

THIRD INTERIM REPORT

OF
THE COMMITTEE
CONSTITUTED BY
THE HON'BLE
NATIONAL GREEN
TRIBUNAL

ON
THE RAT-HOLE
MINING IN MEGHALAYA

Dated – 02/08/2019

Submitted in terms of the Order dated 11.04.2019 passed in OA-No. 110(THC)/2012 (Threat to life arising out of coal mining in South Garo Hills district Versus State of Meghalaya & Ors) by the Hon'ble National Green Tribunal.

REPORT

(A) **DIRECTIONS ISSUED VIDE ORDER DATED 11.04.2019 BY THE NATIONAL GREEN TRIBUNAL.**

The Hon'ble National Green Tribunal vide order dated 11.04.2019 passed in OA No. 110(THC)/2012 (Threat to life arising out of coal mining in South Garo Hills district Versus State of Meghalaya & Ors) and other analogous matters, while accepting the Committee's report dated 31.03.2019, has approved the proposal of the committee to release a sum of Rs.96.59 lakhs from MEPR Fund for purchase of 6(six) vehicles mounted with Water Tankers for distribution of water to the villagers affected by supply of acidic water.

The Hon'ble National Green Tribunal in the said order had 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 Tribunal, having regard to the submission of the learned counsel appearing for the State of Meghalaya 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 has also been given liberty to consider the matter and pass further orders/recommendations. The Hon'ble Tribunal has 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 requiring audit of resource of coal acquired by the Power Generation and Cement Plants in the State of Meghalaya. By the said order, the matter was directed to be put up for further consideration as and when necessary or in the month of August, 2019.

EIA Notification 2006, inserted vide Notification bearing No. S.O. 141 (E) dated 15.01.2016 for monitoring of sand mining and river bed mining, so that the transportation of coal is regulated, in case at any point of time such transportation is allowed by any Court of Law. The system provides for adequate security features of Transit Pass (TP)/ Challans to prevent their counterfeiting or multiple use, scanning and uploading of TPs/ Challans on a centralized server to facilitate checking of TPs/ Challans to check their validity, GPS tracking of vehicles and generation of reports and alerts in case of detection of any anomaly. The Mining & Geology Department, Government of Meghalaya shall within a month put such system in place and submit a report to this Committee in its next Proceeding.

A report in that regard shall be submitted within a month.

- (v) *The Mining & Geology Department, Government of Meghalaya with the assistance of North Eastern Space Applications Centre (NESAC) put in place a Coal Mine Surveillance system (MSS) in the State within a period of three months from today 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 MSS to be developed should be similar to one which is already developed by the Ministry of Mines and Indian Bureau of Mines (IBM) with the assistance from the Bhaskaracharya Institute for Space Application and Geo –Informatics (BISAG), Gandhinagar and Ministry of Electronics and Information Technology (MEITY). A report in that regard shall be submitted to the Committee within three months.*
- (vi) *To ensure expeditious disposal (after obtaining prior approval of the concerned court) of seized coal in a transparent manner the Mining and Geology Department, Government of Meghalaya shall explore the feasibility to dispose of such coal through e-auction conducted by the Coal India Limited. Amount collected from disposal of such coal may be deposited in a separate account as may be directed by the concerned court while permitting disposal of such coal. A report in that regard shall be submitted to the Committee within a month.*

In the Proceeding No.14 held on 03.06.2019, the Committee has been informed by the Secretary to the Govt of Meghalaya, Mining and Geology

(B) CONSIDERATION OF THE AFORESAID ISSUES BY THE COMMITTEE IN ITS VARIOUS PROCEEDINGS.

(1) RELEASE OF Rs. 96.59 LAKH FROM MEPR FUND

The Committee in the Proceeding No.12 dated 25.04.2019 took up for consideration the aforesaid directions issued by the Hon'ble National Green Tribunal against Agenda Nos. 2 & 3.

The Committee in the said proceeding directed the Mining and Geology Department, Govt of Meghalaya to release an amount of Rs.96.59 lakhs from MEPR Fund to the Deputy Commissioner, East Jaintia Hills District for purchase of 6(six) vehicles mounted with Water Tankers and to ensure utilization of the said fund for that purpose only and by following all norms. A report in that regard was directed to be submitted to the Committee within a month.

