

QUORUM

HON'BLE MR. JUSTICE BROJENDRA PRASAD KATAKEY,
FORMER JUDGE, GAUHATI HIGH COURT, GUWAHATI

DR. SHANTANU KUMAR DUTTA, ADDITIONAL DIRECTOR,
REPRESENTATIVE OF CENTRAL POLLUTION CONTROL BOARD

IN THE MATTER OF

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

-Vs-

The State of Meghalaya & Ors.
And other connected matters

PRESENT

- : **Prof. O. P. Singh,**
Department of Environmental Studies,
North Eastern Hill University
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- : **Mr. W. Khyllap, IAS,**
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- : **Mr. B. S. Kharmawphlang, IFS**
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PROCEEDING NO. 10

**RECORD OF THE MINUTES OF THE TENTH SITTING OF THE COMMITTEE CONSTITUTED
BY THE HON'BLE NATIONAL GREEN TRIBUNAL HELD ON 6TH MARCH, 2019 AT 10.00
AM IN THE CONFERENCE HALL, O/O PRINCIPAL CHIEF CONSERVATOR OF FORESTS &
HOFF, SYLVAN HOUSE, SHILLONG, MEGHALAYA.**

Mr. P. W. Ingty, IAS, Additional Chief Secretary to the Government of Meghalaya welcomed the Hon'ble Chairperson, Members of the Committee present, special invitees, senior officials of the State Government, Deputy Commissioners, officers representing Deputy Commissioners and Superintendents of Police of all the Districts of Meghalaya and other officers present.

Prof. A. K. Singh, one of the Members of the Committee has requested grant of leave of absence, as he is unable to attend today's proceeding due to some urgent work.



AGENDA ITEMS FOR DISCUSSION

- I. Interaction with Deputy Commissioners and Superintendents of Police to review actions taken by them to carry out directions issued to them by the Committee from time to time.
- II. Review of actions taken to comply with directions issued to other authorities by the Committee in Ninth Sitting held on 25th February, 2019
- III. Presentation on proposed demo project of afforestation.
- IV. Any other matter(s) to be raised with the permission of the Chair.

Agenda Item Nos. I and II

1. The Member Secretary, Meghalaya State Pollution Control Board has produced a report on the water quality of 7 left out water bodies, out of 23 new locations sanctioned by the Central Pollution Control Board under National Water Monitoring Programme in the month of February, 2019. It appears from the said Report that the p^H value of water in Thlumuwi and Lynriang Riang rivers are found to be 4.7 and 3.3 respectively and as such commented as not satisfactory, consequently not fit for human consumption. The p^H value of water in the remaining rivers viz., Lamu River, Rwiang River, Umngi River, in 2 locations viz., Jakrem and Umpung as well as in Simsang River having found to be of the standard fixed, the same has been categorised as satisfactory, meaning thereby, suitable for human consumption.

The Meghalaya State Pollution Control Board shall from time to time continue to collect water from all the monitoring stations and test the same and keep record in that respect so that the record as and when called for can be produced before this Committee or any other authority forthwith.

2. The Chief Engineer, Public Health Engineering Department (PHED), Government of Meghalaya produced the Report dated 05.03.2019 of the Executive Engineer, Public Health Engineering, Rural Water Supply Division, Jowai wherein it has been stated that

out of 26 existing Water Supply Schemes, where quality of water was found to be not fit for human consumption by the Meghalaya State Pollution Control Board, the source of water in respect of the 10, 7 and 9 schemes is from dug well, deep tube well and rivers/streams under Gravity Schemes, respectively. It has been stated that in terms of the decision of the Committee's Proceeding held on 25.02.2019, the water supplied by the aforesaid 26 schemes is being treated. It has also been stated that in respect of the 9 Water Supply Schemes, source of water of which are rivers and streams, such treatment is not successful as construction of lime solution chambers for treatment of acidic water is required because of the continuous flow of water from the rivers and the streams. The Chief Engineer, PHE Department, Government of Meghalaya has also apprised the Committee that a proposal for sanction of certain fund has already been submitted to him by the Executive Engineer, Public Health Engineering, Rural Water Supply Division, Jowai, which having found to be in order, necessary sanction shall be granted during the course of the day and thereafter work order would be issued in accordance with law and the construction of such chambers would be completed within a month. The Chief Engineer, PHE Department has also apprised the Committee that notices to Village Headmen of all the villages covered by the aforesaid 26 Water Supply Schemes have been issued not to use the water supplied by those schemes for drinking and cooking purposes.

