

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 110(T_{HC})/2012

Threat to life arising out of coal
mining in south garo hills district

Applicant

Versus

State of Meghalaya & Ors.

Respondent

Date of hearing: 01.03.2021

Date of uploading of order on website: 15.03.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

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ORDER

Background of the matter leading to prohibiting rat hole mining

1. The matter pertains to remedial action against unscientific 'Rat Hole' Mining of coal in the State of Meghalaya. Proceedings commenced on the basis of a news item to the effect that **on 06.07.2012, thirty coal labourers were trapped in a coal mine and fifteen of them died.** After due consideration of the matter, on 17.04.2014, this Tribunal directed the State of Meghalaya to ensure **that rat hole mining is stopped forthwith throughout the State and any illegal transport of coal shall not take place until further orders.**

2. On 09.06.2014, to give effect to order dated 17.04.2014, a Committee was formed **to quantify the extracted coal and its location, assess its value and also to prescribe mode of its transportation.** In the light of the report this Tribunal, **on 07.10.2017, noted that 6.3 million tonnes of illegally mined coal valued at Rs. 307 Crores was lying in the State on which royalty of Rs. 400 Crores was assessed.** Direction was issued for videography in the operation of the weigh bridges. The issue of quantum of coal to be permitted to be transported was to be gone into with the assistance of the Committee. Further, direction was issued to **credit the amount of royalty in a separate account with 10% of the value of coal to be credited to Environment Protection Fund.** On 31.03.2016, the Tribunal directed that except the coal already transported, **the remaining will vest in the State.**

Constitution of Monitoring Committee

3. Finally, **on 31.08.2018, after reviewing the earlier proceedings, this Tribunal directed that rat hole mining will remain prohibited and**

so also the transportation of the mined material. The State will be the custodian of the available coal for which necessary inventory will be prepared. The Tribunal also directed constitution of a Committee to be headed by a former High Court Judge of the Guwahati High Court **for restoration of the environment and rehabilitation of the victims.** The Committee was at liberty to take up incidental issues. **The Committee was also to supervise issues arising out of receivership/custodianship of already extracted coal, including environmental issues arising out storage and remedial steps.** Other Members of the Committee were to be representatives of CPCB and Indian School of Mines, Dhanbad. The State of Meghalaya was to provide records, logistics and facilities to the Committee. The Committee was free to requisition services of technical experts from the State and to carry out field visits. The Committee was also free to set up its website for receiving and giving information and to involve educational institutions for awareness and feedback. The Committee was to meet twice in a month to review the progress and to fix further targets and send reports to this Tribunal every two months.

Reports of the Committee and further orders

4. The Committee gave its report on 02.01.2019 which was considered vide order dated 04.01.2019 with regard to the following questions framed by the Committee:-

- “(A) Whether coal mining activities, including extraction of coal and the transportation of the same, are going on despite the order passed by the Hon’ble NGT imposing ban on coal mining and transportation?”*
- (B) Quantity of extracted coal as on the date on which the ban was imposed by the Hon’ble NGT and left to be transported?”*
- (C) Quantity of un-inventoried coal which has been extracted before imposition of ban by the Hon’ble NGT?”*
- (D) Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?”*

- (E) *What are the steps required to be taken by the Committee for restoration of the environment and rehabilitation of victims of coal mining?*
- (F) *The extent of execution of the Action Plan prepared by the Committee?”*

Incident of 13.12.2018 – 15 workers trapped

5. The Tribunal noted that a **further tragic incident took place on 13.12.2018 where 15 workers were trapped.** The report was that the illegal mining was still continuing. **The assessed quantity of such coal was 23,25,663.54 MT.** The mining was resulting in adverse impact on the environment for which a study was required to be undertaken. Action plan was proposed for restoration of the environment. In view of the consistent failure of the State in enforcing the law, this Tribunal held the State to be liable to deposit a sum of Rs. 100 Crores with the Central Pollution Control Board (CPCB) to be spent for restoration of the environment. The Tribunal also observed that the Committee may consider seizure of equipments used for illegal mining or transportation, to be released only after payment of 50% of the showroom price of such equipments. The Tribunal suggested that the Committee may consider the following:

“36. The Committee may also consider the following:-

- 1. Any cranes and trucks found to be involved in illegal mining or transportation which have not yet been seized may also be seized. The seized vehicles or equipments be released by the concerned District Magistrates only after recovering damages to the extent of 50% of the showroom price of the vehicles or equipments. The said amount may also be credited to the restoration fund.*
- 2. Efforts be expedited to identify victims who have suffered at least since 01.07.2012 and to assess loss to the environment and the manner of restoration.*
- 3. Disaster Management Plan for the whole of the area ‘on site’ as well as ‘off site’ needs to be prepared and put into operation.*
- 4. Appropriate technology to replace rat hole mining.*

State of Meghalaya has to ensure compliance of not only MMDR Act, 1957 but Mines Act, 1952 as well as Environment (Protection) Act, 1986.

10) *In Hill District of State of Meghalaya **for carrying coal mining operations in privately owned/community owned land it is not the State Government which shall grant the mining lease under Chapter V of Rules, 1960, but it is the private owner/community owner of the land, who is also the owner of the mineral, who shall grant lease for mining of coal as per provisions of Chapter V of Rules, 1960 after obtaining previous approval of the Central Government through the State Government.***

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13) *In event the mining is carried out by a mining lease holder as per the provisions of Act, 1957 and Rules, 1960 with **an approved mining plan there can be no objections in carrying of such mining operations under the regulation and control of the State of Meghalaya. We clarify that in event mining operations are undertaken in privately owned/community owned land in Hills Districts of Meghalaya in accordance with mining lease with approved mining plan as per Act, 1957 and Mineral Concessions Rule, 1960, the ban order dated 17.04.2014 of the tribunal of the NGT shall not come in way of carrying mining operations.***

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20) *The coal extracted and lying in open after 15.05.2016 does not automatically vest in the State of Meghalaya and **the owner of the coal or the person who has mined the coal shall have the proprietary right in the mineral which shall not be lost.***

21) *The suggestion of learned Amicus Curiae that **entire extracted coal lying at various places in hills districts of Meghalaya be directed to be taken over by Coal India Ltd. is accepted. The Coal India Ltd. may dispose of the same as per its normal method of disposal and proceeds be dealt with as per directions issued.***

22) *The State having carried out the assessment of the coal lying in the aforesaid four districts including the details of the quantities and the details of owners being available with it, **it may ensure that entire coal is handed over to the Coal India Ltd., as per the mode and manner to be formulated by Katakey Committee in consultation with officers of the Coal India Ltd. and the State of Meghalaya.***

23) *It is for Coal India Ltd. to decide as to venue, where they shall receive the coal, i.e., either at any of its depot or any other place in the State of Meghalaya and it is for the Coal India Ltd. to finalise the process of disposal and auction of the coal. It shall be the duty of the State of Meghalaya and its officers especially Deputy Commissioner of the area concerned to enter details of quantity of the coal, name of the owner and place from where it is collected. All concerned shall take steps*

to ensure weighment of the coal when it is received by Coal India Ltd.

24) The expenses of transportation shall be borne by the State of Meghalaya, Coal India Ltd. or by both, which expenses shall be deductible from the price received of the coal. The State of Meghalaya shall be entitled to royalty and payment towards MERP Fund as well as taxes out of the price of the coal. After deducting its expenses for transportation with 10% of price of the coal, the Coal India Ltd. shall remit the balance amount to the State and it is for the State after deducting the royalty and payment to the MERP Fund and taxes to pay back balance the amount to the owner.

25) The coal which has been seized by the State in illegal transportation and illegal mining for which different cases have been registered by the State, is not to be dealt with as directed above. The seized coal shall be dealt by the State in accordance with Section 21 of the Act, 1957 and on being satisfied, the State can take a decision to recover the entire quantity of coal so illegally raised without lawful authority.

192 In view of the foregoing discussions and conclusions, all these appeals are decided in the following manner: -

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4) All IAs. seeking direction for transportation of coal are disposed of directing: -

- i) All extracted coal as assessed by State of Meghalaya lying in different districts of State of Meghalaya which as per order of NGT is in custody of State of Meghalaya shall be handed over to Coal India Ltd. for proper disposal.
- ii) The Katakey Committee after discussion with Coal India Ltd. and State of Meghalaya shall formulate a mechanism for transport, weighment of all assessed coal.
- iii) The Coal India Ltd. shall auction the coal so received by it as per its best judgment and remit the proceed to State to the extent as directed above.
- iv) All coal seized by the State for which cases have already been registered shall be dealt by the State in accordance with Section 21 of 1957 Act.”

8. We may now deal with the report of the Committee which is, inter alia, as follows:

“It is, therefore, evident that though the learned counsel appearing for the State of Meghalaya submitted before the Hon’ble Tribunal that the compliance report in that regard shall be submitted to this committee within two weeks, the direction to install Digital Display Boards has not been fully implemented till date. As stated above, such Boards have been installed in the State Capital,

i.e., in Shillong only. The same have not been installed in the coal mining affected districts and Sub-Divisions so far.

The Committee directs the aforementioned 4(four) Cement Plants, namely, Green Valley Industries Ltd, Gold Stone Cement Ltd, Hills Cement Ltd and Virgo Cement Ltd and one Thermal Power Plant, namely, CMJ Breweries Ltd to depute their representatives to attend the next sitting of the Committee scheduled to be held on 14.08.2019 along with all required information and documents without fail.

The Secretary to the Govt. of Meghalaya, Mining and Geology Department, during the Proceeding No. 16-B held on 23.07.2019 has produced before the Committee a letter dated 22.07.2019 seeking a month's time to formulate a comprehensive plan and proper policy of transportation and handing over of coal to the Coal India Limited for disposal/auction as per rules of the Coal India Limited. The Committee has also been informed that after finalisation, the same shall be placed before the Committee for deliberation.

Based on the said communication, one month time has been granted to the Mining and Geology Department, Govt. of Meghalaya. The second special sitting scheduled to be held in Guwahati on 26.07.2019 with the representatives of the Coal India Limited and the concerned departments of the Govt. of Meghalaya to discuss about the formulation of a policy for transportation and handing over of the coal to the Coal India Limited, has, therefore, been postponed and the next date was decided to be fixed in its Proceeding to be held on 14.08.2019.

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

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

(C) CONSIDERATION OF THE RECOMMENDATIONS OF THE COMMITTEE MADE IN ITS PROCEEDING Nos. 13, 14 AND 15 DATED 03.05.2019, 03.06.2019 AND 28.06.2019, COPIES OF WHICH HAVE BEEN SENT BY MAIL IN 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 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 a number of rupees one Crore from MEPR fund to facilitate the Forest & Environment Department for afforestation of the coal mine affected areas and to ensure availability of adequate number of good quality plants.
- (4) The Committee in the Proceeding No.15 dated 25.06.2019 has also recommended for consideration by the Hon'ble Tribunal for release of Rs.19,19,500/- from the MEPR Fund towards the cost to be incurred in the **Pilot Project of Micro Algae Treatment of the acidic water in the identified stream in the coal mining affected areas to be implemented by M/S Trinity Impex International.**

The Hon'ble Tribunal may consider the aforesaid recommendations of the Committee.