The Secretary to the Govt of Meghalaya, Mining and Geology Department has informed the Committee, during its Proceeding No. 16-A dated 22.07.2019, about release of the aforesaid amount of Rs.96.59 lakhs in favour of the Deputy Commissioner, East Jaintia Hills District from the aforesaid fund for purchase of the aforementioned vehicles in terms of the order passed by the Hon'ble National Green Tribunal on 11.04.2019.

The committee having regard to the same, directed the Commissioner & Secretary to the Govt of Meghalaya, Mining and Geology Department to obtain the utilization certificate for the said amount from the Deputy Commissioner, East Jaintia Hills District along with a report on the use of those vehicles and to place the said report before the Committee in its next sitting scheduled to be held on 14.08.2019.

(2) INSTALLATION OF DIGITAL DISPLAY BOARDS

The Committee in its Proceeding No.12 dated 25.04.2019, noted that the Digital Display Boards in the Sub-Divisions, Districts and the State Headquarters/Capital displaying the quality of water in the respective areas for information of general public have not been installed, though the learned counsel appearing for the State of Meghalaya had made a submission before the

Hon'ble Tribunal that the compliance report in that regard would be submitted to the Committee within two weeks. In the said Proceeding, the Secretary to the Govt of Meghalaya, Mining and Geology Department stated that the process of installation of such Digital Display Boards has been started and it will take a month time to install the same.

The Committee, therefore, granted further one month time to install the Digital Display Boards in terms of its earlier direction, displaying the data to be obtained from the Central Pollution Control Board as well as Meghalaya State Pollution Control Board relating to the quality of water in the rivers and streams of the affected areas.

In the Proceeding No.14 dated 03.06.2019, the installation of 2(two) Digital Display Boards in the State Capital in Shillong has been recorded. The statement of the Secretary to the Govt of Meghalaya, Mining and Geology Department that notice inviting quotations has been published for supply and installation of the Digital Display Boards in other Districts and Sub-Divisions have also been noticed.

The Committee, therefore, directed the Commissioner & Secretary to the Govt of Meghalaya, Mining and Geology Department to display in the Digital Display Boards installed in Shillong the latest data (specially the p^h) of quality of water in 10(ten) worst polluted streams of the State of Meghalaya. In the Digital Display Boards to be installed in the Districts and Sub-Divisions, display of the data of 10(ten) worst polluted rivers and the streams in the concerned districts or Sub-Divisions, apart from the aforementioned 10(ten) worst polluted streams, was also directed.

The Committee in the Proceeding No. 16-A dated 22.07.2019 has recorded the display of the latest data received from Meghalaya State Pollution Control Board on the quality of water in 10(ten) worst polluted streams in the State in 2(two) Digital Display Boards installed in Shillong. The Committee has also been apprised that the tender for installation of similar Boards at the headquarters of coal mining affected Districts/Sub-Divisions in the State has been finalized and the order for supply and installation of such Boards is in the process of being issued shortly.

The Committee, therefore, directed the Commissioner & Secretary to the Govt of Meghalaya, Mining and Geology Department to complete the installation of Digital Display Boards in all the coal mining affected districts and Sub-Divisions in the State at the earliest and to display the water quality as ordered earlier and also to submit a report to the committee within a month.

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.

(3) AUDIT OF THE SOURCE OF COAL ACQUIRED BY THE POWER GENERATION AND CEMENT PLANTS IN THE STATE OF MEGHALAYA.

The Committee in its Proceeding No. 12 dated 25.04.2019, directed conduct of year-wise resource(coal) audit of the Power Plants and Cement Factories in the State by the Central Pollution Control Board in the Format prescribed in the said Proceeding. A report in that respect was directed to be submitted to the Committee within a month.

The representative of the Central Pollution Control Board informed the Committee in its Proceeding No.14 held on 03.06.2019 about receipt of the information in respect of resource(coal) audit from only two units. The Committee in the said Proceeding has observed reluctance of the Cement Factories and Power Plants to provide requisite information. The Committee, however, directed the Central Pollution Control Board to complete the resource(coal) audit of the Cement and Power Plants in the State and to submit a report within a month.