In respect of the 10 and 7 Water Supply Schemes, source of water of which is dug well and deep tube well, respectively, the Committee has been informed by the Chief Engineer, PHE Department, Government of Meghalaya that after treatment, the p^H value of the water in respect of those 17 schemes has increased.

It has also been stated that a further proposal has been submitted to the Deputy Commissioner of East Jaintia Hills District, to make arrangements for supply of potable water to all the villages covered by the aforesaid 26 Water Supply Schemes, which is pending for consideration by the Deputy Commissioner.

The Chief Engineer, PHE Department, Government of Meghalaya and the Member Secretary, Meghalaya State Pollution Control Board shall ensure regular collection of samples from those 26 Water Supply Schemes and test it in their respective laboratories and submit a report in that regard before the Committee in its next meeting scheduled to be held on 25.03.2019.

3. On being asked, the Chief Engineer, PHE Department, Government of Meghalaya informed the Committee that the result of the tests conducted in PHE's laboratory and

in the laboratory of Meghalaya State Pollution Control Board is different as the laboratory of Meghalaya State Pollution Control Board is well equipped and is having pH – cum – conductivity digital meter which the laboratory of PHE Department does not have. The Principal Secretary to the Government of Meghalaya, PHE Department has assured the Committee that the required pH – cum – conductivity digital meter would be procured and made available to the Chief Engineer, PHE Department for conducting the tests of the water supplied through the various existing Water Supply Schemes.

In view of the above, the Principal Secretary to the Government of Meghalaya, PHE Department is directed to procure the pH – cum – conductivity digital meter within a week and to make it available to the Chief Engineer, PHE Department who shall conduct test of the water supplied through this aforesaid schemes and submit a report about the quality of water to this Committee in the next sitting scheduled to be held on 25.03.2019.

4. The Principal Chief Conservator of Forests, (Climate Change, Research & Training), Government of Meghalaya has informed the Committee about receipt of the feedback from the Rain Forest Research Institute on the proposal for afforestation, which were discussed with the Additional Director of Central Pollution Control Board as well as Prof. O. P. Singh, Department of Environmental Studies, NEHU and the field visits has also been conducted.

Mr. H. C. Chaudhary, IFS, Additional Principal Chief Conservator of Forests, (Planning, Development & Legal Matters), Government of Meghalaya has also apprised the Committee about receipt of the executive summary of the Draft Biodiversity Management Plan and Wildlife Management Plan, 2018 which are placed on record.

5. The Commissioner & Secretary to the Government of Meghalaya, Mining & Geology Department, Government of Meghalaya has submitted the Action Taken report today *i.e* 6th March, 2019, enclosing therein few documents, which includes a communication dtd 05.03.2019 issued by the Deputy Commissioner, South Garo Hills District, Baghmara, to the Additional Principal Chief Conservator of Forests, (Planning, Development & Legal Matters), Government of Meghalaya, where from it appears that the next of kin of none of the 9 persons who died in the mining activities in South Garo Hills District has been paid any compensation by the State Government. The Deputy Commissioner, South Garo Hills District has also apprised the Committee that since the next of kin of the

remaining 5 persons who died in the mining activities could not be identified and hence they have also not been paid any compensation by the State Government. Similarly, no compensation has been paid to 5 persons who received injuries during the mining activities.

The Deputy Commissioner, East Jaintia Hills District has stated that another person has come up with a claim that his relative has also gone missing in the recent coal mine tragedy occurred in Ksan Village, whose claim therefore has also been processed. It has been stated that 2 other dead bodies near another coal mine was also found in recent times, totalling 18, out of which compensation to the next of kin of 3 persons is yet to be paid.

