 110 (THC) / 2012 (*Threat to life arising out of coal mining in south Garo hills district v. State of Meghalaya and Ors.*) came to be registered before this Hon'ble Tribunal wherein this Hon'ble Tribunal took cognizance of the issue and issued notice on January 31, 2013.

Formation of the Committee by this Hon'ble Tribunal

7. During the course of hearing before this Hon'ble Tribunal, this Hon'ble Tribunal directed constitution of an Independent Committee to be headed by a former High Court Judge of the Guwahati High Court (Justice B.P. Katakey) ("**Committee**") with representatives from the Central Pollution Control Board and the Indian School of Mines, Dhanbad for environmental issues arising out of storage and appropriate remedial steps towards restoration of the environment and rehabilitation of the victims.
8. It is stated that the Committee was at liberty to take up incidental issues and the reference of powers of the Committee were as follows:
 - a. Restoration of the environment;
 - b. Rehabilitation of the victims;

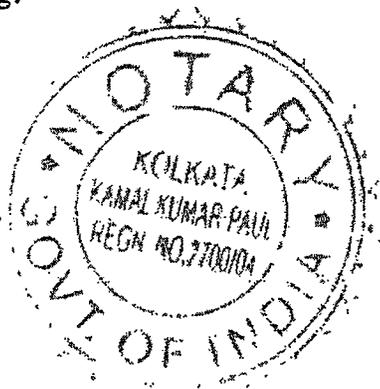


Keishamu 


- c. Issues incidental to the above; and
 - d. Supervise issues arising out of receivership/custodianship of already extracted coal including environmental issues arising out of storage and remedial steps.
9. The issues considered by the Committee pertained to determining the extent of illegal mining and coal sourced through alleged illegal mining activities by cement companies along with verification of whether such mining activities purportedly continued despite the ban on rat hole mining. The Committee was to also consider the issue of payment of royalty on the alleged illegally mined coal and its exploitation by such entities.

First Interim Report of the Committee

10. The Committee gave its First Interim report dated December 31, 2019, on January 2, 2019 ("First Interim Report") which was considered by this Hon'ble Tribunal *vide* Order dated January 4, 2019, and the following questions were 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 this Hon'ble Tribunal imposing ban on coal mining and transportation?
 - b. Quantity of extracted coal as on the date on which the ban was imposed by this Hon'ble Tribunal and left to be transported?
 - c. Quantity of un-inventoried coal which has been extracted before imposition of ban by this Hon'ble Tribunal?
 - 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?



Krishanta Banerjee

A small circular notary seal for Krishanta Banerjee, a Notary Public in Kolkata, West Bengal. The seal contains the text: "NOTARY PUBLIC", "KOLKATA", and "WEST BENGAL".

complaints under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 ("MMDR Act") of the alleged illegal raising and transportation of coal and other antecedent action.

Fifth Interim Report of the Committee

16. To the shock of the Applicant, the Committee submitted the Fifth Interim Report dated December 2, 2019 ("Fifth Interim Report") in which the Committee passed a blanket order making unsubstantiated allegations against the Applicant and the other cement and thermal power plant companies and directed punitive measures to be initiated against the companies so listed by the Committee. It is pertinent to mention here that the findings / observations made by the Committee were premised on surmises and conjectures and were made dehors and in absolute contradiction to the submissions made by the Applicant.

Sixth Interim Report by the Committee

17. Subsequently, the Committee further submitted its Sixth Interim Report dated December 3, 2019 ("Sixth Interim Report"), to this Hon'ble Tribunal.

Order by this Hon'ble Tribunal pursuant to the Committee Reports

18. Thereafter, the Hon'ble Tribunal, *vide* the Final Order, accepted all the recommendations of the Committee submitted in its Fourth, Fifth and Sixth Interim Reports and directed the Chief Secretary of the State to take punitive measures for alleged illegal mining. Pertinently, the Final Order was passed without affording the Applicant any opportunity of presenting its case or responding to, *inter alia*, the alleged allegations of illegal mining, as held by the Committee's reports.