The Committee in its Proceeding No.15 held on 28.06.2019 while noticing that the information so far available with the Central Pollution Control Board prima-facie suggest that quantity of coal reported to be procured by some of the Plants was grossly insufficient to produce the quantity of Cement/Power

by those Plants, decided to have a sitting exclusively with the authorized representatives of the Cement Factories and Power Plants in the State of Meghalaya on 23.07.2019. The Managing Directors/Chief Executive Officers of all the Cement Factories and Thermal Power Plants were directed to furnish the following information and the supporting documents :-

- (i) *Year-wise details of clinker and/or power produced since imposition of ban on coal mining in the State in April, 2014;*
- (ii) *Year-wise details of coal and/or any other alternate fuel procured since imposition of ban on coal mining in the State in April, 2014;*
- (iii) *Year-wise details of the quantity of cement/clinker on which transport subsidy, if any, has been claimed by the plant since imposition of ban on coal mining in the State in April, 2014;*
- (iv) *A copy of annual report for each of the years since imposition of ban on coal mining in the State;*
- (v) *Average estimated quantity of coal and/or any other alternate fuel(s) required to produce one tone of clinker and/or unit (kwh) of power; and*
- (vi) *A copy of Detailed Project Reports (DPRs) submitted to the Bank(s)/Financial Institution(s) to obtain loan for establishment/expansion/modernization of the plant.*

In the Proceeding No.16-B held on 23.07.2019, the representative of Meghalaya Cement Ltd, Cosmo Cement Ltd, Star Cement Ltd, Amrit Cement, Dalmia Bharat Cement Ltd (formerly known as Adhunik Cement Ltd), Mawmluh Cherra Cement Ld, Jaintia Cement Ltd, JUD Cement Ltd, Shyam Century Ferrous Ltd, Maithan Alloys Ltd, Shri Sakambari Ferro Alloys Pvt. Ltd have appeared. The representatives of 5(five) Cement Plants, namely, Green Valley Industries Ltd, Gold Stone Cement Ltd, Hills Cement Ltd, RNB Cement Ltd and Virgo Cements Ltd and of one Thermal Power Plant, namely, CMJ Breweries Ltd did not attend the said proceeding despite the prior notice. The Committee has been informed by the Additional Director, North East Regional Directorate of Central Pollution Control Board that the RNB Cement Ltd has already been taken over by National Company Law Tribunal and is managed by an Interim Resolution Professional (IRP) with effect from 13.06.2019.

handing over of the coal to the Coal India Limited, has, therefore, been postponed and the next date was decided to be fixed in its Proceeding to be held on 14.08.2019.

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

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

(C) CONSIDERATION OF THE RECOMMENDATIONS OF THE COMMITTEE MADE IN ITS PROCEEDING NOS. 13, 14 AND 15 DATED 03.05.2019, 03.06.2019 AND 28.06.2019, COPIES OF WHICH HAVE BEEN SENT BY MAIL IN ngp.filing@gmail.com 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

In the said Proceeding, the representative of Meghalaya Cement Ltd, Star Cement Ltd and Amrit Cement Ltd submitted their respective written objections raising the jurisdiction of the committee to ask for the information as sought for. The representatives of the said Cement Companies, however, agreed subsequently to provide all the required information and documents sought for by the Committee without fail provided some time is granted. Accordingly time has been granted to them to supply the information and the supporting documents. The other Cement Companies as mentioned above, however, did not raise any objection for supply of the information and documents.

Cosmo Cement Ltd has apprised the Committee that their Plant is yet to be installed and hence the stage for procuring the resource as fuel has yet to come. Dalmia Bharat Cement Ltd, Mawmlah Cherra Cement Ltd, Jaintia Cement Ltd, JUD Cement Ltd, Shyam Century Ferrous, Maithan Alloys Ltd have been given time to supply the required information and supporting documents for the purpose of resource(coal) audit. Shree Sakambari Ferro Alloys Ltd was asked to explain certain anomalies in the information furnished by them.