The Committee, on 31.08.2019 shall submit the further report relating to the status of implementation of the Action Plan prepared by it, directions issued by it from time to time and also the directions issued by the Hon'ble Supreme Court in Civil Appeal No. 10720 of 2018 (State of Meghalaya v. All Dimasa Students Union, Dima Hasao District Committee and Ors.) and other analogous matters passed In Judgment & Order dated 03.07.2019.”

9. Learned Counsel for State of Meghalaya submitted that with regard to display boards, further steps have been taken and a report dated 03.08.2019 has been filed before this Tribunal and a report will also be filed before the Committee. The Committee may look into the same.
10. As regards effective action against illegal transportation, the Committee has suggested deployment of Central Armed Forces and the State Police. The Committee has also suggested release of certain funds. Learned counsel for the State submitted that the recommendations of the Committee be accepted.

11. **We accept the recommendations of the Committee for release of the amount as presented in para (3) & (4) of recommendations as noted above.** As regards deployment of Central Armed Police Forces (CAPF), our attention has been drawn to earlier proceedings before this Tribunal in order dated 25.03.2015 as follows:
- “1. The Additional Secretary, North East in the Ministry of Home, Central Government shall, within a period of two weeks from today, hold a meeting with the Chief Secretary of the State of Meghalaya and other concerned Authorities and consider the proposal of the State of Meghalaya for deployment of appropriate force to ensure compliance of orders of the Tribunal and protection of the Environment and Ecology, particularly water bodies as recorded in various orders of the Tribunal. We are hopeful, that the decision will be taken objectively and in the interest of public at large.”*
12. We are informed that in pursuance thereof, the Central Government did provide the requisite Forces at that time. In the light thereof, the State of Meghalaya to follow the same course of approaching the Central Government. The Central Government may give due consideration to such proposal expeditiously.
13. Only other issue which survives for consideration is the enforcement of directions of the Hon'ble Supreme Court **for handing over coal already mined and lying at various places in Meghalaya to the Coal India Ltd. As per directions of the Hon'ble Supreme Court, in the judgement dated 03.07.2019 the same may be looked into by the Committee in consultation with the officers of Coal India and the State of Meghalaya. We suggest that the Committee may fix specific timeline for the purpose.**
14. Our attention in this regard has been drawn to a Challan dated 13.08.2019 issued by the Divisional Mining Officer, Jowai with regard to transportation of the 'auctioned' mineral. Learned Counsel for the State may ascertain whether the transportation is in terms of the scheme prepared by the Committee in accordance with the directions of the Hon'ble Supreme Court and if not, remedial action may be taken. The Committee may look into this aspect and applicability of online electronic manifest system for regulating movements of vehicles and issuance of challans as per the Tribunal's order dated 11.04.2019.
15. The companies in question are directed to furnish the requisite information to the Committee, failing which this Tribunal may have to take coercive measures against the Chief Executive Officers of the companies. This aspect will be considered in the light of further report of the Committee. The Committee may also make its recommendations about the conduct of officers

not cooperating in compliance of orders of the Hon'ble Supreme Court and this Tribunal so that the State may take appropriate action and inform this Tribunal.

16. *The Committee has proposed to send its further report by 31.08.2019. Thereafter, a further report be sent after three months by 30.11.2019.*
17. *List again on 10.12.2019 or as and when the occasion arises."*

Supreme Court judgement in appeal from NGT orders

8. We have perused the judgement of the Hon'ble Supreme Court in (2019) 8 SCC 177 in Appeals arising out of orders of this Tribunal. The Hon'ble Supreme has upheld the jurisdiction of this Tribunal in dealing with the matter and constituting the Monitoring Committee. Though the private owners of the land had right in the minerals after deducting handling charges, royalty and Environment Protection Fund, no unregulated and unscientific mining could be carried out. The Mining Policy of the State was required to be consistent with the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and mining, even by owner, is required to be regulated under the statutory scheme. The Environmental Clearance (EC) is required in terms of the relevant Notification. Compliance of MMDR Act, Mines Act, 1952 as well as Environment (Protection) Act, 1986 (EP Act) is necessary. The Mineral Concession Rules 1960 are also required to be followed. **Schedule VI to the Constitution does not affect the said laws.** Order of the Tribunal dated 17.04.2014 was upheld banning Rat Hole mining, as the manner of such mining is not consistent with the statutory scheme. However, the said ban will not bar legal and scientific mining as per statutory scheme. Order of the Tribunal constituting MEPR fund was also upheld. Order dated 04.01.2019 requiring deposit of Rs. 100 Crores with CPCB for restoration of environment was also upheld but the same could be paid

out of the Meghalaya Environment Protection and Restoration Fund' (MEPR Fund). The extracted coal lying at various places was directed to be taken over by Coal India Limited. The coal is to be handed over to Coal India Limited by the State in the manner formulated by the Committee. The State of Meghalaya and Coal India Limited are to deliberate with the Committee to finalize plan for transportation and handing over of the coal for disposal as per Rules which may be beneficial for the owners of the mine as well as the State. The Coal India Limited is also to take steps for payment of the coal and the State of Meghalaya is entitled to royalty and taxes. After deducting cost of transportation/royalty and payment to MEPR fund and taxes plus 10% of the value of the coal, the balance is to be disbursed to the owner. The disbursement is to be made by the State. The coal seized in illegal transportation of illegal mining is to be dealt by the State under Section 21 of the MMDR Act separately.

17.1.2020 order of NGT on 4th to 6th report and change of Chairperson of the Committee

9. The matter was thereafter dealt with on 17.01.2020 in the light of 04th, 05th and 06th Reports of the Committee dated 31.08.2019, 02.12.2019 and 03.12.2019. Before referring the same, we may first refer to the extracts from the first 3 reports dated 02.01.2019, 31.03.2019 and 02.08.2019 which also consider the earlier orders of the Tribunal dated 04.01.2019, 11.04.2019 and 22.08.2019 as follows:-

“Reports

“3.1 First Interim Report

3.1.1 The Committee submitted its First Interim Report dated 31.12.2018 to the Hon'ble NGT on 02.01.2019. The said First Interim report contains findings of the Committee on the following questions framed by the Committee:-

- A. *Whether coal mining activities, including extraction of coal and the transportation of the same, are going on despite the order passed by the Hon'ble NGT imposing ban on coal mining and transportation?*
- B. *Quantity of extracted coal as on the date on which the ban was imposed by the Hon'ble NGT and left to be transported?*
- C. *Quantity of un-inventoried coal which has been extracted before imposition of ban by the Hon'ble NGT?*
- D. *Whether coal mining activities as well as dumping of coal results in adverse environmental effect, if so, the nature and extent thereof?*
- E. *What are the steps required to be taken by the Committee for restoration of the environment and rehabilitation of victims of coal mining?*
- F. *The extent of execution of the Action Plan prepared by the Committee?*

3.2 Second Interim Report

3.2.1 The Committee submitted its Second Interim Report dated 30.03.2019 to the Hon'ble NGT. In the said Report, the Committee placed before the Hon'ble NGT the current status of the following issues:

- (i) Availability and investment of amounts available in the MEPR Fund.*
- (ii) Monitoring of quality of water in the rivers and streams of the areas affected by coal mining.*
- (iii) Steps taken for neutralisation of Acid Mine Drainage (AMD) contaminated water in the rivers & streams of the areas affected by coal mining activities.*
- (iv) Status of the ongoing water supply schemes in coal mining affected areas in East Jaintia Hills District, under the Public Health Engineering Department.*
- (v) Seizure of cranes, trucks etc. involved in illegal mining or transportation and release of such vehicles and equipment.*
- (vi) Skill Development Schemes*
- (vii) Survey of health of the habitants of the areas affected by coal mining.*
- (viii) Framing of Disaster Management Plan, both "on site" and "off site".*
- (ix) Verification of un-inventorised coal.*
- (x) Procurement of coal by the Cement Companies from the local market in the State of Meghalaya.*
- (xi) Pilot Projects to be undertaken by CIMFR-CISR, Dhanbad*
- (xii) Awareness Camps/ Programme.*

- (xiii) *Applications for compensation to the next of kin of the persons who died during illegal mining and to the persons who suffered injuries during due to illegal coal mining.*
- (xiv) *Preparation of Geospatial Database inputs of Planning and Restoration of areas affected by coal mining in the State of Meghalaya.*
- (xv) *Coal mining activities including transpiration of coal.*

3.2.2 *The Committee in the said Report also recommended that the Hon'ble NGT may permit release of an amount of Rs.96.59 lakh for procurement of 6(six) numbers of vehicles mounted with Water Tankers to be used for supplying potable waters to the villagers of the villages in the district of East Jaintia Hills affected by coal mining activities and where the potable water has not so far been supplied.*

3.3 **Third Interim Report**

3.3.1 *The Committee submitted its Third Interim Report dated 02.08.2019 to the Hon'ble NGT on 02.08.2019. In the said Report, the Committee placed before the Hon'ble NGT the current status of the following directions issued by the Hon'ble NGT in the Order dated 11.04.2019:*

- (i) *Release and utilisation of an amount of Rs.96.59 lakh from the MEPR Fund in favour of the Deputy Commissioner, East Jaintia Hills District for purchase of the six vehicles mounted with water tankers.*
- (ii) *Installation of Digital Display Boards at the Headquarters of coal mining affected Districts and Sub-Divisions and display thereon quality of water in ten worst polluted rivers/streams in the District/Sub-Division.*
- (iii) *Audit of the source of coal acquired by the power generation and cement plants in the State of Meghalaya.*
- (iv) *Mechanism to be adopted for effective action against illegal transportation of coal such as electronic manifest system for regulating movement of vehicles and issuance of challans.”*

Order dated 04.01.2019:

“4.1.2 In view of the consistent failure of the State in enforcing the law, the Hon'ble NGT held the State to be liable to deposit a sum of Rs. 100 Crores with the Central Pollution Control Board (CPCB) to be spent for restoration of the environment. The Hon'ble NGT also observed that the Committee may consider seizure of equipment used for illegal mining or transportation, to be released only after payment of 50% of the showroom price of such equipment.

4.1.3. *The Hon'ble NGT in the said order dated 04.01.2019 also suggested that the Committee may consider the following:*

- (i) *Any cranes and trucks found to be involved in illegal mining or transportation which have not yet been seized may also be seized. The seized vehicles or equipment be released by the 4*

concerned District Magistrates only after recovering damages to the extent of 50% of the showroom price of the vehicles or equipment. The said amount may also be credited to the restoration fund.

(ii) Efforts be expedited to identify victims who have suffered at least since 01.07.2012 and to assess loss to the environment and the manner of restoration.

(iii) Disaster Management Plan for the whole of the area 'on site' as well as 'off site' needs to be prepared and put into operation.

(iv) Appropriate technology to replace rat hole mining.

(v) Resource (coal) audit of Meghalaya Power Limited and Star Cement Limited to ascertain the legitimate procurement of coal and its source.

