

QUORUM

**HON'BLE MR. JUSTICE B. D. AGARWAL, FORMER
JUDGE, GAUHATI HIGH COURT, GUWAHATI**

**MR. S. C. BHOWMIK, PROFESSOR REPRESENTATIVE
OF INDIAN SCHOOL OF MINES,
(IIT – ISM), DHANBAD
(Email id: bhowmik44@gmail.com)**

**DR. SHANTANU KUMAR DUTTA, ADDITIONAL DIRECTOR
REPRESENTATIVE OF CENTRAL POLLUTION CONTROL BOARD
(Email id: shantanucpcb@gmail.com)**

IN THE MATTER OF

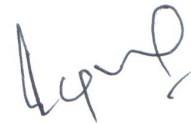
Threat to Life Arising Out of Coal Mining in South Garo Hills District

-Vs-

**The State of Meghalaya & Ors. And
other connected matters**

PRESENT

- :** **Mr. C. P. Marak, IFS (Retd),**
Chairman,
Meghalaya State Pollution Control Board Government of
Meghalaya
Email id: megspcb@rediffmail.com,
cpmarak1@gmail.com
- :** **Mr. Manjunatha C, IFS**
Secretary to the Government of Meghalaya, Mining &
Geology Department
Email id: manju2020@gmail.com
- :** **Mr. A. Kembhavi, IAS**
Director, Directorate of Mineral Resources,
Government of Meghalaya,
Email id: arunkumar.kembhavi@gmail.com
- :** **Dr. Z. Changsan**
Regional Director, Central Pollution Control Board, Regional
Directorate North East, Shillong
Email id: zchangsan.cpcb@nic.in
- :** **Mr. J. H. Nengnong,**
Member Secretary
Meghalaya State Pollution Control Board, Shillong Email id:
megspcb@rediffmail.com



- : **Mr. S. Tiwari, Director**
Coal India Limited
Email id: insnm.ci@loadlink.com
- : **Mr. J. K. Borah,**
General Manager,
North Eastern Coalfields, Coal India Limited
Email id: gm.nec.cil@coalindia.in
- : **Mr. G. Mathew**
Chief Manager (M & S)
Coal India Ltd
Email id: tsdm.cil@coalindia.in

PROCEEDINGS NO. 24


RECORD OF MINUTES OF TWENTY FOURTH SITTING OF THE COMMITTEE CONSTITUTED BY THE HON'BLE NGT UNDER CHAIRMANSHIP OF HON'BLE MR. JUSTICE B.D. AGARWAL, FORMER JUDGE, GAUHATI HIGH COURT HELD THROUGH VIDEO CONFERENCE ON 03rd AUGUST, 2020 AT 11:00 A.M. AT COMMITTEE HALL- II, MAIN SECRETARIAT BUILDING, MEGHALAYA, SHILLONG

AGENDA

1. To consider the report submitted by the North East Regional Directorate of Central Pollution Control Board in relation to the Coke oven units of Meghalaya.
2. To review the Comprehensive Plan prepared by Mining & Geology Department Government of Meghalaya, in accordance with the directions of Hon'ble NGT and Hon'ble Supreme Court of India dated 03.07.2019 in Civil Appeal No. 10720 of 2018.
3. With the aid of the high resolution satellite imaginaries preparation of land use and land cover maps of the coal dump sites existing prior to the date of filing the affidavit by the Mining & Geology Department in the Hon'ble Supreme Court in Civil Appeal No. 10720 of 2018 as directed by the Hon'ble NGT in it's Order dated 27/07/2020 in OA No. 110(THC)/2012.

AGENDA-I

- I. Consider the report submitted by the North East Regional Directorate of Central Pollution Control Board in relation to the Coke oven units of Meghalaya.