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 Committee in its aforesaid Proceeding No. 16-B dated 23.07.2019 has also made prima-facie observations based on the annual reports available in the public domain as well as the information given in CPCB report, relating to the quantity of coal reported to be procured for the years 2014-15 and 2017-18, which is prima-facie found to be grossly insufficient to produce the quantity of Clinkers and Thermal Power as reported in the annual reports of Star Cement Ltd, Star Cement Meghalaya Ltd and Meghalaya Power Ltd. The Committee, however, will record its final opinion after receipt of the required information and documents, in due course of time.

(4) 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

The Hon'ble Supreme Court in Civil Appeal No. 10720 of 2018 (State of Meghalaya Vs All Dimasa Students Union, Dima Hasao District Committee and Ors) and other analogous matters, vide Judgment & Order dated 03.07.2019, while upholding the order dated 31.08.2018 passed by the Hon'ble National Green Tribunal, constituting this Committee, has directed handing over the entire extracted coal, assessment of which has been carried out by the State, to the Coal India Limited, as per the mode and manner to be formulated by the Committee in consultation with the officers of the Coal India Limited and the State of Meghalaya. Further direction, amongst others, has also been issued to auction the said coal by the Coal India Limited, who is required to finalise the disposal and auction of the coal. The seized coal has also been directed to be dealt with by the State in accordance with Section 21 of the Act.

The Committee having regard to the ongoing illegal mining and transportation of coal, as mentioned in its report dated 31.03.2019 and the aforesaid order dated 11.04.2019 of the Hon'ble Tribunal, in its Proceeding No. 12 dated 25.04.2019, issued the following directions :-

- (i) *The Mining & Geology Department, Government of Meghalaya in consultation with the Director General of Police (DGP), Meghalaya shall develop a coal transport surveillance system to provide for checking and video recording of the consignment of each truck passing through all probable routes likely to be used for illegal transportation of coal. The DGP in consultation with the said Department shall identify suitable locations which may cause least disturbance to non – truck traffic and install a system of Close Circuit Cameras to ensure video recording of consignment of each truck passing through such locations. Network of Close Circuit Cameras shall ensure recording of registration number and consignment of each truck passing through each identified check points. To minimise 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. exists at the required locations, the State Public Works Department or national Highways and Infrastructure Development Corporation (NHIDCL), or National Highways Authority of India (NHAI) may explore the feasibility to construct additional lanes to facilitate checking of trucks without causing inconvenience to other moving traffic.

The temper proof continuous recordings made at the check points shall be retained at least for a period of one year and shall be reviewed / checked by the authorities in the Police, Civil Administration and Mining & Geology Department.

A report relating to progress of work shall be submitted within a month.

- (ii) The DGP, Meghalaya with the assistance of the Mining & Geology Department, Government of Meghalaya shall within a month from today set up a centralized helpline to receive complaints / information on illegal mining and transportation of coal in the State and provide adequate publicity to the same through print and electronic media. The helpline to be manned round the clock shall have features such as temper proof automatic call recording, maintenance of call log, and a Standard Operating Procedure (SoP) for follow up actions on information received on the helpline. To encourage free flow of information without any danger of threat or coercion to the informer, the system shall have features to ensure anonymity of caller etc.

A report shall be submitted within a month.

- (iii) The Government of Meghalaya shall also within a month from today take a decision and to frame a scheme to reward the informers suitably in case the information provided by them is found to be true, as such reward will definitely encourage the member of general public to provide information to the authorities on illegal mining and transportation. The confidentiality of the person furnishing the information, at all cost shall be maintained so that such informer is not threatened / harassed by anyone who are interested in continuing coal mining activities.

A report of compliance shall be submitted within one month.

