QUORUM

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

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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

: Shri D. P. Wahlang, IAS
Principal Secretary to the Government of
Meghalaya, Forests & Environment Department
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: Dr. Shantanu Kumar Dutta,
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: Shri F. G. Kharshiing, IPS
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: Dr. Manjunatha C, IFS

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: Shri T. Lyngwa, IAS

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Joint Secretary to the Government of Meghalaya, Education Department Email id: gideon.k@gov.in

: Shri P. D. Sangma, MCS

Additional Deputy Commissioner, Nongstoin Email id: pdsangma15@gmail.com

: **Dr H. Tynsong**, Scientist 'D',

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Smt R. Kynjing

Executive Engineer, Rural Water Supply Division, Public Health Engineering Department, Jowai, Email id: ronkyn88@gmail.com

Shri A. S. Sidique,

Counsel of Shri Pawan Sharma Applicant in I.A. No. 244/ 2020 in O.A. No. 110(THC)/2012

PROCEEDINGS OF 26TH GENERAL SITTING

MINUTES OF TWENTY SIXTH 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 1ST OCTOBER, 2020 AT 10.30 A.M AT NIC BUILDING, 1ST FLOOR, CONFERENCE HALL, MEGHALAYA, SHILLONG-793001.

Agenda

- Consider the application filed by Shri. Pawan Sharma, G.S. Road, Shillong in I.A. No. 244/2020 in O.A. No. 110(THC)/ 2012.
- 2. Review the progress in implementation of item A, B & C of the Action Plan prepared by the NGT Committee for restoration of environment in areas affected by coal mining in Meghalaya.
- 3. Status of compliance of the following directions of the Hon'ble NGT in their order dated 17.01.2020 in O.A. No. 110 (THC)/ 2012:
 - (i) Progress by the State of Meghalaya in the matter of realization of royalty, GST/ VAT, contribution to the MEPR Fund and any other statutory tax and/ levy payable on the illegally mined coal utilised by the Cement Manufacturing Plants and the Thermal Power Plants in the State of Meghalaya (listed in the order of the Hon'ble NGT dated 17.01.2020) after the ban on illegal rat –hole mining was imposed by the Tribunal in April 2014 in the State of Meghalaya;
 - (ii) Progress by the State of Meghalaya in the matter of realization from each of the aforementioned Cement Manufacturing Plants and Thermal Power Plants who have used illegally mined local coal after the ban on illegal rat hole coal mining since April 2014, at the rate of Rs.400 per tonne of coal which is being utilised by each such plant on or after the date of the order of the Hon'ble Tribunal (17.01.2020) and deposit the same in the MEPR Fund.
- 4. Consider the response submitted by the Coke Oven Units with respect to the show cause notice issued to them by the National Green Tribunal Committee.
- 5. Any other item with permission of the Chairperson.

PROCEEDINGS

AGENDA NO. 1

Consideration the application filed by Shri. Pawan Sharma, G.S. Road, Shillong in I.A. No. 244/ 2020 in O.A. No. 110(THC)/2012.

The counsel of Shri Pawan Sharma, Shri. A. S. Sidique is present through Video Conference.

The Committee has received a reply from the State Government today only. The Secretary to the Committee is directed to furnish a copy of the Government's reply to the complainant through mail by today evening.

The Petitioner is given 1 (one) week's time to file his rejoinder if any. The matter may be listed for further hearing after 2 (two) weeks.

AGENDA NO.2

Review the progress in implementation of item A, B & C of the Action Plan prepared by the NGT Committee for restoration of environment in areas affected by coal mining in Meghalaya.