Challenge before the Hon'ble Supreme Court of India



Krishan Kumar Banerjee

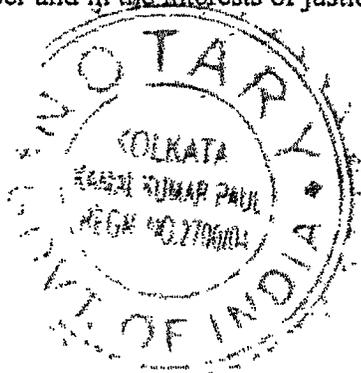
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19. Being aggrieved by the aforesaid Order passed by this Hon'ble Tribunal, the Applicant along with the other cement and thermal power companies (collectively "Appellants") preferred an Appeal before the Hon'ble Supreme Court of India in *Star Cement Limited and Ors. V State of Meghalaya and Ors.* (Civil Appeal No. 3280 of 2020), along with other accompanying Appeals.
20. After hearing the parties at length, the Hon'ble Supreme Court of India set aside the Final Order passed by this Hon'ble Tribunal. While setting aside the Final Order, the Hon'ble Supreme Court of India, *inter alia*, directed that this Hon'ble Tribunal to consider the submissions of the Applicant and affording a right of fair hearing to the Appellants. Furthermore, the Appellants have also been granted the liberty to apply to this Hon'ble Tribunal seeking inspection of the records, including the underlying documents which were submitted by the Committee and culminated into the Interim Reports.
21. Hence, the present Application.

PRAYER

22. In light of the above facts and circumstances, it is most humbly prayed that this Hon'ble Tribunal may be pleased to issue the following orders/directions:
- Direct Amrit Cement Limited, i.e. Applicant, herein to inspect the record of this Hon'ble Tribunal, including the underlying documents submitted by the Committee and the Interim Reports submitted by the Committee;
 - Pass any other order that this Hon'ble Tribunal may deem fit and proper and in the interests of justice.



Kaishanoy Banerjee

2321

(Signature)
Kishan Kumar Banerjee
APPLICANT

THROUGH:

(Signature)

MANPREET LAMBA | SANAMPREET SINGH | SHIVANI SHARMA
FOR M/S KHAITAN LEGAL ASSOCIATES
ADVOCATES FOR AMRIT CEMENT LIMITED
5A, RING ROAD, NEAR JAPAN FOUNDATION
VIKRAM VIHAR, LAJPAT NAGAR – IV,
NEW DELHI -110024

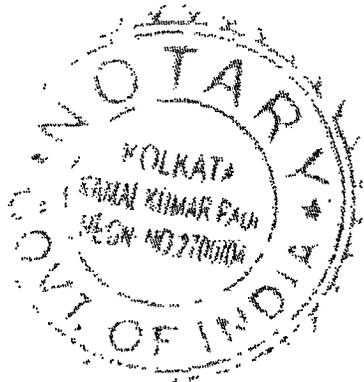
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shivani.sharma@khaitanlegal.com

Mob No. +91 98188 37777; +91 88006 00664; +91 96433 98454

VERIFICATION:

Verified on this the 14 day of July 2023 that the contents of the accompanying application are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

(Signature)
Kishan Kumar Banerjee
APPLICANT



2322

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13

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 110(THC)/2012

IN THE MATTER OF:

AMRIT CEMENT LIMITED ...APPLICANT

VERSUS

STATE OF MEGHALAYA AND ORS. ...RESPONDENTS

IN THE MATTER OF:

THREAT OF LIFE ARISING OUT OF COAL MINING IN SOUTH GARO HILLS DISTRICT ...ORIGINAL APPLICANT

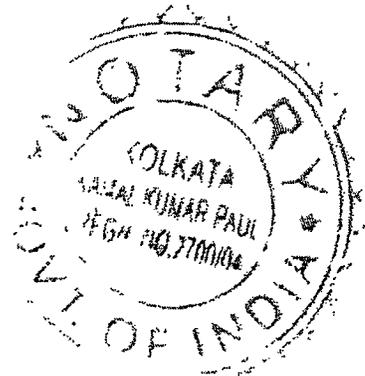
VERSUS

STATE OF MEGHALAYA AND ORS. ...RESPONDENTS

AFFIDAVIT

I, Krishanu Banerjee, s/o Mr. Sukumar Banerjee, aged 41 years, the authorised representative of the Applicant, having its registered office at - Opposite Horse-Shoe Building, Lower Lachumiere, Shillong, Meghalaya - 793001, presently at Kolkata, do hereby state and affirm as under:

1. That I am conversant with the facts and circumstances of the present case and therefore I am competent to depose to the present Affidavit.
2. That the contents of the accompanying Application can be read as part and parcel of this Affidavit and the same are not being repeated herein for the sake of brevity and to avoid prolixity.



Krishanu Banerjee

2323

- 3. That the contents of the accompanying Application are true and correct to the best of my knowledge derived from the official records of the Corporate Debtor and the legal submissions made are based on the legal advice
- 4. That all annexures filed with the accompanying Application are the true copies of their respective originals.