- (iv) To regulate the transportation of coal, the State Government shall follow the procedure similar to one stipulated in Appendix XII of the

Department about a High Level Meeting held on 13.05.2019 under the Chairmanship of the Chief Secretary for implementation of the aforesaid directions, wherein, according to the Secretary, the following decisions were taken :-

- (i) The Transport Department and the Director of Mineral Resources shall share a list of CCTV cameras installed in various check gates, indicating whether they are working or not.*
- (ii) The Transport Department and Director of Mineral Resources shall take steps to repair and upgrade existing CCTV cameras installed in check gates in all probable routes likely to be used for illegal transportation of coal so as to meet the requirement of video recording of consignment of each truck and vehicle registration number and retain the footage for a period of at least one year.*
- (iii) The Director General of Police shall with assistance from the Transport Department ensure that all trucks passes through check gates for video recording of the consignment and truck number, by providing sufficient police force to such check gates.*
- (iv) The Commissioner and Secretary, IT & C Department shall provide status of implementation of integrated Challans and Check-Gate Management System.*
- (v) The Director General of Police shall immediately take steps to set up a centralized Toll Free Helpline to be manned round the clock, temper proof automatic call recording, maintenance of call record and develop the SoP for follow up action on information received on the helpline.*
- (vi) The Director General of Police shall consider with the existing scheme within a month to reward the informers suitably in case information provided is found to be true.*
- (vii) The Committee constituted for implementation of integrated Challan and Check-Gate Management system shall study the feasibility of incorporating the procedure stipulated in Appendix-XII of the EIA Notification, 2006 inserted vide Notification bearing No. SO 141 (E) dated 15.01.2016 for the proposed regulatory transportation of coal.*

- (viii) The Information and Public Relations Department shall provide technical support to the Mining and Geology Department to install Digital Display Boards.*
- (ix) The Mining and Geology Department shall write to the Coal India Limited for disposal of seized coal through e-auction.*
- (x) The Planning Department shall take up the matter with NESAC to put in place a Coal Mine Surveillance System in the State in collaboration with the Mining and Geology Department.*

The Committee in its Proceeding No. 16-A held on 22.07.2019 has recorded the statement made by the Secretary to the Govt of Meghalaya, Mining and Geology Department about holding of another Meeting on 09.07.2019 under the Chairmanship of the Commissioner & Secretary to the Govt of Meghalaya, Mining and Geology Department to review the progress made in development of coal mining surveillance system as directed by this Committee in Proceeding No. 12 held on 25.04.2019. The Committee has been informed that in the said Meeting, the following decisions were taken :-

- (i) The Transport Department and Director of Mineral Resources to share the list of CCTV cameras installed in the respective weighbridges/ check gates of their Department with the Director General of Police.*
- (ii) The Director of Mineral Resources to ensure immediate repair of all non-functional CCTV cameras and to take steps to acquire the infrastructure necessary for installation of CCTV cameras in the remaining check gates.*
- (iii) The Director of Mineral Resources to take necessary action to reposition the cameras so as to capture the registration number of trucks at the back, the front side of the trucks (3 cameras in all) and to position one camera for recording the top of the trucks so as to help the identification of the nature of consignment.*
- (iv) To upgrade the storage capacity of the CCTV cameras to 6 TB. Each check gate will have 4 numbers 6 TB hard drive for recording and storing of CCTV footage for one year & the Directorate of Mineral*

Resources (DMR) will take necessary action to purchase 6 TB hard drive for all check gates.

- (v) To examine the possibility of replacement of the hard disc to ensure retention of data for at least one year.*
- (vi) The Mining and Geology Department will liaise with the Public Works Department (Roads) for construction of additional lanes/lane bays to facilitate checking of trucks passing through the designated check gates/ weighbridges of DMR/ transport department. Identification of such additional lanes may be prioritised based on the volume of traffic handled by a particular weighbridge.*
- (vii) The DGP shall ensure that trucks pass through the check gates for video recording of the registration number and consignment.*
- (viii) For the present, the data of registration number of trucks recorded by Transport Department will be utilised by DMR for monitoring purposes in those check gates where the CCTV cameras are non-functional/not installed.*
- (ix) The Mining and Geology Department will explore the possibility of installing sophisticated scanners as a long term measures.*

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

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 aforestation 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 Vs All Dimasa Students Union, Dima Hasao District Committee and Ors) and other analogous matters passed in Judgment & Order dated 03.07.2019.

Date : 02.08.2019.

(Justice Brojendra P. Katakey)
Chairman