- A. PREVENTION OF HUMAN AND ANIMAL DEATHS BY ACCIDENTAL FALLING IN COAL MINE SHAFTS
- **A.1** Identification and delineation of coal fields as well as each coal mine, coal shaft, coal dump etc-

In continuation with the earlier similar exercise undertaken by NESAC in respect of East Jaintia Hills district, the NESAC were requested in the 21st sitting of the Committee held on 14th February 2020 to furnish a detailed cost estimate for preparation of such maps for the remaining coal mining affected districts viz., West Khasi Hills, South Garo Hills and South West Khasi Hills and submit a report to this Committee. The NESAC has duly furnished a detailed project proposal including the cost estimate for preparing geospatial database (maps) which would provide geospatial inputs for planning and restoration of the aforesaid three districts for a sum of Rs 60, 77,275/-.

The Committee considered the proposal submitted by the NESAC with the following objectives.

- (i) Preparation of base map (roads & settlements updated with satellite data)
- (ii) Preparation of drainage, watersheds/catchments, mine holes, location of coal depots (user input), etc.
- (iii) Preparation of one season land use and land cover map using 2018/2019 satellite data
- (iv) Suggestion of water sample collection point for regular monitoring of water quality
- (v) Location of springs (SOI Toposheet) for spring-shed development & management for uninterrupted supply of drinking water etc.

While the Committee agree with the objectives (i), (iv) and (v), it is suggested that NESAC shall delineate the major coal dumps/depots with the help of high resolution satellite imagery with required ground truthing besides the location of coal depots to be identified from user input (ref: Objective # (ii) above).

Moreover, in addition to the preparation of one season land use and land cover map using 2018/2019 as proposed by NESAC (objective # iii), the Committee suggests that preparation of one more land use land cover map shall be included in the study for any one of the years 2014, 2015, 2016, 2017 covering the coal mining areas of a part or whole district, preferably East Jaintia Hill District; in this specific land use and land cover map, mines holes/ box cuttings and coal depots shall be highlighted as separate land use and number of mine holes/box cuttings classes shall finally be compared with the proposed land use land cover map of 2018/2019. NESAC is requested to include the aforesaid scopes in the project proposal and submit fresh cost estimate at the earliest.

A.2 Creation of awareness about ill - effects of unregulated coal mining

In respect of A.2 of the Action Plan relating to creation of awareness about ill - effects of illegal coal mining, the Secretary to the Government of

Meghalaya, Mining & Geology Department submitted that he has informed the Education Department to submit the requisite estimate for undertaking training session @ Rs. 25,000/- per session and as soon as the Education Department submits an estimate of requirement, the Mining & Geology Department would release the fund from MEPR Fund. The Committee also noted that there has been substantial progress in conducting various awareness generation activities in various districts within the State as reported by the respective Deputy Commissioners and the Joint Secretary to the Government of Meghalaya, Education Department in their action taken reports in relation to the minutes of the 21st sitting of the Committee.

A.3 Installation of sign boards in areas having presence of coal mines

With respect to **A.3** of the Action Plan where coal reserves have already been exhausted, the Deputy Commissioners are directed to issue order under Section 144 CrPC to the owners of those coal mines whose coal reserves have already been exhausted for erection of physical barriers around the shaft and submit a report in this regard to the Committee.

The Secretary to the Government of Meghalaya, Mining & Geology Department informed the Committee that within one month from today they would complete installation of sign boards in the rest of the areas which they have prioritised.

Further, the Secretary to the Government of Meghalaya, Mining & Geology Department is also directed to submit photographs of the sign boards which have already been installed on a sample basis (atleast half a dozen).

A.4 Erection of physical barriers at periphery of shafts of mines where coal reserve has not been exhausted

In relation to the Action Plan on erection of physical barriers at periphery of shafts of mines where coal reserve has not been exhausted, the Deputy Commissioner of West Khasi Hills District submitted that these coal mines being horizontal in nature, no danger could be apprehended on account of their existence without the barriers around them. But, this was contested by

the members of the Hon'ble NGT Committee, saying irrespective of the mine shafts being horizontal or circular; they would still pose a danger to the cattle and human beings as well. Apart from that, there is also fear of their catching fire. Therefore, the request of the Deputy Commissioner, West Khasi Hills is not accepted by the NGT Committee.