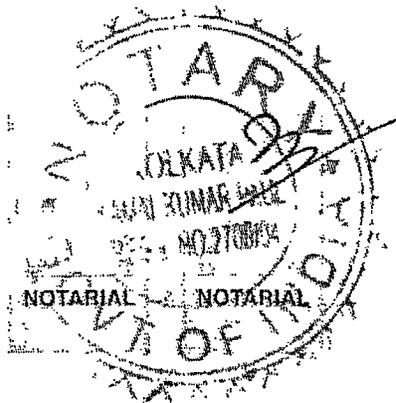
✓ Krishanu Banerjee
 DEPONENT

VERIFICATION

I, Krishanu Banerjee, the authorized representative of the Applicant company, do hereby verify and confirm that the contents of the above Affidavit are true and correct to the best of my and belief. No part of it is false and nothing material has been concealed therefrom.

Verified at Kolkata dated this 11th day of July 2023

✓ Krishanu Banerjee
 DEPONENT



Solely by Affidavit and without
 any other identification of the deponent
 ✓
 KAMAL KUMAR PAGE, NOTARY
 Govt of India, Regn No. 2708/14

11 JUL 2023 11-07-23

[Faint handwritten signature and text, possibly a witness or additional notary signature]

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ANNEXURE A-1

Item No. 01

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(s)

Versus

State of Meghalaya & 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**

INDEX

S. No.	CONTENT	PARA No.
I	Background: unscientific Rat Hole mining in the State of Meghalaya - directions for preventive and remedial action	1-2
II	Constitution of Monitoring Committee for restoration of environment and rehabilitation of victims and other connected and incidental issues.	3
III	Orders of this Tribunal dated 04.01.2019, 11.04.2019 and 22.08.2019 on reports received from the Committee.	4-7
IV	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
V	Resume of proceedings till 22.08.2019	9-11
VI	Further reports- 04 th Interim Report dated 31.08.2019, 05 th Interim Report dated 02.12.2019 and 06 th Interim Report dated 03.12.2019	12-19
VII	Consideration of objections to the report	20-21
VIII	Directions	22-24

2325

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:-

2327

- (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 weighing 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.

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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 nqp.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

2333

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."

2333

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:-

2337

- 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."

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

2339

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.

2341

(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- 04th Interim Report dated 31.08.2019, 05th Interim Report dated 02.12.2019 and 06th 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. 04th Interim Report dated 31.08.2019
2. 05th Interim Report dated 02.12.2019
3. 06th Interim Report dated 03.12.2019.

13. We also have for our consideration response of the State of Meghalaya to the 04th and 06th 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.

4th Interim Report dated 31.08.2019

16. In the 4th 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

2343

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

2348

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 Honble. 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

2347

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."

5th Interim Report dated 02.12.2019

17 The 5th 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:

2349

(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	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 its Captive TPP	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
	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 procured **	43,576	32,461	72,086	13,704	4,960	1,66,787
	Gap	10,923	14,498	16,657	44,859	24,537	1,11,474
Ferrous Limited	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

2351

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:

S. 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
	Total	39,36,684	265,726	190,929	157,467	614,123

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

2353

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

2355

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."

6th Interim Report dated 3.12.2019

19. The 6th 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

2357

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)).

2359

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

2369

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 subsection (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

2363

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"> • Duplication of exercise of identification of sale-points. • 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. • In terms of para 48 and 187-192 of the judgment of Supreme Court this exercise is not required.
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"> • Unnecessary exercise • Supreme Court observed in Para 189 that All this 32,56,715 coal is illegally mined. • Yet directed its disposal thorough CIL and disbursement of funds to owners in paras 192-192.
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.	√	Contrary to Supreme Court judgment. Even after observing in Para 189 that ALL this 32,56,715 Coal is illegally mined, SC directed its disposal thorough CIL and disbursement of funds to owners in Para 192. <ul style="list-style-type: none"> • 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.
6	Collection and maintenance of samples from each lot for purpose of future dispute resolution.	√	<ul style="list-style-type: none"> • There are more than 20,000 sale points. • Further, the auction is on 'As is where is' basis and prospective bidders are being given 14 days' time to physically verify the