Order dated 11.04.2019:

4.2.2 The Hon'ble NGT in the said order dated 11.04.2019 also noted the finding of the Committee that despite the order passed by the Hon'ble Supreme Court prohibiting transportation of coal, the same has not been stopped by the authorities for the reasons best known to them as well as another finding relating to non-installation of Digital Display Boards in the Sub-Division, Districts and the State Headquarters/Capital, displaying the quality of water in the respective areas for information of general public. The Hon'ble NGT, having regard to the submission of the learned counsel appearing for the State of Meghalaya directed that the aforesaid issues will be duly dealt with and a compliance report shall be filed before the committee within two weeks, directed the Committee to consider the same on its next sitting, i.e., on 25.04.2019. The committee was also given liberty to consider the matter and pass further orders/recommendations.

4.2.3 The Hon'ble NGT vide the said Order also directed that the Committee may consider requirement of foolproof mechanism to be adopted for effective action against transportation of illegally mined coal such as electronic manifest system for regulating movement of vehicles and issuance of challans and also may consider audit of resource of coal acquired by the Power Generation and Cement Plants in the State of Meghalaya.

Order dated 22.08.2019:

4.3.2 The Hon'ble NGT in the said Order dated 22.08.2019 also directed as below:

(i) For making available Central Armed Police Force (CAPF) the State of Meghalaya shall follow the same course of approaching the Central Government as has been done by them in the past in compliance of directions issued by the Hon'ble NGT vide order dated 25.03.2015. The Central Government may give due consideration to such proposal expeditiously.

(ii) *As per directions of the Hon'ble Supreme Court, in the judgement dated 03.07.2019 the enforcement of directions of the Hon'ble Supreme Court for handing over coal already mined and lying at various places in Meghalaya to the Coal India Ltd may be looked into by the Committee in consultation with the officers of Coal India and the State of Meghalaya. The Committee may fix specific timeline for the purpose.*

(iii) *Learned Counsel for the State may ascertain whether the transportation under a Challan dated 13.08.2019 issued by the Divisional Mining Officer, Jowai with regard to transportation of the 'auctioned' mineral is in terms of the scheme prepared by the Committee in accordance with the directions of the Hon'ble Supreme Court and if not, remedial action may be taken. The Committee may look into this aspect and applicability of online electronic manifest system for regulating movements of vehicles and issuance of challans as per the Tribunal's order dated 11.04.2019.*

(iv) *The cement companies in question are directed to furnish the requisite information to the Committee, failing which this Tribunal may have to take coercive measures against the Chief Executive Officers of the companies. This aspect will be considered in the light of further report of the Committee.*

(v) *The Committee may also make its recommendations about the conduct of officers not cooperating in compliance of orders of the Hon'ble Supreme Court and this Tribunal so that the State may take appropriate action and inform this Tribunal.”*

10. Thereafter 04th, 05th and 06th reports were dealt with which are extracted below:-

“4th Interim Report dated 31.08.2019

In the 4th Interim Report the Committee considered the mechanism to deal with the complaints under Section 21 of the MMDR Act of illegal raising and transportation of coal, procedure for exercise of powers under Section 21 (5) of the MMDR Act, action to be taken in new cases of illegal mining/storage and transportation, action for preventing illegal mining and storage, recovery of fresh stock of coal extracted prior to ban, action for violation of Water (Prevention and Control of Pollution) Act, 1974 and EP Act apart from action under MMDR Act, steps for mitigating environment pollution caused by acidic water and emitting from the coal depots/dumps, mechanism in term of EIA Notification of 2006, video recording of consignments for illegal transportation of coal, scheme to reward informers giving information about illegal mining/transportation, establishing coal mine surveillance system and SOP to deduct illegal mining or dumping of coal, disposal of coal confiscated under Section 21(5) of MMDR Act, preparation of geological and feasibility report for scientific coal mining, execution of pilot project for treatment of acidic water and for afforestation and reclamation of coal mining affected land, preparation of draft

guidelines for utilization of amounts of MEPR fund including amount of Rs. 100 Crore transfer to CPCB, continuation of Prof. (retired) A.K. Singh, from Indian School of Mines, Dhanbad as Member of the Committee, recording of coal depots where coal is to be handed over to Coal India Limited by joint Committee. After due consideration the Committee has suggested the following directions:-

“The Hon'ble NGT may consider to pass the following directions:

1. The State of Meghalaya shall constitute a Monitoring Committee under Chairmanship of the Chief Secretary to undertake monthly review of actions taken by various 'Authorized Officers' to file complaints before concerned Courts of Law under Section 21 of the MMDR Act against the persons involved in illegal raising and transportation of coal. (para 5.1.2.12 (i))

2. The State of Meghalaya shall formulate guidelines stipulating therein a detailed procedure for exercise of the powers conferred on the State under sub-section (5) of section 21 of the MMDR Act to recover mineral raised unlawfully from such person or where such mineral has already been disposed to recover price thereof (para 5.1.2.12 (ii))

3. The State of Meghalaya shall mandatorily invoke provisions of sub-section (5) of section 21 of the MMDR Act in all new cases where illegal raising or storage or transportation of coal is detected in the State of Meghalaya. (para 5.1.2.12 (iii))

4. The State of Meghalaya shall in exercise of powers conferred by Section 23 (C) of the MMDR Act formulate rules for preventing illegal mining, transportation and storage of minerals and shall notify the same in the official Gazette within one month. (para 5.1.2.12 (iv))

5. In the cases where any person declares any fresh stock of coal purported to be extracted prior to imposition of the ban by the Hon'ble NGT, apart from other punitive actions, actions under sub-section (5) to section 21 of the MMDR Act to recover such coal shall mandatorily be initiated by the State of Meghalaya (para 5.1.2.12 (v)).

6. Subject to provisions of the Law of Limitation, the MSPCB and CPCB shall initiate necessary action to file complaints under relevant sections of the Water Act against persons involved in raising, storage and transportation of the coal reportedly extracted prior to imposition of ban on rat hole coal mining in the State of Meghalaya by the Hon'ble NGT in April 2014, transportation of which has been allowed by the Hon'ble NGT and the Hon'ble Supreme Court. (para 5.1.3.6 (i))

7. In case any fresh illegal mining, storage or transportation of coal in the State of Meghalaya is detected by the Police or District Administration or the Mining and Geology

Department, apart from initiation of proceedings under relevant provisions of the MMDR Act against the persons involved in such mining, storage and transportation of the coal, the same shall also be intimated to the MSPCB and CPCB for initiation of necessary actions to file complaint against relevant section(s) of the Water Act against such person. Details of all such cases detected after imposition of ban on illegal rat hole coal mining in April, 2017 shall also be communicated to the MSPCB and CPCB for similar actions. (para 5.1.3.6 (ii)).

8. In case any fresh raising of coal in the State of Meghalaya is detected by the Police or District Administration or the Mining and Geology Department, apart from initiation of proceedings under relevant provisions of the MMDR Act against the persons involved in such illegal raising of the coal, the same shall be intimated to the North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change, Government of India for initiation of necessary actions to file complaint against relevant section of the EP Act against such persons. Details of all such cases detected on or after 15.01.2016 shall also be communicated to the North Eastern Regional Office of the Ministry of Environment, Forest and Climate Change, Government of India for similar actions. (para 5.1.4.3(i))

9. The CPCB and the MSPCB shall critically examine the regulatory regime presently in force to govern establishment and operation of coal depots/dumps in the State of Meghalaya and take necessary actions to fill gaps, if any, in such regime to prevent, minimize and mitigate environment pollution caused by acidic water emanating from such depots (para 5.2.3).

10. The State of Meghalaya shall within one month put in place a mechanism stipulated in Appendix XII of the EIA Notification 2006 to regulate transportation of coal in the State. No transportation of coal in the State of Meghalaya shall, after a period of one month, be allowed till such system containing all the features stipulated in the said Notifications is fully operationalized. (para 5.3.7 (i))

11. The State of Meghalaya shall operationalize a system to video record consignment of each truck passing through all probable routes likely to be used for illegal transportation of coal. The State of Meghalaya shall identify suitable locations which may cause least disturbance to non truck traffic and install a system of Close Circuit Cameras to ensure video recording of registration number and consignment of each truck passing through each such routes. To minimize inconvenience to non-truck traffic, feasibility of installation of such system at existing toll gates, checkpoints, parking lanes/ bays etc. may be explored. In case no such toll gates, check points, parking lanes/ bays etc. exist at the required locations, the State of Meghalaya in consultation with and/or assistance of the National Highways and Infrastructure Development Corporation

(NHIDCL) and/or National Highways Authority of India (NHAI) shall construct additional lanes to facilitate checking of trucks without causing inconvenience to other traffic. Temper proof continuous video recordings made at the check points shall be retained at least for a period of one year and shall periodically be reviewed / checked by the authorities in the Police, Civil Administration and Mining & Geology Department from time to time. (para 5.3.7 (ii))

12. State of Meghalaya shall within a month frame a scheme to suitable reward the informers in case the information on illegal mining and/or transportation of coal provided by such informers is found to be true. Confidentiality of the persons furnishing the information, shall at all cost be maintained so that such informer is not threatened by anyone who are interested in continuing coal mining activities. (para 5.3.7 (iii)).

13. The State of Meghalaya with the assistance of North Eastern Space Applications Centre (NESAC), Department of Space, Government of India, shall within a period of three months put in place a Coal Mine Surveillance System (CMSS) in the State of Meghalaya and also develop a Standard Operating Procedure (SoP) providing for effective follow up action, in case any illegal mining or dumping of coal is detected by the MSS. The CMSS to be developed may be similar to one which has already been developed by the Ministry of Mines and Indian Bureau of Mines (IBM) with assistance from the Bhaskaracharya Institute for Space Application and Geo-Informatics (BISAG), Gandhinagar and Ministry of Electronics and Information Technology (MEITY). {para 5.3.7 (iv)}.

14. The coal which has either been recovered by the State in exercise of powers conferred under sub-section (5) of Section 21 of the MMDR Act or has been confiscated in favour of the State of Meghalaya by an order of a Court of Law and the coal which has been seized by the Officers Authorised by the State Government in this behalf disposal of which has been permitted by the concerned Competent Court of Law, shall be disposed of only through e-auction conducted by the Coal India Limited {para 5.3.7 (v)}.

15. The State of Meghalaya shall expedite drilling of requisite number of bore-holes in 1 sq. km. area in Khliehriat-Sutnga area in East Jaintia Hills District and complete preparation of Geological Report and Feasibility Report for scientific coal mining in the said area within two months. {para 5.4.2.2 (i)}.

16. The State of Meghalaya is allowed to use an amount of Rs. 4,15,000 (rupees four lakh fifteen thousand) only plus GST at the applicable rates for execution of a Pilot Project on treatment of acidic water at a Water Supply Scheme (WSS) under the Public Health Engineering (PHE) Department at Lelad village in East Jaintia Hills District by using micro-algae consortia as an alternative to lime solution by M/s.

Trinity Impex International & Phycospectrum Environmental Research Centre. {para 5.5.6.6 (i)}.

17. The State of Meghalaya and the CPCB are allowed to utilize an amount of Rs.40,36,500/- from the MEPR Fund to implement a pilot project for afforestation and reclamation of coal mining affected land and organization of a festival-cum-mass awareness programme submitted by the Principal Chief Conservator of Forest (Climate Change Research and Training), Govt. of Meghalaya and North Eastern Regional Directorate of the CPCB. (para 5.5.8.2 (i)).