However, in view of the fact that the Deputy Commissioner, West Khasi Hills District and other Deputy Commissioners have already issued orders under Section 144 for erection of physical barriers around the coal mines where coal reserves have not been exhausted they shall submit a report to the Committee on the extent of compliance of the directions issued by them by the public. And those members of the public who have not obliged with the order or directions, reasons shall be sought from them for non compliance of the orders issued by the Deputy Commissioners under Section 144. The Deputy Commissioners shall submit a report in this regard within one month.

A.5 Closure of shafts of mines where coal reserve has already been exhausted:

The Member Secretary, Meghalaya State Pollution Control Board (MSPCB) informed the Committee that the design and methodology of closing the exhausted mines are still under consideration of CIMPFR –CSIR and after they standardize the technique a presentation and a report will be submitted to the Committee.

The Director Mineral Resources is directed to identify one closed mine for the purpose of CIMFR – CSIR to undertake their study for preparing and finalising their methodology pertaining to controlled blasting within one month and submit a report of compliance to the Committee in this regard.

B PREVENTION OF ACID MINE DRAIN (AMD) GENERATION BY:

B.1 Coal dumps of cement factories and their captive power plants

- B.1.1 Covering of dumps by permanent sheds/ water proof tarpaulin
- B.1.2 Construction of garland drains along with acid mine drain storage tanks
- B.1.3 Treatment of acid mine drain collected in storage tanks

The Secretary to the Committee is directed to remind the concerned Deputy Commissioners to submit their reports regarding Component B of the Action Plan which relates to prevention of AMD generation etc.

B.1.4 Amendment of Environmental Clearance (EC) to stipulate additional conditions to provide for above measures, in case same have not been stipulated

Dr H. Tynsong, Scientist in the Ministry of Environment, Forests & Climate Change, North East Regional Office, Shillong, apprised the Members of the Committee that this direction of the Committee has been submitted to the EAC and the EAC has accepted the recommendation of the Committee to modify the Evironmental Clearance (EC) granted to the cement plants and captive power plants by the Central Government earlier. The recommendation of the EAC agreeing to amend the conditions of the ECs has been submitted to the Competent Authority for approval, pursuant to which the conditions attached to the environmental clearance granted to the cement plants and thermal power plants would be suitably modified by the Central Government.

The Committee directs that the Regional Office of MoEF & CC, Shillong should place before the next date of the sitting of the Committee the amended ECs issued in respect of cement power plants and thermal power plants who have been granted such ECs by the Central Government.

- B.1.5 Amendment of consent to establish (CTE) to stipulate additional conditions to provide for above measures in case same have not been stipulated
- B.1.5 Revocation/ withdrawal of EC and launch of prosecution in case of non implementation of aforementioned measures
- B.1.6 Revocation/ withdrawal of CTE and launch of prosecution in case of non implementation of aforementioned measures

The Member Secretary, Meghalaya State Pollution Control Board (MSPCB) informed the members of the Committee that CTE has been granted in respect of cement companies and captive power plants by MSPCB but no CTE has been granted in favour of the coal mines in Meghalaya so far by the

MSPCB. Hence, the question of withdrawal of CTE does not arise in case of coal mines. It was also stated by him that component B of the Action Plan relates to cement factories and captive power plants but not coal.

B.2 DUMPS OF ASSESSED COAL

- B.2.1 covering of dumps by water proof tarpaulin/ permanent sheds
- B.2.2 Construction of garland drains along with acid mine drain storage tanks
- B.2.3 Treatment of acid mine drain collected in storage tanks
- B.2.4 Promulgation of order under Section 144 or any other relevant section (s) of IPC to prohibit open/ uncovered dumping of assessed coal

The issues of the Action Plan covered under this item of agenda relates to covering of dumps by water – proof tarpaulin/ permanent shed, construction of garland drains along with acid mine drain storage tanks etc.

The Deputy Commissioners of the coal mine occurring Districts viz., East Jaintia Hills, South Garo Hills, South West Khasi Hills and West Khasi Hills districts are directed to submit status report regarding implementation of item B.2 of the Action Plan with regard to compliance of the orders issued under Section 144 CrPC by them within 4 weeks from today.