1. Pursuant to the decision taken in the 18th proceeding held on 15.09.2019, the Central Pollution Control Board (CPCB) was directed to cause an audit of the sources of coal being utilized by the coke oven industries in Meghalaya. A three member team was constituted by the Central Pollution Control Board. Finally the CPCB has submitted a report to this Committee on 15.07.2020, subsequently corrected on 31.07.2020. A copy of the said report was submitted to the Industries Department, Government of Meghalaya, as well as Meghalaya State Pollution Control Board. Today nobody represented the Industries Department. The Chairman of Meghalaya State Pollution Control Board, Mr. C. P. Marak, submitted that they have issued Consent to Operate (CTO) only to four units, clearance to establish these four units have been issued by the Single Window Agency (SWA) of the Government of Meghalaya, and the owners of other coke oven units have not yet reached the stage for obtaining either Consent to Establish (CTE) or CTO.

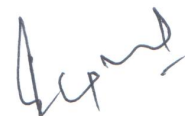
The Committee has carefully perused the report of CPCB and finds that nearly 20 (twenty) Industries are using Meghalaya coal though its purchase and transportation have been banned by the Hon'ble NGT and Hon'ble Supreme Court.

Hence, notices to all these 20 (twenty) units/industries listed in the report shall be issued to show cause as to why the Committee shall not recommend to the Hon'ble NGT to close their operations and also to pay royalty, contribution to MEPRF, GST/VAT, GST compensation and additional penalty for purchasing and using Meghalaya coal in violation of the Hon'ble Supreme Court and Hon'ble NGT Orders. The State of Meghalaya and Meghalaya State Pollution Control Board (MSPCB) are also directed to submit their written replies against the Report of CPCB. The reply is to be submitted to this Committee within two weeks of receipt of the notices, which would thereafter be considered in the next sitting of the Committee.

AGENDA-II

4. **To review the Comprehensive Plan prepared by Mining & Geology Department Government of Meghalaya, in accordance with the directions of Hon'ble NGT and Hon'ble Supreme Court of India dated 03.07.2019 in Civil Appeal No. 10720 of 2018.**

In the matter pertaining to preparation of comprehensive plan by Mining & Geology Department, Government of Meghalaya, under supervision of the NGT Committee relating to auction and transport of coal the Hon'ble NGT has given the following direction in their order dated 27/07/2020 :



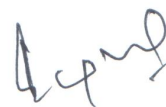
*"We find that the recommendation of permitting 'coal owners' to transport the coal and for **such coal owners to be identified by the State by draw of lots** is contrary to the judgment of the Hon'ble Supreme Court. Under the said judgment, it was observed that coal owners had already been identified as per record and that process of handing over coal was to be undertaken by the State. The quantum of coal unscientifically mined was mentioned to be 23,25,663.54 MT (para 188). It was held that the said coal be handed over to CIL for disposal by the State in the manner laid down by the Committee. Out of the sale price, an amount could be paid to the owners, as already mentioned above (para 192 of the judgement). The suggestion of the Committee that **the coal owners may transport the coal and coal owners are yet to be identified by draw of lots** is against the judgment of the Hon'ble Supreme Court wherein it is mentioned that coal owners were already identified and that it was the State which was to hand over the coal to the CIL."*

Having analyzed as above in para 11 of their judgment the Hon'ble NGT directed as follows in para 13 of their judgment:

"The recommendation that the transportation may not be done by the State but by the 'coal owners' who are yet to be identified being against judgment of the Hon'ble Supreme Court cannot be approved. The State must transport the coal and give the locations in terms of the Sixth report. New exercise for identifying landowners beyond the judgement of the Hon'ble Supreme Court is not permissible. The Committee may revise its report accordingly."

In view of the aforesaid orders of the Hon'ble NGT dated 27/07/2020 in OA No. 110(THC)/2012, the provision contained in the earlier comprehensive plan relating to selection of coal owners by drawing of lots (from among the list of coal owners identified by the Mining & Geology Department as furnished by them to the Hon'ble Supreme Court) in respect of 2 lakh MT of coal permitted to be transported in the first phase, and the decision of the NGT Committee in this regard in their 7th Special Sitting held on 12th March 2020 as contained in the minutes of the said Special Sitting stand withdrawn and cancelled.