18. The State of Meghalaya shall within one month formulate draft guidelines, strictly in conformity with the broad parameters suggested by the Justice Katakey Committee in its fourteenth Sitting held on 03.06.2019, for utilization of amounts available in the MEPR Fund in an expeditious and transparent manner and submit the same to the Committee. The Committee shall examine the draft guidelines and place the same along with its comments thereon before this Tribunal within one month of receipt of the guidelines. (para 5.5.9.8 (i)).

19. The amount available in the MFPR Fund including an amount of Rs. 100 Crores transferred to the CPCB in compliance of direction issued by the Hon'ble Supreme Court in paragraph 179 of Judgment dated 03.07.2019 in the Civil Appeal No. 10720 of 2018 in the matter of State of Meghalaya versus All Dimasa Student Union, Dima-Hasao District Committee and Ors. and other connected matters and the interest accrued thereon shall be used exclusively for implementation of Action Plan prepared by the Committee for restoration of environment in areas affected by coal mining in the State of Meghalaya. The Committee based on inputs received from various stakeholders or on its own motion may periodically review, revise and update the Action Plan. (para 5.5.9.8 (ii)).

20. Even after expiry of the term of his engagement as a Chair Professor at Indian School of Mines (IIT-ISM), Dhanbad, Professor (Retd.) A.K. Singh shall continue to be a member of the Committee as a representative of the Director, IIT-ISM, Dhanbad. (para 5.7.1.3 (i)).

21. Video recording of all the coal depots where the coal to be handed over to the Coal India Limited is presently lying, to be recorded by joint teams consisting of a representative from the Mining and Geology Department, Meghalaya State Pollution Control Board and the Coal India Limited, in the manner as directed by the Committee in its First Special Sitting held at Shillong on 12.07.2019 and use of high resolution satellite imageries for different time-intervals since the imposition of ban on coal mining by the Hon'ble NGT to ascertain continuous existence of all such coal dumps since imposition of ban on coal mining by this Hon'ble Tribunal in April 2014, shall be essential components of the Policy being formulated by the State

of Meghalaya for handing over of the coal to the Coal India Limited for disposal through e-auction. (para 5.7.4.7 (i)).

The Committee in this report dated 31.08.2019 has highlighted the various orders passed by the Hon'ble NGT, gist of various earlier reports submitted by it, the directions issued by the Hon'ble NGT on the said reports, relevant order passed by the Hon'ble Supreme Court and the issues examined by the Committee after submission of the second interim report, together with summary of recommendations for consideration of the Hon'ble NGT, as the Committee has completed one year from the date of its constitution by the Hon'ble NGT vide its order dated 31.08.2018.”

5th Interim Report dated 02.12.2019

The 5th Interim Report mere the back ground of earlier proceedings, sums up the minutes of the meetings and analysis the information given by the industries and regulatory authorities at length and thereafter records findings and recommendations. The report has been uploaded on the website of the National Green Tribunal. The questions considered in the said report in para 2.2.6 are:-

1. Whether the specific coal requirement of aforementioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited and its subsidiaries is substantially lower than specific coal requirement stated in the respective TEFRs?
2. What is the actual specific coal requirement for the aforementioned Cement Manufacturing Plants and a Thermal Power Plant of the Star Cement Limited?
3. Whether it is technically feasible to use huge quantity of slate in lieu of coal without making any modification in design of these Plants?
4. Whether the afore-mentioned Plants of Star Cement Limited and its subsidiaries have actually used huge quantity of alternate fuel (*i.e.* Slate) in lieu of coal?
5. Whether slate, if used, has been used after obtaining all requisite regulatory approvals?

After analyzing the entire data the findings recorded are:-

“CHAPTER 3: FINDINGS AND RECOMMENDATIONS

1.1.1 FINDINGS

- 1.1.2 3.1.1 *Except for the clinker manufacturing plant of the Mawmluh Cherra Cement Limited (A State PSU) and Captive Power Plants of the Maithan Alloy Limited and the CMJ Breweries Private Limited, there is a huge gap in quantity of coal required to produce reported quantity of clinker and/or power and the coal reported to be purchased from legal sources during the Audit Period by all other*

Cement Manufacturing Plants and Thermal Power plants in the State of Meghalaya for which resource (coal) audit could be completed by the Committee. Year-wise quantities of the coal required to produce reported quantities of clinker and/or power, the coal actually purchased from legal sources and the gap between the two for each of these Plants are as below:

(metric tonnes)

Plant	Items	Year					Total
		2014-15	2015-16	2016-17	2017-18	2018-19	
1	2	3	4	5	6	7	
<i>Star Cement Limited and its two subsidiaries</i>	<i>Coal required *</i>	4,24,636	4,73,806	4,93,365	4,70,145	4,50,096	23,12,048
	<i>Coal procured **</i>	97,047	2,64,674	61,830	1,29,020	1,13,201	6,65,772
	<i>Gap</i>	3,27,589	2,09,132	4,31,535	3,41,125	3,36,895	16,46,276
<i>Amrit Cement Limited and its captive TPP</i>	<i>Coal required *</i>	84,323	1,06,548	1,05,745	1,00,155	1,46,919	5,43,690
	<i>Coal procured **</i>	3,861	88,165	38,785	74,978	31,833	2,37,622
	<i>Gap</i>	80,462	18,383	66,960	25,177	1,15,086	3,06,068
<i>Dalmia Cement (Bharat) Limited and its Captive TPP</i>	<i>Coal required*</i>	2,00,028	2,01,797	1,94,234	2,22,215	2,56,324	10,74,598
	<i>Coal procured **</i>	17,433	98,296	56,208	1,07,092	54,478	3,33,507
	<i>Gap</i>	1,82,595	1,03,501	1,38,026	1,15,123	2,01,846	7,41,091
<i>Goldstone Cement Limited and its Captive TPP</i>	<i>Coal required*</i>	0	0	39,652	1,15,104	1,47,919	3,02,675
	<i>Coal procured **</i>	0	0	5,918	21,295	4,946	32,159
	<i>Gap</i>	0	0	33,734	93,809	1,42,973	2,70,516
<i>Green Valley Industries Limited</i>	<i>Coal required *</i>	58,205	55,262	57,505	64,673	65,398	3,01,043
	<i>Coal procured **</i>	44,844	50,555	46,762	51,068	30,278	2,23,507
	<i>Gap</i>	13,361	4,707	10,743	13,605	35,120	77,536
<i>Hill Cement Company Limited</i>	<i>Coal required *</i>	18,397	32,158	38,548	30,600	35,085	1,54,788
	<i>Coal procured **</i>	0	11,989	9,797	2,248	13,347	37,381
	<i>Gap</i>	18,397	20,169	28,751	28,352	21,738	1,17,407

<i>JUD Cements Limited</i>	<i>Coal required *</i>	29,761	38,604	23,994	28,249	20,576	1,41,184
	<i>Coal procured **</i>	0	16,348	2,099	377	370	19,194
	<i>Gap</i>	29,761	22,256	21,895	27,872	20,206	1,21,990
<i>Meghalaya Cements Limited and its Captive TPP</i>	<i>Coal required *</i>	1,43,334	1,72,873	1,53,873	1,84,291	1,85,140	8,39,511
	<i>Coal procured **</i>	96,533	44,686	45,968	54,012	53,987	2,95,186
	<i>Gap</i>	46,801	1,28,187	1,07,905	1,30,279	1,31,153	5,44,325
<i>Captive TPP of Shyam Century</i>	<i>Coal required *</i>	54,499	46,959	88,743	58,563	29,497	2,78,261
	<i>Coal procured **</i>	43,576	32,461	72,086	13,704	4,960	1,66,787
	<i>Gap</i>	10,923	14,498	16,657	44,859	24,537	1,11,474
<i>Ferrous Limited</i>	<i>Coal required *</i>	10,13,183	11,28,007	11,95,659	12,73,995	13,36,954	59,47,798
	<i>Coal procured **</i>	3,03,294	6,07,174	3,39,453	4,53,794	3,07,400	20,11,115
	<i>Gap</i>	7,09,889	5,20,833	8,56,206	8,20,201	10,29,554	39,36,683

*: Coal required to produce reported quantities of clinker and/or power

**: Coal reported to be procured from legal sources.

3.1.2 The Committee is of the view that the entire gap of 39.37 lakh MT between the quantity of the coal required to produce reported quantity of the clinker and the electrical power and the coal purchased from legal sources by these Plants during the Audit Period constituting about two-third of the coal requirement of these plants during the Audit Period has been met from the illegally mined local coal. Demand for a huge quantity of illegally mined coal from these plants has sustained and supported a wide scale illegal rat-hole coal mining in the State of Meghalaya in flagrant violation of a ban imposed by the Hon'ble NGT.

3.1.3 Continuance of illegal rat-hole coal mining in the State of Meghalaya to meet the huge requirement of coal for these Cement Manufacturing Plants and the Thermal Power Plants have caused huge damage to flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya. It has also made

the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining virtually inoperative.

3.1.4 *No royalty, taxes and any other statutory levies has been paid to the State of Meghalaya on the illegally mined coal utilised by these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period resulting in a huge loss to the State exchequer. In fact ban on the illegal rat-hole coal mining in the State of Meghalaya came as a boon to these Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya as it virtually exempted them from the requirement of payment of royalty, taxes and other statutory levies payable on more than two-third of the coal consumed by them. The amounts of royalty (@ Rs. 675 per MT), contribution to Meghalaya Environment Protection and Restoration Fund (MEPR Fund) at the rate of Rs. 485 per MT and GST/VAT @ 5 % of the sale value of approx. Rs. 8,000 per MT amounting to Rs 400 per MT) payable on the illegally mined coal utilised by each of these Cement Manufacturing Plants and Thermal Power Plants during the Audit Period are as below:*

S. No.	Plant	Qt. of illegal coal used (MT)	Royalty	MEPRF	GST/VAT	Total
1.	2.	3.	4.	5.	6.	7
1.	Star Cement Limited and its two subsidiaries	16,46,276	111.124	79.844	65.851	256.819
2.	Amrit Cement	3,06,068	20.660	14.844	12.243	47.747
3.	Dalmia Bharat Cement Ltd	7,41,092	50.024	35.943	29.644	115.610
4.	Goldstone Cement Ltd.	2,70,516	18.260	13.120	10.821	42.200
5.	Green Valley Industries Ltd.	77,536	5.234	3.760	3.101	12.096
6.	Hill Cement Ltd.	1,17,407	7.925	5.694	4.696	18.315

7.	JUD Cement Ltd.	1,21,990	8.234	5.917	4.880	19.030
8.	Meghalaya Cement Ltd.	5,44,325	36.742	26.400	21.773	84.915
9.	Shyam Century Ferrous Ltd.	1,11,474	7.524	5.406	4.459	17.390
	Total	39,36,684	265.726	190.929	157.467	614.123

3.1.5 *The royalty and VAT/GST amounting to Rs. 423.194 Crore payable on illegally mined coal utilised by the Cement Manufacturing Plants and Thermal Power Plants, if realised and properly utilised, can significantly enhance living standard of the tribal residents, especially those residing in the areas affected by such illegal coal mining, of the State. Similarly, an amount of Rs. 190.929 Crore payable to MEPR Fund for the said illegally mined coal utilised by these Plants, if properly utilised, may greatly help in restoration of flora, fauna, rivers, streams, water bodies and the environment in general damaged by illegal rat-hole coal mining in the State of Meghalaya.*

3.1.6 *Claim of these Cement Manufacturing Plants and Thermal Power Plants that about two-third of their coal requirement have been met by a non-fuel mineral (i.e. slate) without making any change in the design of these plants is not tenable. The Committee, based on a detailed analysis given in para 2.2.26 to 2.2.52, is of the view that it is neither technically feasible nor legally permissible for these plants to replace more than two-third of their coal requirement by a non-fuel mineral such as slate.*

3.1.7 *These Plants have purchased illegally mined local coal in the name of slate to circumvent the ban imposed by the Hon'ble NGT on illegal rat-hole coal mining in the State of Meghalaya and also to evade payment of royalty, GST/VAT and other statutory levies and contribution to MEPR Fund on the coal utilised by them.*

3.1.8 *Even for the sake of an argument it is assumed that the claim of these plants that more than two-third of their coal requirement during the Audit Period has been met by a non-fuel mineral (viz. slate) without making any change/modification in the design of these plants is true, it would have caused equal, if not more, damage to the flora, fauna, rivers, streams, water bodies and the environment in general in the State of Meghalaya as all such slate has admittedly been mined in an unscientific and haphazard*

manner without any mitigative measures and without obtaining mandatory mining lease, consent to establish, consent to operate, environmental clearance and authorisation/no-objection certificate from the State Pollution Control Board in a flagrant violation of the existing mining, environmental, pollution control and labour safety laws.