2365

			<p>quantity and quality of coal lying at the dump.</p> <ul style="list-style-type: none"> • <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>
7.	Reserve Price of Coal to be auctioned shall be fixed by CIL as per their existing policy.	√	<ul style="list-style-type: none"> • 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. • 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. • These factors substantially affect the reserve price fixation of Coal. • 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 fix reserve price.
8.	CIL / State of Meghalaya / owner / employee / officer shall be liable for disputes relating to quality and quantity	√	<ul style="list-style-type: none"> • 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. • 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.
9.	To provide legally tenable and practically feasible Dispute Resolution Mechanism	√	<ul style="list-style-type: none"> • Same as in respect of 8 above.
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"> • It will be an encroachment on executive powers of the State. • As submitted before the Committee, enquiry has already been initiated by the State and appropriate action in accordance with law shall be taken.
11.	State of Meghalaya to disburse	√	<ul style="list-style-type: none"> • PIL being W.P. (C) No. 3 of 2019

	<p>an amount of 5 lakh to each labourer deceased in Ksan mine incident of Dec. 2018</p>		<p>has been filed in Hon'ble Supreme Court on that incident.</p> <ul style="list-style-type: none"> The Hon'ble Supreme Court observed that compensation is required to be paid to kin of victims in order dated 25.02.2019. 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. 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.
12.	<p>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.</p>	√	<ul style="list-style-type: none"> 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.

24. 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.

2367

Directions

22. Under the circumstances, while accepting all the recommendations of the Committee in its 04th Interim Report dated 31.08.2019, 05th Interim Report dated 02.12.2019 and 06th 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

2369

further action taken report after three months preferably by 30.04.2020 by e-mail at 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(Thc)/2012

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61

ANNEXURE A-2

**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: 2024.05.08
16:52:03 IST
Reason: []

ORDER

- 1 This batch of appeals arises from a judgment of the National Green Tribunal¹ 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"

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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

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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 Khilhirt-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.

2378

- 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:

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- (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
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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
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).3280/2020

STAR CEMENT LIMITED & ORS.

Appellant(s)

VERSUS

THE STATE OF MEGHALAYA & 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-

2378

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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.

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 appeals² 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.

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- 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)

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BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO.119 (TIC)/2012

IN THE MATTER OF:

Fluent to life arising out of coal Mining in south hills district

... Original Applicant

VERSUS

State of Meghalaya & Ors.

... Respondents

VAKALATNAMA

KNOW ALL to whom these presents shall come that I, Krishanu Banerjee, the authorized representative of Amrit Cement Limited, herein do hereby appoint:

Mr. Manpreet Lamba, Mr. Sanampreet Singh, Mr. Dhiraj Mhetre, Ms. Smriti Tewari, Ms. Sonali Mehta, Mr. Satyasrikant Vutha, Mr. Shreyas Lele, Mr. Nayan Mahar, Ms. Shivani Sharma and Ms. Simran Grover of M/s Khaitan Legal Associates

(Hereinafter called the "Advocate/s") to be my Advocate/s in the above-noted case and authorize them: -

To act, appear plead in the above-noted case in this Tribunal or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court to payment of fees separately for each court by me/us.

To sign, file verify and present pleadings, replications, applications, appeals, cross-objections or petitions for executions, review, revision, restorations withdrawal compromise or other petition, replies, objections or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of appellant (s) respondent (s) To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take out execution proceedings.

To deposit, draw and receive money, cheque and grant receipt thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the case.

To appoint and instruct and other Legal Practitioner authorising him to exercise the power and authority hereby conferred upon the attorney on our behalf.

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And I/We the undersigned do hereby agree to rectify and confirm acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purpose.

And I/We undertake that I/We or my/our duly authorised agent would appear in Court on all hearings and will inform the Advocate for appearance when the case is called.

And I/We undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case in consequence of his absence from the Court when the said case is called up for hearing, or any negligence of the said Advocate/s or his/their Substitute.

And I/We the undersigned do hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he/they shall be entitled to withdraw from the prosecution of the said case until the same is paid up. If any costs are allowed for an adjournment, the Advocate would be entitled to the same. The fee settled is only for the above case and Court.

IN WITNESS WHEREOF I/ We do hereunto set my/our hand to those presents the contents of which have been understood by me/us this 11 day of July 2023.

Accepted subject to the terms of fees.

[Handwritten signature]
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2007
CD-1416/18
Mandeep Lamba | Sanampreet Singh |
Shivani Sharma
(for M/s Khaitan Legal Associates)
5A Ring Road, Lajpat Nagar 4,
Opposite Moolchand Metro Station,
New Delhi - 110024
(M) +91-8800600664
Sanampreet.singh@khaitanlegal.com

[Handwritten signature]
D/2023/2020

[Handwritten signature]
Krishna Banerjee
CLIENT