In view of the NGT order Dated 27/07/2020 the Mining & Geology Department, Govt of Meghalaya was also advised to recast the aforesaid comprehensive plan for auction of coal which they have submitted now for the perusal and acceptance of the Committee. However, it is noticed that in addition to the aforesaid changes few other minor changes too have been done by the Mining & Geology Department to the comprehensive plan document. The Department submitted that these changes are necessary to accommodate the constraints expressed by the Coal India Limited in



this regard and also some administrative contingencies. It is noticed that these additional changes do not alter the principal intent and character of the document in a significant manner.

The sum changes to the comprehensive plan document are compiled in a tabular format and annexed herewith which are approved herewith by the Committee.

The Secretary, Mining & Geology Department, Govt of Meghalaya is directed to upload the modified in the website of mining and geology department.

AGENDA-III

5. With the aid of the high resolution satellite imaginaries preparation of land use and land cover maps of the coal dump sites existing prior to the date of filing the affidavit by the Mining & Geology Department in the Hon'ble Supreme Court in Civil Appeal No. 10720 of 2018 as directed by the Hon'ble NGT in it's Order dated 27/07/2020 in OA No. 110(THC)/2012.

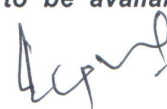
The Hon'ble NGT vide their order dated 27/07/2020, passed in OA No. 110(THC)/2012, have directed that the study hitherto recommended by the NGT Committee, Meghalaya (vide their 6th Report dated 03.12.2020 to the Hon'ble NGT) to be entrusted to NESAC for the purpose of undertaking analysis of the areas where coal was located using high resolution satellite imageries for the relevant period and also to make three categories of such coal i.e. (i) coal that existed on 17.04.2014, (ii) coal dumped at the depot after 10.04.2019 and (iii) coal dumped between 17.04.2014 to 10.04.2019 through analyzing the aforesaid satellite imageries may now be entrusted to National Remote Sensing Centre (NRSC), Hyderabad if NESAC is not able to undertake the said exercise and that the CPCB may coordinate with the NRSC for the purpose.

The recommendation of the NGT Committee in this regard in their 6th Report is extracted below:

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

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

(b) Immediately before the additional affidavit dated 10.04.2019 containing details of 32,56,715 MT coal stated to be available at



various depot was filed before the Hon'ble Supreme Court by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department; and (Para 2.20 (iii) (b)).

(c) Once in the year 2015, 2016, 2017 and 2018, preferably 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))

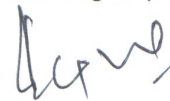
(b) The coal dumped at the depot after the filing of additional affidavit before the Hon'ble Supreme Court on 10.04.2019; and (Para 2.20 (iv) (b))

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

The Committee has decided that the aforesaid study as contained in the Recommendation Chapter of 6th Report of this Committee extracted above shall now be entrusted to the National Remote Sensing Centre (NRSC), Hyderabad and the CPCB may coordinate with the NRSC for the said purpose. Letters shall be addressed in this regard to NRSC, Hyderabad and also to the Member Secretary, CPCB to coordinate the aforesaid exercise with National Remote Sensing Centre, Hyderabad either through their Regional Office at Hyderabad or through any other mode as they deem fit.

The CPCB is directed to pursue the matter with NRSC and submit the progress report in this regard after 4 weeks.

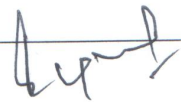
The Chairman concluded the meeting after thanking all present.