3.1.9 Transportation and use of a huge quantity of illegally mined coal by these plants could not have escaped notice of regulatory authorities, both in the State of Meghalaya and the Union of India. It could not have escaped notice to the District and police administration. Instead of taking actions to prevent use of illegally mined coal by these plants and to initiate appropriate proceedings under relevant provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 against these Plants for use of illegally mined local coal, the regulatory authorities have tried to regularise/justify the use of illegally mined coal by accepting royalty on slate claimed to be used by these plants and by supporting the claim of these Plants that it is technically and legally feasible to replace two-third of the coal requirement of these plants by a non-fuel mineral such as slate and the slate can be used by these plants as a waste without obtaining any clearance under the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981; the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder.

3.1.10 As per information provided to the Committee by the Mining and Geology Department in the State of Meghalaya, none of these plants participated in a public auction conducted by the State of Meghalaya to sell more than 38,000 MT of seized coal available at locations in close vicinity of majority of these plants. The Committee therefore is of the view that a major part of the coal requirement of these plants is still being met from illegally mined local coal.

3.2 RECOMMENDATIONS

3.2.1 To put a stop to the illegal rat-hole mining of the coal being undertaken in the State of Meghalaya in flagrant violation of the mining, environmental and labour safety laws as well as the orders issued by the Hon'ble Supreme Court and the Hon'ble NGT to meet the requirement of the coal for the Cement Manufacturing Plants and Thermal Power Plants in the State of Meghalaya and also to restore damage caused the flora, fauna, rivers, streams, water bodies and environment in general by illegal rat-hole coal mining, the Committee recommends that the Hon'ble NGT may consider to issue the following directions:-

1. *The Chief Secretary of the State of Meghalaya shall undertake monthly review the quantity of clinker and/or power produced by each Cement Manufacturing Plants and Thermal Power Plant in the State of Meghalaya and the quantity of coal purchased by each such plant from legal sources to produce such reported quantities of clinker and/or power. Such review for a month shall be undertaken on or before tenth day of the next month. A quarterly report stating therein the month-wise quantities of clinker and/or power produced, quantity of coal consumed to produce such quantities of clinker and/or power by each such plant and action(s), if any, taken against any such plant in case of any anomaly observed during the review shall be submitted to this Tribunal by the Chief Secretary, Meghalaya. Such report for a quarter shall be submitted to this Tribunal on or before fifteenth day of the next quarter.*

2. *The State of Meghalaya; the Ministry of Environment, Forest and Climate Change, Government of India and the Meghalaya State Pollution Control Board shall initiate proceedings in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957; the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 the Environment (Protection) Act, 1986 and the rules, regulations & guidelines framed thereunder against each of the Cement Manufacturing Plants and the Thermal Power Plants who has used illegally mined local coal after a ban on the rat-hole coal mining in the State of Meghalaya was imposed by this Tribunal in the month of April, 2014.*

3. *The State of Meghalaya shall realise royalty, GST/VAT, contribution to the MEPR Fund and any other statutory tax and/levy payable on the illegally mined coal utilised by these Cement Manufacturing Plants and the Thermal Power Plants in the State of Meghalaya after the ban on illegal rat-hole mining in the State of Meghalaya was imposed by this Tribunal in April 2014.*

4. *To restore the damage caused to the flora, fauna, rivers, streams, water bodies and the environment in general by illegal rat-hole mining of coal and also to mitigate the suffering caused to the local tribal residents by the illegal rat-hole coal mining, the State of Meghalaya shall realise from each of the aforementioned Cement Manufacturing Plants and Thermal Power Plants who have used illegally mined local coal after a ban on illegal rat-hole coal mining was imposed by this Tribunal in the month of April 2014, an amount of Rs. 400 per tonne of coal to be utilised by each such plants on or after the date of this order and deposit the same in the MEPR Fund. Such amount for coal utilised during a month shall be realised on or before fifteenth day of the next month. Not less than fifty percent of these amounts shall be utilised for restoration of damage caused to the flora, fauna, rivers,*

streams, water bodies and the environment in general by illegal rat-hole mining of the coal in the State of Meghalaya. The balance amounts shall be utilised for socio-economic development of the tribal residents in areas affected by the coal mining in the State of Meghalaya. It is clarified that the afore-mentioned amount of Rs. 400 per MT of coal shall be in addition the contribution to MEPRF at the rate of Rs. 485 per MT of coal already being realised by the State in compliance of earlier orders of this Tribunal. The Chief Secretary, Meghalaya shall formulate draft guidelines for utilisation of these amounts and place the same before the Committee constituted by this Tribunal under Chairmanship of Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The Committee shall within one month from the date of receipt, examine the draft guidelines and place the same along with the comments/observation before this Tribunal for approval.

5. The North Eastern Regional Directorate of the CPCB shall complete audit of coke claimed to be utilised by the Jaintia Cement Limited and the Virgo Cement Limited and submit a report to the Committee constituted by this Tribunal under Chairmanship of the Mr. Justice B.P. Katakey, former Judge, Guwahati High Court. The North Eastern Regional Directorate of the CPCB shall also submit the report sought by the said Committee in respect of the Captive Thermal Power Plant of Shree Shakambari Ferro Alloys Pvt. Ltd.”

6th Interim Report dated 3.12.2019

The 6th Interim Report deal with the objections raised by the State of Meghalaya before the Committee on the ground that the same is in violation of directions of the Hon'ble Supreme Court. After elaborate discussion of each and every objections raised by the State. The Committee summarized its recommendations as follows:-

“CHAPTER- 6: SUMMARY OF RECOMMENDATIONS

6.1 The Committee recommends that the Hon'ble NGT may consider to pass the following directions:

1. The State of Meghalaya shall, immediately, provide to the North Eastern Space Application Centre (NESAC), Department of Space, Government of India, Umiam, the location (latitude and longitude) and other details of each dump where coal to be auctioned is located. The NEASC, shall within one week from the date of receipt of these details prepare a geo-referenced map depicting the

location of each of these dumps and provide a copy of the same to the Secretary to the Government of Meghalaya, Mining and Geology Department and the Coal India limited for placing a copy thereof along with a list containing name and address of the owner and quantity of coal available at each such dump on their respective websites. (Para 2.20 WI

2. The Secretary to the Government of Meghalaya, Mining and Geology Department shall, immediately, place on website of the Department a copy of the additional affidavit containing details of 32,56,715 MT coal stated to be available at various depots filed before the Hon'ble Supreme Court on 10.04.2019 by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department . (Para 2.20 (ii))

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

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

(b) Immediately before the additional affidavit dated 10.04.2019 containing details of 32,56,715 MT coal stated to be available at various depot was filed before the Hon'ble Supreme Court by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department; and (Para 2.20 (iii) (b)).

(c) Once in the year 2015, 2016, 2017 and 2018, preferable in the month of April. (Para 2.20 (iii) (c))

4. Based on the said land-use land-cover analysis, the NESAC shall divide the coal available at each of the depot where the 32,56,715 MT coal is stated to be available into three categories namely:

(a) The coal continuously existing at the depot since the ban on the illegal rat-hole mining was imposed by this Tribunal on 17.04.2014; (Para 2.20 (iv) (a))

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

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

5. The finalisation of the mode and manner for handing over of the coal to the Coal India Limited and the disposal of the coal by the Coal India Limited through e-auction shall

not wait completion of the afore-mentioned study by the NESAC the amount realised from sale of such coal will however not be disbursed to the respective owner till the said study in respect of such coal is completed by the NESAC. (Para 2.20 (v))

6. *The amount realised from auction of the coal shall be disbursed in the following manner:*

(a) *The State of Meghalaya shall exercise the powers vested on it under subsection (5) of section 21 of the Mines and Mineral (Development and Regulation) Act, 1957 and recover the amounts realised from the auction of the coal which was dumped at the depot after 10.04.2019 and transfer all such amounts along with taxes/royalty/levies realized thereon to the Consolidated Fund of the State of Meghalaya. Contribution to the MEPR Fund realised for such coal shall be transferred to the MEPR Fund. (Para 2.20 (vi) (a))*

(b) *Amounts realised from the sale of the coal which is continuously available in at the Depot shall be transferred to the respective owner. Taxes/royalty/levies realised on such coal shall be transferred to the Consolidated Fund of the State of Meghalaya. Contribution to the MEPR Fund realised for such coal shall be transferred to the MEPR Fund. (Para 2.20 (vi) (b))*

(c) *Details of all such coal which was dumped at a depot between 17.04.2014 and 10.04.2019 shall be placed before the Hon'ble Supreme Court. Disbursal of amounts realised from the sale/auction of such coal shall be done in the manner the Hon'ble Supreme Court may stipulate. (Para 2.20 (vi) (c))*

7. *The State of Meghalaya and the Coal India Limited shall provide all the information and documents sought by the Katakey Committee for finalization of mode and manner of handing over of the coal available at various Depots to the Coal India Limited. The Committee shall finalize the mode and manner for handing over of the coal available at various depots to the Coal India Limited strictly in conformity with the directions issued by the Hon'ble Supreme Court. The State of Meghalaya and the Coal India Limited shall abide by the mode and manners finalised by the said Committee. (Para 2.20 (vii)).*

8. *To resolve disputes involving adulteration of coal quality in a lot between the day it is notified for auction and the day on which entire coal available in such lot is lifted*

by the successful bidder the collection and maintenance of reference samples by the Coal India Limited in the manner and for a period provided for collection and maintenance of such samples in the normal process of disposal of coal through e-auction by the Coal India Limited shall be an integral component of the mode and manners for handing over of the coal to the Coal India Limited. (Para 2.20 (viii)).