The Central Pollution Control Board and Meghalaya State Pollution Control Board are also the monitoring agency. They are directed to submit the report regarding compliance of the Section 144 CrPC orders to this Committee after physical visits to the respective sites.

B.3 DUMPS OF SEIZED COAL

- B.3.1 Construction of permanent depots for seized coal
- B.3.2 Covering of dumps by tarpaulin/ permanent sheds
- B.3.3 Construction of garland drains along with acid mine drain storage tanks
- B.3.4 Treatment of acid mine drain collected in storage tanks

The Director Mineral Resources shall submit a report on the extent of compliance of the aforementioned items of the action plan within a month.

B.4 DUMPS OF ILLEGALLY EXTRACTED COAL

B.4.1 Immediate seizure of illegally extracted coal and transfer of the same to permanent depots

The Secretary to the Government of Meghalaya, Mining & Geology Department informed the Committee that eleven permanent depots are under construction in four Districts viz. East Jaintia Hills, South Garo Hills, South West Khasi Hills and West Khasi Hills districts and clearance from Forest Department has already been obtained. Simultaneously, clearance from Meghalaya State Pollution Control Board is also being sought. He submitted that tentatively within a period of one month the permanent depots would have been fully constructed.

The Committee noted that the matter will be taken up in the next sitting again.

B.5 COAL IN TRANSIT

- B.5.1 Covering of coal by waterproof tarpaulin while its transportation by road
- B.5.2 Seizure of trucks carrying coal without covering it with waterproof tarpaulin
- B.5.3 Promulgation of order under section 144 or any other relevant section(s) of IPC to prohibit open/ uncovered dumping of assessed coal

The Deputy Commissioners of the coal bearing districts have informed in their reports that they are implementing the provisions relating to the Action Plan to insulate coal while in transit and are taking necessary measures in this regard.

On behalf of the Addl DG Police (Law and Order) the Assistant Inspector General of Police, Government of Meghalaya vide report dated 15.07.2020 has submitted a chart of coal seized in transit. However, the chart is incomplete. It does not disclose the quantity of coal seized in some of the districts. Besides this, very high quantity of coal seized during the transit are lying unattended in the open and without covering etc., causing environmental

hazards. Hence, the Police Department is directed to take necessary action to sell the seized coal by way of auction after complying with the Government guidelines in this regard without any further delay. Where necessary, permission from the concerned Elaka Magistrate (concerned trial court) should be obtained on urgent basis.

The Police Department is further directed to submit a corrected chart from January to September within the next one month and periodical statements in the same format per quarter should be submitted to this Committee in future.

B.6 RAT HOLE COAL MINE OPENINGS

- B.6.1 Closure of opening of mines where coal reserve has already been exhausted by:
 - B.6.1.1 Controlled blasting or
 - B.6.1.2 Refilling of debris/overburden

Deliberation on this component of the Action Plan is postponed till CIMFR – CSIR submit their report and presentation is given to this Committee.

- B.6.2 Treatment of AMD originating from openings of rat hole mines where coal reserve has not been fully extracted
 - B.6.2.1 Development of cost effective models for treatment of AMD originating from openings of such rat hole mines
 - B.6.2.2 Treatment of AMD originating from openings of such rat hole mines

The Member Secretary, Meghalaya State Pollution Control Board with respect to Item B.6.2.1 and B.6.2.2 in relation to AMD originating from openings of rat hole coal mines where coal reserve has not been fully extracted, apprised the Committee of the progress achieved in this regard till date. He submitted that a Memorandum of Understanding (MoU) has been entered into with CIMFR – CSIR in this regard and the CIMFR – CSIR has identified one rat hole coal mine in East Jaintia Hills where pilot project in this regard could be undertaken after the technology is standardized in their

laboratory. It is expected that the pilot project would be undertaken within 6 (six) months from today.