(Retd. Justice B .D. Agarwal)
Chairman
NGT Committee, Meghalaya

Modifications in the Comprehensive Plan as approved during the sitting of the NGT Committee held on 3rd August, 2020

Clauses	Existing provisions	Modified/additional provisions
1.b	b. The land owner of the designated depot shall undertake to install all necessary infrastructure at his cost and submit the bills in respect of the same to the State Government for payment which may include rental for the premises, at a later date. In addition to that, he is allowed to charge Rs 20 (Twenty) per MT for weighment of each truck. Fifty percent of the weighment fee shall be deposited with the DMR as administrative cost.	b. The land owner of the designated depot shall undertake to install all necessary infrastructure at his cost and submit the bills in respect of the same to the State Government for payment which may include rental for the premises, at a later date. In addition to that, he is allowed to charge Rs 20 (Twenty) per MT for weighment of each truck. Fifty percent of the weighment fee shall be deposited with the DMR as administrative cost. The weighbridge owner shall discharge the liability of GST, if any.
3.a	a. It shall be the sole and exclusive responsibility of the Coal stock owner to transport the coal stock from places of origin/storage to designated depots at her/his own cost.	a. The State Government shall transport the coal stock from places of origin/storage to designated depots. Expenses of transportation shall be borne by the State Government, which shall be deductible from the price received of the coal.
3.b	b. It shall be the sole and exclusive responsibility of the Coal stock owner to ensure complete compliance of applicable statutory regulatory framework, and the provisions of the instant policy during transit.	b. It shall be the responsibility of the State Government to ensure complete compliance of applicable statutory regulatory framework, and the provisions of the instant policy during transit.



3.d	Addition of new sub-para d.	d. The owners of coal stock shall submit an affidavit to abide by all the terms and conditions of the e-auction spelt out in the Comprehensive plan and scheme for sale of extracted coal in Meghalaya through Spot-e-Auction.
3.g	Deputy Commissioners shall ensure that same grade coal is stacked together to the extent possible for easy auction and that correct entries are recorded in the register depicting the quantity of coal against each owner so as to avoid confusion post auction.	Deletion of sub-para g.
6.b	b. It shall be mandatory for the coal-owner to have the quantity of coal measured prior to its entry into the designated depots at nearby designated weighbridge and weighment slip shall be enclosed along with Transit pass. No coal shall be permitted to be dumped at designated depot without such a certificate of weighment.	b. It shall be duty of the State Government to have the quantity of coal measured prior to its entry into the designated depots at nearby designated weighbridge and weighment slip shall be enclosed along with Transit pass. No coal shall be permitted to be dumped at designated depot without such a certificate of weighment.
6. c	c. The Deputy Commissioner of respective district shall ensure the installation of CCTV cameras at the concerned weighbridges. Sufficient security shall also be deployed by the District Administration at the	The DMR shall ensure the installation of CCTV cameras at the concerned weighbridges. Sufficient security shall also be deployed by the District Administration at the weighbridges to ensure strict compliance of the instant policy.

Devi

	weighbridges to ensure strict compliance of the instant policy.	
6.d	The validity of the Transit Pass is only for 15 (Fifteen) days from the date of issuance meaning the coal owner shall complete the transportation of coal from the pit heads to the depots within 15 (Fifteen) days.	The validity of the Transit Pass is only for 15 (Fifteen) days from the date of issuance and the transportation of coal from the pit heads to the depots shall be completed within 15 (Fifteen) days from the date of issue of transit pass.
7.a	a. Deputy Commissioner shall get installed CCTV cameras at entry gate of depots and each consignment entering and exiting the depot shall be video recorded and footage of such recording between the date of commencement of the process of dumping of coal for e-auction till conclusion of auction process shall be stored for one year by DMR.	a. The DMR shall get installed CCTV cameras at entry gate of depots and each consignment entering and exiting the depot shall be video recorded and footage of such recording between the date of commencement of the process of dumping of coal for e-auction till conclusion of auction process shall be stored for one year by DMR.
7.b	b. As far as practicable, coal belonging to same grade shall be put up for single auction in a particular depot. The coal stacks will be kept in that depot, owner-wise for easy identification and handling. A unique lot number shall be assigned to each lot.	b. Coal received in the depot shall be stacked grade-wise. As far as practicable, coal belonging to same grade shall be put up for single auction in a particular depot. Lot will be prepared for each grade stacked in the Designated Depot. Each lot can have coal from more than one owner, but having same grade. The Director of Mineral Resources (DMR) will maintain register for names of coal