9. *The mode and manner for handing over of the coal to the Coal India Limited shall contain time-lines for each step involved in handing over of the assessed coal to the CIL and its subsequent auction by the CIL. (Para 2.20 (ix))*

10. *Nature of records to be maintained and the authorities responsible to maintain each such record shall be specified in the mode and manner for handing over of the coal to the Coal India Limited. (Para 2.20 (x)).*

11. *Number of officers of different ranks to be deployed by the Coal India Limited to plan, execute and monitor disposal of the coal through e-auction shall be specified in the mode and manner to be finalised by the Katakey Committee. (Para 2.20 (xi))*

12. *Reserve Price of the coal to be auctioned shall be fixed by the Coal India Limited as per its existing rules and policies for disposal of the coal through e-auction. (Para 2.20 (xii))*

13. *The Coal India Limited, the State of Meghalaya, the owner of the coal and their officers/employees shall be responsible for their respective acts of omission and commission in any dispute which may arise relating to quality and quantity of the coal stated to be available at various depots. (Para 2.20 (xiii)).*

14. *The mode of manner for handing over of the coal to the Coal India Limited shall provide for a legally tenable and practically feasible dispute resolution framework. (Para 2.20 (xiv)).*

15. *The State of Meghalaya shall install and make fully functional, within a month, a system involving establishment of a centralised server, uploading of transport permit/challans and tracking of coal loaded trucks through GPS and RFID tags as stipulated in the said Appendix-X[1 to the EIA Notification, 2016 to prevent and detect multiple use of transport permit/challans. Transportation of the coal in the State of Meghalaya shall not be permitted till the said system is made fully operational. (Para 2.20 (xv)).*

16. *The State of Meghalaya and the Meghalaya State Pollution Control Board shall initiate necessary actions to file compliant under relevant sections of the Mines and Mineral (Development and Regulation) Act, 1957, the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, and the Environment (Protection) Act, 1986 against the persons responsible for raising of transportation of all such coal which was dumped at any such depot on or after 10.04.2019. (Para 2.20 (xxvi)).*

17. An agency not under superintendence and control of the State of Meghalaya shall enquire into the matter of export of illegally mined coal to Bangladesh, in the guise of coal permitted to be transported by various orders passed by the Hon'ble NGT and the Hon'ble Supreme from time-to-time, identify the person(s) responsible for such export and file complaint before the concerned competent Courts of Law under relevant provisions of the Law against all such persons. (Para 3.20 (i))

18. The State of Meghalaya shall place before this Tribunal the periodical details (viz. name & full address) of the exporter for each consignment of coal originating from the Meghalaya which was allowed by the Mining and Geology Department in the Government of Meghalaya for export to the Bangladesh from each of the seven LCS in Meghalaya since the ban on rat hole coal mining in Meghalaya was imposed by the Hon'ble NGT in April, 2014. (Para 3.20 (ii))

19. The State of Meghalaya shall initiate necessary actions in accordance with provisions of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 against the persons responsible for export of the illegally raised coal to the Bangladesh from each of the seven LCSs in the State of Meghalaya in the guise of the coal permitted to be transported by the Hon'ble NGT and the Hon'ble Supreme Court by order passed from time-to-time. The actions to be initiated against such persons shall include actions under sub-section (5) of Section 21 of the said Act to recover price of such illegally raised coal along with rent, royalty or tax, as the case may be, payable to the Government in respect of such coal. (Para 3.20 (iii))

20. In case the coal reported to be available at several location between the DMR Checkgate/ weighbridge and the Custom exit point at Gasuapara and such other Custom exit points in the State of Meghalaya is not a part of the 32,56,715 MT assessed coal to be handed over to the Coal India Limited for disposal through e-auction the Mining and Geology Department in the State of Meghalaya initiate necessary actions in accordance with provisions of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 against the persons responsible for raising and transportation of such coal and submit a report to this Tribunal. Such action shall include actions under sub-section (5) of section 21 of the said Act to recover all such illegally raised coal. (Para 3.20 (iv)).

21. The State of Meghalaya shall within three months, establish integrated check post and temper-proof weigh-in-motion weighbridge at each of the seven LCSs in the State of Meghalaya. Each such integrated check-post and weigh-in-motion weighbridge shall jointly be manned by the representative, one each from the Mining and Geology Department and the Forests & Environment Department in the State of Meghalaya and the Border Security Force (BSF) and the Customs Department in the Union of India. Each such integrated check-post and weigh-in-motion

weighbridge shall be provided with an adequate number of CCTV cameras to ensure video recording of the registration number and the consignment loaded in each truck passing through such integrated check-post and the weighbridge. The network of CCTV cameras to be installed at the weighbridge shall also ensure video recording of the display panel indicating weight of each truck passing through such weighbridge. The footage of each CCTV camera installed at each integrated check-post and the weighbridge shall be retained for a minimum period of one year. (Para 3.21 (i))

22. Vigilance wing in the Customs and the BSF in the Union of India and the Home (Police) Department in the State of Meghalaya shall undertake regular inspection of the integrated check-posts and weigh-in-motion weighbridge and submit a quarterly report on such inspections to the Chief Secretary, Meghalaya and their respective Departmental Heads. (Para 3.21 (ii)).

23. The Director General of Police, Meghalaya shall ensure that all the person and vehicles, equipment, tools and machineries involved in raising and transportation of about 80,000 MT seized by the Meghalaya Police are identified and necessary action as per the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and all other relevant Statutes and the rules framed thereunder are taken against all such persons and vehicles, equipment, tools and machineries. The similar actions shall also be taken for the coal, if any, to be seized in future. A monthly report on all the cases where the persons and vehicles, equipment, tools and machineries involved in raising and transportation of the seized coal could not be identified shall be submitted. (Para 4.19. (i))

24. The Director General of Police shall provide to the Meghalaya State Pollution Control Board details of persons involved in illegal mining and transportation of the coal. The Meghalaya State Pollution Control Board shall file complaint before the concerned competent Court of Law under relevant sections of the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the rules, guidelines and notifications issued thereunder against such persons. (Para 4.19 (ii)).

25. The State of Meghalaya shall formulate a comprehensive policy for auction of the seized coal and place a copy of the same before this Tribunal within a month. The policy shall provide, among others, establishment of a centralised depot in each coal mining affected district for safe and scientific storage of the seized coal and disposal of the seized coal in a fair and transparent manner after giving wide publicity. The Policy shall specifically provide that no coal shall be disposed of without giving a prior notice of atleast thirty (30) days. The copy of each such notice shall be published in atleast two prominent dailies having wide circulation. (Para 4.19 (iii)).

26. The State of Meghalaya shall, within a month, formulate a simple procedure for verification of the claims for receipt of ex-gratia from the labourers who received injuries while working in illegal rat-hole coal mines in the State of the Meghalaya and also from the next-of kin of laborers who were killed while working in such mines. Such procedure may contain adequate safeguards to detect, deter and reject false claims. (Para 5.4 (1)).

27. State of Meghalaya shall disburse an amount of rupees five lakh to next of kin of each of the labourers who were killed while working in any illegal rat-hole coal mining in the State of Meghalaya including the labourers which were killed in a tragic accident in an illegal rat-hole mine in Ksan village in East Jaintia Hill district in December 2018. {Para 5.4 (ii)}.

28. State of Meghalaya shall disburse an amount of rupees five lakh to next of kin of each of the labourers who were killed and rupees two lakh to each of the labourers who received serious injuries while working in any illegal rat-hole coal mining in the State of Meghalaya including the labourers which were killed or received serious injuries in a tragic accident in an illegal rat-hole mine in Ksan village in East Jaintia Hill district in December 2018 and in South Garo Hills District in the year 2012.

29. State of Meghalaya, Meghalaya State Pollution Control Board and Central Pollution Control Board, shall implement the Action Plan prepared by the Committee, with modification wherever required and submit periodical report.

Before parting with the report, the Committee expresses its sincere gratitude to the Hon'ble National Green Tribunal in giving the opportunity to work on the subject.”

11. The said three reports were considered as follows:-

“1to19...xxx.....xxx.....xxx

20. We have perused objections to the reports of the Committee dated 31.08.2019, 02.12.2019 and 03.12.2019 filed by the State of Meghalaya. During the hearing, we confronted learned senior counsel for the State of Meghalaya with the fact that since work of the Committee has been commended by the Hon'ble Supreme Court as well as by this Tribunal earlier, the nature of objections is not appreciable. Learned senior counsel fairly stated that he will not press the objections. In the response to the report, he merely handed over a note to submit that some of the recommendations were not feasible. We quote the relevant part of the note to consider the said objections:-

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S. N.	Recommendation	Not feasible	Reasons for being non-feasible
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1	<p>i. The State of Meghalaya shall provide NESAC the Longitudes & Latitudes of each dump where coal is to be auctioned.</p> <p>ii. NESAC to prepare geo-reference mapping for location of each dump and give it to State and CIL.</p> <p>iii. State and CIL will put it on their website.</p>	√	<ul style="list-style-type: none"> • Duplication of exercise of identification of sale-points. • Geo-referencing details already there in affidavit filed by State which has been provided to CIL and the same will be put up on website. • In terms of para 48 and 187-192 of the judgment of Supreme Court this exercise is not required.
2	NESAC to conduct annual land-use land cover analysis to determine continuous existence of coal on the sale point.	√	<ul style="list-style-type: none"> • Unnecessary exercise. • Supreme Court observed in Para 189 that All this 32,56,715 coal is illegally mined. • Yet directed its disposal thorough CIL and disbursal of funds to owners in paras 192-192.
3.	NESAC shall then divide each sale-point into 3 categories, viz. (i) Coal continuously existing (ii) Dumped after 17.04.2014 (iii) Dumped after filing of affidavit		Same as in respect of 2 above
4.	Money realized from auction of coal shall not be disbursed till NESAC study is completed		Same as in respect of 2 above
5.	Amount realized shall be disbursed in following manner: (i) For Coal existing prior to 17.04.14-immediately. (ii) For coal dumped between 17.4.14 and filing of affidavit to be placed before SC for further direction. (iii) For coal dumped thereafter – All money to be transferred to State funds.	√	<ul style="list-style-type: none"> • Contrary to Supreme Court judgment. Even after observing in Para 189 that ALL this 32,56,715 Coal is illegally mined, SC directed its disposal thorough CIL and disbursal of funds to owners in Para 192. • In para 186 the Supreme Court has affirmed ownership of private miners on all this 32,56,715 MT Coal and held that their proprietary rights are not extinguished.
6.	Collection and maintenance of samples from each lot for purpose of future dispute resolution.	√	<ul style="list-style-type: none"> • There are more than 20,000 sale points. • Further, the auction is on '<u>As is where is</u>' basis and <u>prospective bidders are being given 14 days' time to physically verify the quantity and quality of coal lying at the dump.</u> • <u>Owners are also mandated to submit NABL accredited lab certificate as to grade and sulfur content of Coal before their dump is notified for auction and the same shall be part of auction notice.</u>
7.	Reserve Price of Coal to be auctioned shall be fixed by CIL as per their existing policy.	√	<ul style="list-style-type: none"> • CIL has refused to do so in meeting dated 14.10.2019 and again on 02.12.2019 on the ground that it is not practically possible or technically and financially feasible for CIL to physically verify the quality of each lot of Coal located at 20,000 sale points for fixation of reserve price which is also dependent upon the cost of transportation of the same. • CIL submitted that it has no experience of coal mining in