The Deputy Commissioner, East Jaintia Hills District therefore shall ensure payment of the compensation, as directed to be paid, to the next of kin of those 3 left out coal miners, after making the required verification. A report in that regard shall be submitted to this Committee on 25th March, 2019.

The Commissioner & Secretary, Mining and Geology and the Deputy Commissioner, South Garo Hills District shall ensure payment of compensation of Rs. 1,00,000/- each to next of kin of the aforesaid persons died in the coal minings activities and Rs.50,000/- each to the persons injured in such activities in that District.

6. The Commissioner & Secretary to the Government of Meghalaya, Mining & Geology Department has apprised the Committee that out of 1,69,149 metric tonnes of coal, Challans for which were issued between 4th December, 2018 to 15th January, 2019, 94,099 metric tonnes of coal has already been transported out of the State of Meghalaya, as per the records maintained in different check gates in the State of Meghalaya and the balance quantity to be transported is 75,050 metric tonnes.
7. The Commissioner & Secretary to the Government of Meghalaya, Mining & Geology Department in the said Action Taken Report dtd 06.03.2019 has also stated that 14 sign boards, as directed, have been installed in different villages in East Jaintia Hills and West Jaintia Hills Districts.
8. The Commissioner & Secretary to the Government of Meghalaya, Home (Police) & Political Department has submitted the Action Taken Report today *i.e* 6th March, 2019 where from it appears that investigation in 1010 nos of cases, out of 1174 nos. of cases

registered, for illegal transportation of coal has been completed and investigation into 164 cases are still pending. Out of 109 cases registered in different Districts of Meghalaya for illegal extraction of coal, investigations into 96 cases have been completed, leaving 13 cases in respect of which the investigation is pending.

The Superintendents of Police of all the concerned Districts where the investigation is still pending shall ensure early completion of investigation and submission of report as required under the law to the appropriate Court of Law.

There being no disposal in respect of the cases where Charge Sheet has been filed in West Jaintia Hills District, East Jaintia Hills District, West Khasi Hills District, North Garo Hills District, East Garo Hills District, the Deputy Commissioners and the Superintendents of Police of those districts shall take up with the appropriate authority for early disposal of the cases.

A report in regard to the completion of investigation and the disposal of cases where Charge Sheets have been filed shall be submitted to this Committee within a month.

9. The Commissioner & Secretary to the Government of Meghalaya, Law Department, who is present in today's Proceedings, has informed the Committee that they do not maintain any information relating to the institution or pendency of cases in different Courts, department-wise, which every Department is required to be maintained by themselves for which a nodal officer in all the Departments is designated.

The Commissioner & Secretary to the Government of Meghalaya, Mining & Geology Department has apprised this Committee that Smti. P. L. Lawai, MCS, Joint Secretary to the Government of Meghalaya, Mining & Geology Department is the Nodal Officer in respect of the said Department, who, however is not present in today's Proceeding as she is on leave.

Hence, Smti. P. L. Lawai, MCS, Joint Secretary to the Government of Meghalaya, Mining & Geology Department, who is the Nodal Officer, shall furnish a report relating to the pendency of cases in the Hon'ble Meghalaya High Court and Hon'ble Gauhati High Court relating to the coal mining activities in the State of Meghalaya. The said report shall be submitted to this Committee within a month.



10. The Superintendents of Police of each districts of the State of Meghalaya shall submit an upto date status report as on 31.03.2019 relating to the institution of cases involved in the coal mining activities including transportation, nos. of cases where investigation has been completed, nos. of cases where FR filed, nos. of cases in respect of which Charge Sheets filed and also the nos. of cases disposed of by the Courts. The same shall be done within a month.
11. The Deputy Commissioner, East Jaintia Hills District has apprised the Committee that a decision to supply potable water by means of water tankers to 16 villages already identified, list of which was provided by Public Health Engineering Department, has been taken and storage facilities in all the 16 villages are made available. The Committee has also been apprised that the Deputy Commissioner has started the supply of water to those villages.

The Committee has also been intimated that the Public Health Engineering Department has identified 26 more villages, list of which has been furnished to him yesterday *i.e* 5th March, 2019 and appropriate decision for supply of potable water to those villages by means of water tankers would be taken immediately and such supply of water would thereafter be commenced based on the decision to be taken.