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		owners and quantity from respective owner in each lot. A unique lot number shall be assigned to each lot.
8.a	a. Government of Meghalaya shall depute sufficient number of officials to plan, execute and monitor sale of coal through e-auction. CIL will provide requisite manpower at the designated depots and such other support for accounting the 32,56,715 MT of auctioned coal.	a. Government of Meghalaya shall depute sufficient number of officials to plan, execute and monitor sale of coal through e-auction. CIL shall deploy manpower to the weighbridges attached to the Designated Depots and provide such other support for accounting the 32,56,715 MT of auctioned coal.
8.c	c. The Coal owner/Seller shall get their coal sample tested for Gross Calorific Value (GCV) of each lot from any NABL accredited laboratory. The information regarding requirement of having such certificate shall be made by the DMR.	c. The Coal owner shall get their coal sample tested for Gross Calorific Value (GCV) from any NABL accredited laboratory. The information regarding requirement of having such certificate shall be made by the DMR.
8.e	e. Notice Inviting Tender (NIT) shall be issued only after completion of stacking of coal for auction in a particular yard in a designated depot.	e. 'Notice for e-auction' shall be issued only after completion of stacking of coal for auction in a particular yard in a designated depot.
8.f	f. Reserve price of coal shall be as per the Coal India Limited notification dated CIL:M&S:GM(F)/Pricing 2018/07 dated 8 th January	f. Reserve Price shall be the sum of pithead price notified under CIL's Price Notification No.CIL:M&S:GM(F)/Pricing 2018/07 dated 8.1.2018 and the add-on



	2018. A copy of the said notification is annexed herewith as Annexure 2 for ready reference.	notified for NEC, vide CIL's Price Notification No.CIL:M&S:Pricing 2018/327 dated 26.9.2018. A copy of the said notifications are annexed herewith as Annexure 3.
8.j	<p>j. The successful bidder shall transfer the total bid amount to separate bank account opened, maintained and notified by the MSTC for the instant auction process before lifting the auctioned coal. The successful bidder shall, in addition to the bid amount, shall also deposit Royalty at the rate notified by the State Government, contribution to Meghalaya Environment Protection and Restoration Fund (MEPRF), Cess under Meghalaya Minerals Cess Act, 1988 and GST at the following rates:</p> <p>a) Royalty- Rs 675 per MT b) MEPRF- Rs 485 per MT c) Cess- Rs 300 per MT d) GST- 5% of the bid value excluding levies</p>	<p>j. The successful bidder shall transfer the total bid amount to separate bank account opened, maintained and notified by the MSTC for the instant auction process before lifting the auctioned coal. The successful bidder shall, in addition to the bid amount, shall also deposit Royalty at the rate notified by the State Government, contribution to Meghalaya Environment Protection and Restoration Fund (MEPRF), Cess under Meghalaya Minerals Cess Act, 1988, GST and GST Compensation Cess at the following rates:-</p> <p>i. Royalty- Rs. 675 per MT ii. MEPRF- Rs. 485 per MT iii. Cess- Rs. 300 per MT iv. GST- 5% of the bid value, royalty, MEPRF and Cess v. GST Compensation Cess @ Rs. 400 per MT vi. 1 % TCS on the above charges under Income Tax Act</p>
8.k	k. The EMD of the unsuccessful bidders shall be refunded by MSTC within 10 (Ten) days.	k. The EMD of the unsuccessful bidders shall be refunded by MSTC only against the online refund request raised by the bidder and the processing of online refund will be completed within 3 (three) working