			<p>conditions like Meghalaya and has no experience of lifting and transportation of coal in such terrain where most of the stocks can be assed only through smaller four-wheel trucks and the hilly roads also cannot bear the load of huge quantity of coal being transported simultaneously.</p> <ul style="list-style-type: none"> • These factors substantially affect the reserve price fixation of Coal. • The State of Meghalaya is having more experience of the coal mining and coal trading practices in the State of Meghalaya and having such domain knowledge of marketability of such Coal, is better suited to fixe reserve price.
8.	<i>CIL / State of Meghalaya/ owner/employee/ officer shall be liable for disputes relating to quality and quantity</i>	√	<ul style="list-style-type: none"> • The question of providing a Dispute Resolution Process in the plan does not arise because Auction is on 'as is where is' basis and Prospective bidders are allowed to inspect the lot before bidding. Hence, no liability of CIL and State of Meghalaya thereafter. • However, in case of a dispute between the seller and the buyer the remedy under ordinary law of the land is always available to them.
9.	<i>To provide legally tenable and practically feasible Dispute Resolution Mechanism</i>	√	<ul style="list-style-type: none"> • Same as in respect of 8 above.
10.	<i>Enquiry by an outside Agency into compliants of alleged export of illegally mined coal to Bangladesh and prosecution of persons involved in such alleged illegality</i>	√	<ul style="list-style-type: none"> • It will be an encroachment on executive powers of the State. • As submitted before the Committee, enquiry has already been initiated by the State and appropriate action in accordance with law shall be taken.
11.	<i>State of Meghalaya to disburse an amount of 5 lakh to each labourer deceased in Ksan mine incident of Dec. 2018</i>	√	<ul style="list-style-type: none"> • PIL being W.P. (C) No. 3 of 2019 has been filed in Hon'ble Supreme Court on that incident. • The Hon'ble Supreme Court observed that compensation is required to be paid to kin of victims in order dated 25.02.2019. • State filed I.A. No. 77028/19 on 06.05.2019, inter-alia informing the Court that 3 lakh ex-gratia payments has already been made qua each victim. • The Hon'ble Supreme Court closed all the issues except formulation of Standard Operating Procedure to deal with such mining incidents vide order dated 12.07.2019.
12.	<i>State of Meghalaya to pay 5 lakh for each death and 2 lakh for each injury in above incident as well as for the incident reported in South Garo Hills District in 2012.</i>	√	<ul style="list-style-type: none"> • For 2012 incident, ex-gratia payment has already been made to those who came forward to make claims and whose claims were found to be genuine.

”

21. We have considered the above objections. We are unable to appreciate the reasons for the stand that the recommendations are not feasible. Even if the exercise is considered by the State to be unnecessary, no serious difficulty is shown in doing so. We are unable to hold that any of the direction is against the order of the Hon'ble Supreme Court or not feasible. The dispute resolution process recommended is certainly conducive to the handling of the long pending issues and is necessary for facilitating compliance of the directions for disposal of illegal mined material and the mandate of law. We, thus, reject the objections of the State of Meghalaya. It is a matter of regret that State of Meghalaya, has by uncalled for objections, created a situation to hamper a credible mechanism set up by this Tribunal and approved by the Hon'ble Supreme Court by practically compelling the Chairman of the Committee to seek recusal.

Directions

22. Under the circumstances, while accepting all the recommendations of the Committee in its 04th Interim Report dated 31.08.2019, 05th Interim Report dated 02.12.2019 and 06th Interim Report dated 03.12.2019, we also accept the request of Justice B.P. Katakey, former Judge, Guwahati High Court to be relieved.

23. Without in any manner meaning to dilute the exhaustive recommendations of the Committee, the substance of the recommendations of the Committee can be summed up to include monitoring of illegal raising and transportation of coal by the Chief Secretary of the State; steps for punitive measures for illegal mining – filling up gaps in the regulatory regime; action for preventing minimizing and mitigating environment pollution by acidic water from coal depots; electronic recording of movement of coal including by way of GPS and RFID Tags and having a central server for the purpose; inspection of wings of BSF and vigilance department; establishing and supervising check posts and weigh bridges; utilization of the compensation amount for legitimate purposes in terms of the recommendations in the report; continuing Prof. A.K. Singh, nominee, IIT-ISM, Dhanbad as member of the Committee; monitoring of sourcing of illegally mined coal by cement manufacturing/thermal power plants for enforcement of mining law, including punitive and remedial actions for sourcing of illegally mined material, as found by the Committee; conducting necessary audit; study of land use and land cover analysis; drilling of bore holes in Khlihirt-Sutnga area in East Jaintia Hill District; preparation of geological report and feasibility report for scientific coal mining; compiling information about location of dumps of coal; finalizing mode and manner of handling of coal and its disposal including e-auction; transfer of coal to Coal India Limited; monitoring of illegal export of coal to Bangladesh by an independent agency; adopting satellite surveillance systems; action by the State PCB for enforcement of environmental norms; verification of

claims of victims and disbursement of payments to them in the manner suggested by the Committee; implementing action plan prepared by the Committee by the State PCB etc. Compliance of all the recommendations may need to be closely monitored by the Committee.

24. On suggestion of State of Meghalaya, we substitute Justice B.D. Agarwal, former Judge, Guwahati High Court as Chairman of the Committee. We are informed that Justice B.D. Agarwal is Judicial Member of Lokayukt of Manipur State but is willing to undertake the present assignment subject to the State of Manipur relieving him or otherwise permitting him to do so. The State of Manipur may consider this aspect in consultation with Justice B.D. Agarwal. Subject to there being no objection, Justice B.D. Agarwal may take up the assignment at the earliest. The Committee may furnish its further action taken report after three months preferably by 30.04.2020 by e-mail at judicial-ngt@gov.in.”

Consideration of 7th report - NGT order dated 27.07.2020

12. The matter was last considered on 27.07.2020 in the light of 7th report of the Committee filed on 30.04.2020 as follows:-

“1to7..xxx.....xxx.....xxx

8. *We have gone through the report with the assistance of the learned Counsel appearing today. The report substantially deals with finalization of comprehensive plan prepared by the Government of Meghalaya for handing over of extracted coal to CIL for auction and measures for restoration of the environment.*

9. *With regard to handing over of extracted coal to CIL for auction, the recommendations of the Committee are:*

“1.The Committee approved the suggestion of the Mining and Geology Department officials for permitting transport and auction of 2 (two) lakhs MT of coal which is distributed over four coal bearing Districts in Meghalaya viz. East Jaintia Hills, West Khasi Hills, South Garo Hills and South West Khasi Hills. in the first phase. The transport and auction of the aforesaid quantity of coal has been approved by the Committee on an experimental or pilot basis. In Phase — I the Committee allows the Government of Meghalaya to hand over to Coal India Limited for auction the following quantities of coal in respect of each of the four coal bearing districts of Meghalaya:

- (i) East Jaintia Hills - 75.000 MT*
- (ii) West Khasi Hills - 50.000 MT*
- (iii) South Garo Hills - 50.000 MT*
- (iv) South West Khasi Hills - 25 000 MT.*

3. *The Comprehensive Plan along with the Annexures shall be uploaded by Mining and Geology Department in the websites of Mining and Geology Department and the Forests & Environment Department respectively. A copy of the said Comprehensive Plan should be circulated by the Mining and Geology Department to all concerned Departments, Offices and agencies including Coal India Limited.*

4. *The Mining and Geology Department shall allow the coal owners to transport their coal to the designated depots in their respective Districts within a period of fifteen days from the date of issuance of Transit Pass to the coal owners of the designated coal depots.*

5. *The Mining and Geology Department will select the coal owners on the basis of draw of lots. However, the maximum quantity a coal owner will be entitled to bid shall be restricted to 5000 MT in the first phase of auction.*

6. *The Mining and Geology Department will intimate the commencement of auction of coal in two prominent newspapers in Meghalaya.*

7. *The guidelines prepared by the Meghalaya State Pollution Control Board in respect of pollution control norms to be observed by coal depot owners was perused and approved by the Committee.*

8. *In respect of the buyers of auctioned coal who intend to transport or sell the same within Meghalaya. A list of such buyers shall be furnished by the Mining and Geology Department to the Meghalaya State Pollution Control Board.”*

10. *With regard to restoration of the environment, the commendations of the Committee are:*

“1. Clause A of the Action Plan which relates to prevention of human and animal deaths by accidental falling in coal mine shafts comprises various subcomponents. With respect to clause 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 initiated by NESAC they are requested to furnish a detailed cost estimate for preparation of such maps for the remaining districts viz., West Khasi Hills. South Garo Hills and South West Khasi Hills and submit a report to this Committee before the date of next sitting of the Committee.

2. Education Department may furnish a status report on the progress of implementation of A2 of the Action Plan which relates to creation of awareness about ill effects of illegal coal mining and also furnish information on the status of submission of APOs to the Committee notified in the guidelines for utilization of MEPR fund for their further processing of the same.

3. A.3 of the Action Plan which relates to installation of sign boards in areas having presence of coal mines was reported to have been implemented by the Mining & Geology Department.

4. With respect to A4 of the action plan- Erection of physical barriers at periphery of shafts of mines where coal reserve has not been exhausted-the Deputy Commissioners of all Districts shall submit a report on progress on erection of physical barriers at periphery of shafts of mines where coal reserves have not been exhausted by the mine owners and steps taken by the District Administration to obtain such proposals from the mine owners who have not embarked on any such activity.

5. With respect to A5 of the action plan — Closure of shafts of mines where coal reserve has already been exhausted - Mining & Geology Department shall submit through an appropriate APO the further fund requirement for the purpose of installation of sign boards in areas having presence of coal mines to the concerned Committee notified in the guidelines for utilisation of MEPR fund. The Department shall also submit APOs incorporating other requirements to the Committee notified in the guidelines for utilisation of MEPRF. The Deputy Commissioners shall take steps to create awareness on erection of physical barriers around the coal shafts where the reserves are exhausted.

6. In respect of item A.5.1 of the Action Plan- Controlled blast to secure closure of shafts of mines where coal reserve has already been exhausted- the Member Secretary of Meghalaya State Pollution Control Board (MSPCB) is requested to intimate CIMFR —CSIR to give a power-point presentation on the matter to the Committee on the next date of its sitting. The Deputy Commissioners of the districts affected by coal mining shall furnish an appropriate report to the Committee on this matter before actually proceeding with controlled blasting. The Member Secretary, Meghalaya State Pollution Control Board is requested to submit a status report on development of safe and cost effective control blasting techniques in Meghalaya and the progress made by CIMGR-CSIR in this regard. The presentation of the CIMFR-CSIR during the next sitting of the Committee as referred above shall cover the techniques which could be applied in Meghalaya to secure controlled blasting. The Director DMR is requested to identify at least one abandoned coal mine where a pilot project can be undertaken by CIMFR-CSIR in respect of the safe and cost effective technique of control blasting and intimate the Committee on its next date of sitting.