A report in that regard shall be submitted by the Deputy Commissioner, East Jaintia Hills District to this Committee in its next sitting to be held on 25th March, 2019.

12. The feedback on the awareness programme relating to the Plan etc. have been submitted by each of the Districts, which are taken on record.

Having regard the enormity of the problem arising out of the coal mining activities in different Districts of the State of Meghalaya, the Committee thought it fit and proper to request the Department of Environmental Studies, North Eastern Hills University (NEHU) to study the feedback and suggests a model plan including the contents of the awareness programme to be conducted in each of the villages affected by coal mining activities.

The Department of Environmental Studies, NEHU is requested to submit the said Action Plan as early as possible, preferably within a period of one month. In the meanwhile awareness camps/ campaigns in terms of the Action Plan already prepared in each of the Districts shall continue.

13. The Committee has been apprised that the majority of cases so far registered in different police stations in different Districts of the State of Meghalaya are registered for cognizance of offence punishable under Section 188 IPC, read with Section 34 IPC. Some of the cases have been registered for violation of the provisions of the Motor Vehicle Act, apart from under Section 323, 325, 326 IPC. For cognizance of an offence punishable under Sec 188 IPC, there cannot be seizure of vehicles or machineries. The Police Officers are not 'authorised persons', to file a complaint before the appropriate Court of Law and make seizure of the vehicles etc. under the provisions of Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957. So far, no person has been authorised under the provisions of the 1957 Act, to take appropriate action for violation of the provisions of the said Act. Shri. Manjunatha C, Secretary to the Government of Meghalaya, Mining & Geology Department however has informed the Committee that the process for authorising the officers to take appropriate legal action under the provisions to the said Act is on and relevant notification would be issued shortly.

In view of the above, the Mining & Geology Department, Government of Meghalaya shall issue such relevant notification authorising the officers to take appropriate legal action as required under the provisions of 1957 Act and produce such notification before the Committee in its next Sitting scheduled to be held on 25th March, 2019.

14. Despite there being no dispute relating to the applicability of Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act 1981, neither the Central Government nor the Meghalaya State Pollution Control Board or the Central Pollution Control Board till date has made any attempt to take action for rampant violation of the provisions of the aforesaid Acts, though the Meghalaya State Pollution Control Board in its report submitted in the year 1997 – 98 has noticed pollution of water in the rivers and the streams by the coal mine owners or their lease holders. Non taking of any action for such a long time amounts to indirect encouragement to the illegal activities of coal mining.

All concerned authority in the Central Government, Central Pollution Control Board and Meghalaya State Pollution Control Board, therefore, shall initiate immediate

action against the persons who are violating the provisions of the aforesaid Acts and submit a report to this Committee within a month.

Agenda Item No.III

15. The Presentation made by the Additional Director, Central Pollution Control Board has been viewed. The required project reports covering each of the three major bio-geographic region of the coal mining affected areas shall be submitted for the pilot project of afforestation both by the Miyawaki method and Conventional methods. The said pilot project shall also indicate the estimated per hectare cost.

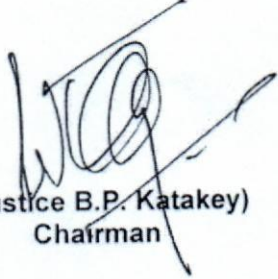
The same shall be submitted as soon as possible to the Mining & Geology Department, Government of Meghalaya who shall within a week from the date of submission of such project report take a decision in that and report to the Committee.

The District Administration of all the Districts of the State of Meghalaya shall also submit their respective proposals relating to afforestation to Shri. H. C. Chaudhary, IFS, Additional Principal Chief Conservator of Forests (Planning, Development & Legal Matters), Government of Meghalaya before 25th March, 2019.

Agenda Item No. IV

16. All concerned authorities including the Deputy Commissioners and Superintendents of Police of various districts shall submit their feedback along with progress made in implementation of Action Plan to this Committee on 25th March, 2019.

The meeting ended with a vote of thanks from the Chair.


(Justice B.P. Katakey)
Chairman