		days.
9.c	c. The Government of Meghalaya, after deducting Royalty, MEPRF, Cess and GST, shall transfer the remaining amount to the account of actual owner of the coal stock after completion of dispatch of coal by the buyer which shall not be more than thirty (30) days from the date of issuance of MTCs.	c. The Government of Meghalaya, after deducting Royalty, MEPRF, expenses of transportation of coal from pithead to depot, Cess, GST, GST Compensation Cess and 1% TCS under IT Act shall transfer the remaining amount to the account of actual owner of the coal stock after completion of dispatch of coal by the buyer which shall not be more than 30 (thirty) days from the date of issuance of MTCs.
10.c	c. The MTCs shall be issued by DMR on receiving authenticated confirmation letter and payment invoice from MSTC after payment of necessary dues by successful bidder. MSTC shall issue confirmation letter in duplicate, one to the successful bidder and the other to DMR. MTCs shall be issued only after verifying both the copies. MTCs shall be countersigned by the officials of CIL at the designated depot at the time of exit from depots.	c. The MTCs shall be issued by DMR on receiving authenticated confirmation letter and payment invoice from MSTC after payment of necessary dues by successful bidder. MSTC shall issue confirmation letter in duplicate, one to the successful bidder and the other to DMR. MTCs shall be issued only after verifying both the copies. MTCs shall be countersigned by the officials of CIL posted at the weighbridge of the Designated Depot.
10.e	e. The buyer is required to approach the designated coal depot with the 3 (Three) copies of MTC. After completion of loading,	e. The buyer is required to approach the designated coal depot with the 3 (Three) copies of MTC. After completion of loading, the in-charge of

	<p>the in-charge of the depot shall retain one copy of the MTC after obtaining the signature of the buyer in acknowledgment of receipt of coal. The in-charge of the depot shall also certify the delivery of coal on the other two copies of the MTC and the same shall be handed over to the buyer. Any loaded truck shall necessarily carry both the copies of MTC which are signed by the in-charge of the depot indicating the date of delivery of coal. Any movement of loaded consignment of coal without MTC or with MTC not having the certification by the person in-charge of the depot regarding delivery of coal will be considered as illegal coal and action shall be taken by Meghalaya Government against such illegal coal in accordance with law.</p>	<p>the depot shall retain one copy of the MTC after obtaining the signature of the buyer in acknowledgment of receipt of coal. The in-charge of the Depot shall issue the tax-invoice to the Bidder on behalf of the owner of the coal. The MTC shall be countersigned by the in-charge of the depot and the official of NEC/CIL posted at the weighbridge of the Designated Depot. The in-charge of the depot shall also certify the delivery of coal on the other two copies of the MTC and the same shall be handed over to the buyer. Any loaded truck shall necessarily carry both the copies of MTC which are signed by the in-charge of the depot indicating the date of delivery of coal. Any movement of loaded consignment of coal without MTC or with MTC not having the certification by the person in-charge of the depot regarding delivery of coal will be considered as illegal coal and action shall be taken by Meghalaya Government against such illegal coal in accordance with law.</p>
10.f	<p>f. At the state exit point, consignment of each truck shall be weighed, and all the coal laden trucks shall be checked for valid documents. The tare weight of the vehicle shall be based on the RC</p>	<p>f. At the state exit point, consignment of each truck shall be weighed, and all the coal laden trucks shall be checked for valid documents. The tare weight of the vehicle shall be based on the RC of each vehicle. All exit points shall</p>

	<p>of each vehicle. All exit points shall be manned by officials of the DMR, Government of Meghalaya and details of all challans shall be entered in the ledger maintained for that purpose which shall contain signature of both the officials of CIL as well as DMR. At the exit point, the QR code shall be scanned and the respective MTC shall stand invalidated after scanning of QR Code at Exit point. An endorsement 'Used Challan' shall also be inscribed on the MTCs.</p>	<p>be manned by officials of the DMR, Government of Meghalaya and details of all challans shall be entered in the ledger maintained for that purpose which shall contain signature of the officials of DMR. At the exit point, the QR code shall be scanned and the respective MTC shall stand invalidated after scanning of QR Code at Exit point. An endorsement 'Used Challan' shall also be inscribed on the MTCs.</p>
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(Justice B .D. Agarwal)

Former Judge, Gauhati High Court
Chairman
NGT Committee, Meghalaya