B.7 COAL MINE SHAFTS LOCATED IN RIVER/ STREAM BED

B.7.1 Closure of such mine shafts by:

- B.7.1.1 Controlled blasting or
- B.7.1.2 Refilling of debris/ overburden

With respect to components relating to B.7.1 it is submitted by the Secretary to the Government of Meghalaya, Mining & Geology Department that controlled blasting of such mine shafts located in rivers and stream beds may lead to pollution of rivers and hence it was suggested by him that the opening of such mine shafts could be closed manually by taking recourse to civil construction work by way of erecting walls or ceilings of RCC type and the expenditure in this regard could be borne from MEPR Fund, since essentially the matter relates to alleviating the pollution or preventing the pollution of streams and rivers into which AMD from the openings of such mine shafts is draining into.

The Mining & Geology Department in coordination with the Deputy Commissioners in this regard shall submit to the Steering Committee an APO for implementing the aforesaid suggestion. The Mining & Geology Department with the help of the Deputy Commissioners shall also make an assessment of the number of such mines close to river beds. The Mining & Geology Department shall also submit a survey report in this regard pertaining to East Jaintia Hills and the cost estimate for undertaking the above project within 2 months along with GPS coordinates of the coal mines contiguous to river beds.

C RESTORATION OF WATER QUALITY IN RIVERS/ STREAMS AFFECTED BY ACID MINE DRAIN (AMD)

C.1 Identification and prioritisation of rivers/ streams to be restored

The Meghalaya Basin Development Authority (MBDA) is requested to submit cost estimate to the Committee for the purpose of undertaking survey of rivers/ streams to be restored in Meghalaya in consultation with the District

Administration and Public Health Engineering Department. The cost estimate in this regard shall be submitted by MBDA before the next Sitting of the Committee for the purpose of consideration of the Committee.

C.2 Development, refinement and transfer of AMD treatment technology

This execution of this component of the action plan is in progress and the MBDA had already made a Power Point Presentation in the earlier sitting of the Committee.

C.3 Restoration of prioritised stretches of rivers/ streams

The Chief Engineer, Public Health Engineering Department has submitted an exclusive report and the cost estimate for restoration of prioritised stretches of rivers/ streams on a pilot basis. The Secretary to the Committee is directed to circulate the report to all the members.

AGENDA NO.3

Status of compliance of the following directions of the Hon'ble NGT in their order dated 17.01.2020 in O.A. No. 110(THC)/ 2012:

- (i) Progress by the State of Meghalaya in the matter of realization of royalty, GST/ VAT, contribution to the MEPR Fund and any other statutory tax and/ levy payable on the illegally mined coal utilised by the Cement Manufacturing Plants and the Thermal Power Plants in the State of Meghalaya (listed in the order of the Hon'ble NGT dated 17.01.2020 after the ban on illegal rat –hole mining was imposed by the Tribunal in April 2014 in the State of Meghalaya.
- (ii) Progress by the State of Meghalaya in the matter of realization from each of the aforementioned Cement Manufacturing Plants and Thermal Power Plants who have used illegally mined local coal after the ban on illegal rat hole coal mining since April 2014, at the rate of Rs.400 per tonne of coal which is being utilised by each such plant on or after the date of the order of the Hon'ble Tribunal (17.01.2020)) and deposit the same in the MEPR Fund.

The Secretary to the Government of Meghalaya, Mining & Geology Department informed the Committee that they are issuing fresh notices to the Cement Plants and Captive Power Plants for payment of Royalty, GST/ VAT,

contribution to the MEPR fund etc. as per the directions of the Hon'ble NGT dated 17.01.2020 in O.A. No 110 (THC)/2012.

The Committee will await the progress of realization for next 4 weeks.

AGENDA NO.4

Consider the response submitted by the Coke Oven Units with respect to the show cause notices issued to them by the National Green Tribunal Committee

Pursuant to the decision taken in the last Sitting held on 3rd August, 2020 notices were issued to the 20 coke oven units/ industries allegedly operating in the State of Meghalaya mainly West Khasi Hills and East Jaintia Hills. Out of the 20 industries, only 9 industries have submitted their replies/ written statements. Their replies are also incomplete. The remaining 11 coke oven units have not come forward to submit their written statements. Hence, one more notice should be issued to all the coke oven units named in the Report dated 31.7.2020 giving them last chance to submit their replies with all necessary documents failing which the Committee will take exparte decision.

Out of the 9 industries, M/s Rilangam Coke Industries, M/s Abhi Coke Industries Pvt Ltd and M/s Jaintia Coke Pvt Ltd have admitted the fact that their industries are operational and they are procuring coal. However, the Member Secretary MSPCB informed the Committee that CTO has been given to M/s Abhi Coke Industries Pvt Ltd, M/s Jaintia Coke Pvt Ltd and they are operational. Though these industries have given the figures of quantity of coal purchased by them since 2018 no document/ vouchers have been submitted by them to substantiate the fact that the coal has been purchased from legal sources. In this way these two industries are attempting to hide the fact pertaining to the actual source from which this coal has been procured and the Committee has taken serious note of it.

In the last Sitting, the State of Meghalaya along with MSPCB were also directed to give written replies to the attached report of CPCB. However, neither the State of Meghalaya nor MSPCB has submitted any report in this regard. It is noted here that though the Director, Commerce & Industries Department was intimated about the agenda in today's meeting the Department is un-represented. Hence, the Chief Secretary to the Government of Meghalaya is directed to direct to the

concerned Heads of Departments to submit their reply to the Report of the CPCB dated 31.7.2020 within two weeks. Similarly the MSPCB shall also submit their reply regarding operation of coke oven units in the entire State of Meghalaya with all necessary documents within next 2 weeks.

The Deputy Commissioners West Khasi Hills and East Jaintia Hills districts are also directed to submit their respective reports to this Committee within 2 weeks as to how many coke industries are operating in their respective districts and since when.

AGENDA NO.5

Any other item with permission of the Chairperson.

The Secretary, Mining & Geology Department has submitted two proposals for approval of the Committee:

- (i) To engage a reputed firm/consultant to prepare master plan, survey, DPR, consultancy service and execution of works relating to restoration of coal mining affected areas and rivers and streams. Expenditure in relation to the firm would be defrayed from MEPR Fund.
- (ii) To engage two Project Assistants on fixed remuneration to assist the Mining & Geology Department on matters pertaining to implementation of directions of the Hon'ble NGT pertaining to rat hole coal mining in Meghalaya and all other connected issues. Expenditure would be incurred from interest sum accrued from MEPR Fund.

The decision of the Committee on the aforesaid proposals are as follows:

(i) Engaging a reputed firm/consultant to prepare master plan, survey, DPR, consultancy service and execution of works relating to restoration of coal mining affected areas and rivers and streams.

The Committee agrees in-principle to the proposal pertaining to engaging a consultancy firm subject to the following conditions:

- a. The panel of firms shortlisted by the State Government should be submitted to the Committee for their perusal and further approval.
- b. The Department while drawing the aforesaid panel shall follow the established procedure and norms laid down by the Finance Department of the State Government in this regard.
- c. The agency would be charged with the following activities only presently: Survey, preparation of master plan, and preparation of DPR in respect of only those items in respect of which the Mining & Geology Department has been identified as the implementing agency in the Action Plan prepared by the NGT Committee for restoration of environment damaged on account of coal mining in Meghalaya
- (ii) Engaging two Project Assistants on fixed pay of Rs 50,000/- (Rs. Fifty thousand only) per month to assist the Mining & Geology Department to assist in implementation of schemes under MEPRF.

The Committee agrees to this proposal provided the remuneration of the Project Assistants are fixed in accordance with the CSIR-UGC rates pertaining to similar posts. After making the appointments the Mining & Geology Department shall file a report in this regard with the Committee.

The Chairman thanked all present and concluded the meeting.

(Justice B.D. Agarwal)

Former Judge, Gauhati High Court And Chairman, NGT Committee, Meghalaya