7. Component B of the action plan relates to prevention of Acid Mine Drainage (AMD) through various devices. B.1 refers to coal dumps of cement factories and their captive power plants. The components B.1.1 to B.1.3 are as follows:

- i. Covering of dumps by permanent sheds/ water proof tarpaulin
- ii. Construction of garland drains along with acid mine drain storage tanks
- iii. Treatment of acid mine drain collected in storage tanks

The Deputy Commissioners of East Khliehriat and Ri Bhoi Districts where cement factories and captive power plants are set up shall direct the cement factories and captive power plant owners to develop such devices and obtain a road map from each of them in this regard and submit the same to the Committee within two months.

8. With respect to item B.1.4 relating to amendment of Environmental Clearance (EC) already granted to the above mentioned cement plants and captive power plants to stipulate additional conditions in such ECs to provide for above measures incase such measures have not been stipulated. a status report on the implementation in this regard shall be furnished by the Member Secretary SEIAA and the Regional Office for North East region of MoEF&CC, Shillong.

9. With respect to item B.1.5 — Revocation/withdrawal of EC and launch of prosecution in case of non-implementation of aforementioned measures-it was reported that action has already been concluded by the MPSCB. A report in this regard may be submitted by MSPCB to the Committee before the next date of sitting of the Committee.

10. With respect to item B 1.6 — Revocation/withdrawal of CTE and launch of prosecution in case of non-implementation of afore-mentioned measures - it was stated by the Member Secretary MSPCB that there was no instance of withdrawal of CTE since all units which were directed by the MSPCB for compliance have complied.

11. Item B.2 relates to dumps of assessed coal. The sub-items are as follows:

- i. Covering of dumps by water-proof tarpaulin/ permanent sheds*
- ii. Construction of garland drains along with acid mine drain storage tanks*
- iii. Treatment of acid mine drain collected in storage tanks*
- iv. Promulgation of order under section 144 or any other relevant Section(s) of Cr. P.C. to prohibit open/uncovered dumping of assessed coal*

Sub items (i) to (iii) are to be implemented by the plant owners. The Deputy Commissioners of all Districts where occurrence of coal mining is noticed are requested to furnish status report within one month on the implementation of item B.2 to the Director of Mineral resources who in turn shall in turn submit a report to the Committee in this regard within two months.

12. With respect to item B.3 —Dumps of seized coal- the Director of Mineral Resources is requested to submit APOs within two weeks to the Committee notified under MEPR detailing the fund requirement to secure implementation of the sub-items listed under this item. The sub-items of B.3 are as below:

- i. Construction of permanent depots for seized coal*
- ii. Covering of dumps by tarpaulin/ permanent sheds*

- iii. Construction of garland drains along with acid mine drain storage tanks
- iv. Treatment of acid mine drain collected in storage tanks

13. B.5 relates to insulating coal while in transit. The sub-items are:

- i. Covering of coal by waterproof tarpaulin while its transportation by road
- ii. Seizure of trucks carrying coal without covering it with waterproof tarpaulin
- iii. Promulgation of order under section 144 or any other relevant section(s) of Cr PC to prohibit open/uncovered dumping of assessed coal

The Deputy Commissioners of all coal mine affected districts are requested to furnish status report within one month on the implementation of item B.2 to the Director of Mineral resources who in turn shall in turn submit a consolidated report to the Committee in this regard.

14. With respect to item B.6- Rat hole coal mine openings- deliberation is postponed till CIMFR-CSIR make presentation in this regard to the Committee.

15. With respect to item B.7- Coal mine shafts located in river/ stream bed- deliberation is postponed till CIMFR-CSIR make presentation in this regard to the Committee.

16. With respect to item C which deals with restoration of water quality in rivers/ streams affected by Acid Mine Drains (AMD) the Chief Engineer, PHE is requested to submit status report on implementation of item C.1- Identification and prioritisation of rivers/ streams to be restored- and a road map for full implementation of the same to the Committee before its next date of sitting.

17. With respect to item C.2- Development refinement and transfer of AMD treatment technology- Professor O. P. Singh, NEHU is requested to make a presentation to the Committee on the day of its next sitting along with a report on the pilot project run by his team in this regard. The Mining & Geology Department suggested that an independent monitoring agency, in respect of which MSPCB is currently suitable, be requested to monitor the progress and success of the three pilot projects currently underway in respect of item C .2 and submit the same to the Committee within two months.”

11. We proceed to deal with the above recommendations. We find that 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. Further, as per "Sixth Report" of the Committee quoted in para 19 of the last order dated 17.01.2020, the State was to provide the location of the places where coal was located to NESAC. NESAC was to prepare a geo-reference map and provide the same to CIL. NESAC was also to undertake analysis of the area where coal was to be handed over to CIL, using high resolution satellite imageries for the period in question.*

12. *As against the above, the Committee has now observed that the recommendations in the Sixth Report are unworkable for certain period. We are of the view that the said issue having already attained finality, there is no reason to reconsider the requirement of such exercise. However, if NESAC is not able to undertake the said exercise, the same may be entrusted to National Remote Sensing Centre (NRSC), Hyderabad. The CPCB may coordinate with the NRSC for the purpose.*

13. *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.*

14. *As regards restoration plan, the remediation plan may be duly executed which may be supervised by the Committee. The steps suggested by the Committee may be taken. With regard to item no.10 relating to withdrawal of CTE, it is not clear whether any CTE had ever been granted. If no CTE had been granted, question of withdrawal did not arise.*

15. *The Committee may continue its functions including that of overseeing the remediation plan and furnish its report of status as on 31.12.2020 by 15.01.2021 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF."*

8th report of the Committee, stand of the State and the Applicant

13. Accordingly, the Committee has filed its 8th report dated 14.01.2021

as follows:-

"PROGRESS ACHIEVED BY THE COMMITTEE AFTER FILING OF THE REPORT DATED 30.04.2020

The progress achieved by the Committee since filing of the last report on 30th April 2020 is substantially compliance of the

directions of the Hon'ble NGT issued vide their order dated 27th July 2020 in OA No.110(THC)/2012 and IA NO 244/2020 in OA NO. 110(THC)/2012:

- (i) *The first direction of the Hon'ble NGT is contained in para 12 of their order which is extracted below again for the purpose of quick reference:*

"12. As against the above the Committee has now observed that the recommendations in the Sixth Report are unworkable for certain period. We are of the view that the said issue having already attained finality there is no reason to reconsider the requirement of such exercise. However, if NESAC is not able to undertake the said exercise the same may be entrusted to National Remote Sensing Centre (NRSC). Hyderabad. The CPCB may coordinate with the NRSC for the purpose.

*In compliance of the above direction the Committee deliberated over the matter in the 24th sitting of the Committee on 03.08.2020. A copy of the minutes of the sitting of the Committee on 03.08.2020 is annexed herewith as **Annexure 1**.*

To recapitulate the background of the matter, attention of the Hon'ble Tribunal is invited again to the portion pertaining to recommendations of the Committee in its e Report submitted by the Committee to the Hon'ble Tribunal pertaining to GIS and remote sensing studies to be conducted by NESAC. The same has been dealt-with in a very detailed manner in the 7th Report of the Committee (Chapter 3 page 27-31). Reference of the Hon'ble Tribunal is invited to recommendations at SI No. 1, 3-5 of the r Report, which primarily pertain to application of GIS technique to map the coal dumps in Meghalaya. Estimation of quantity of coal in the dumps through GIS technique, and land use analysis of these coal dump sites through geospatial techniques etc. These recommendations are again extracted below for easy reference.

"1. The State of Meghalaya shall, immediately, provide to the North Eastern Space Application Centre (NESAC). Department of Space, Government of India. Umiam, the location (latitude and longitude) and other details of each dump where coal to be auctioned is located. The NEASC, shall within one week from the date of receipt of these details prepare a geo-referenced map depicting the location of each of these dumps and provide a copy of the same to the Secretary to the Government of Meghalaya. Mining and Geology Department and the Coal India limited for placing a copy thereof along with a list containing name and address of the owner and quantity of coal available at each such dump on their respective websites.

2. The Secretary to the Government of Meghalaya. Mining and Geology Department shall, immediately place

on website of the Department a copy of the additional affidavit containing details of 32.56.715 MT coal stated to be available at various depots filed before the Hon'ble Supreme Court on 10.04.2019 by the Commissioner and Secretary to the Government of Meghalaya. Mining and Geology Department.

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 the Tribunal by an order dated 17.04.2014:*
- (b) Immediately before the additional affidavit dated 10.04.2019 containing details of 32,56,715 MT Coal stated to be available at various depots was filed before the Hon'ble Supreme Court by the Commissioner and Secretary to the Government of Meghalaya, Mining and Geology Department:*
- (c) Once in the year 2015, 2016, 2017 and 2018, preferably in the month of April*

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:*
- (b) The coal dumped at the depot after the filing of additional affidavit before the Hon'ble Supreme Court on 10.04.2019:*
- (c) The coal dumped at the depot on any day between 17.04.2014 and 10.04.2019.*

5. The finalization of the mode and manner for handing over of the coal to the Coal India Limited and the disposal of the coal by the Coal India Limited through e-auction shall not wait completion of the afore-mentioned study by the NESAC. The amount released from sale of such coal will however not be disbursed to the respective owner till the said study in respect of such coal is completed by the NESAC."

The recommendation at SI 1, which has substantial nexus with the objective of preparation of a proper plan for handing over coal to Coal India Limited. its auction and transport thereafter, has been complied with by the North Eastern Space Application Centre (NESAC). Shillong.

The recommendation at SI 2 too has been complied with by the Mining & Geology Department.

With reference to recommendation at SI 3 and 4, the Committee in its meeting on 14 02.2020 requested the NESAC to respond to the same with regard to cost estimate for carrying out this task, time required for the purpose, feasibility to undertake the study as would be evident from the minutes of the meeting on the said date annexed to the 7th report as Annexure 2 therein.

In response, the NESAC submitted a report (comprising slides of power point presentation) with regard to the cost estimate for carrying out land use analysis in some of the coal bearing districts of Meghalaya pertaining to different years as suggested in the aforementioned recommendation. The NESAC Officials led by the Director of NESAC submitted during the course of meeting on 02.03.2020 that the requisite high resolution satellite imageries corresponding to the past years viz., 2014, 15, 16 and 17 in relation to the coal bearing areas may not be available entirely since there are very few satellite passes (technically called as paths and rows) corresponding to the said geographic co-ordinates by satellites equipped with cameras (IKONOS, QUICKBIRD) which can record high resolution imageries. The Director also submitted that in view of the exorbitant cost factor involved unless a vendor orders for high resolution satellite imageries corresponding to a particular location in advance the corresponding foreign based companies rarely align their cameras to such sites resulting in their non-availability. In view of this constraint, he said he would explore availability of high resolution satellite imageries only for the years 2018-19 and respond. The presentation made by NESAC thereafter on 12 03.2020 (enclosed as Annexure 7 to the 7th Report) centered on satellite data availability for major coal bearing districts of Meghalaya viz., East Jaintia Hills, South Garo Hills, West Khasi Hills and South West Khasi Hills districts. Data availability was absent for some portions of East Jaintia Hills even considering satellite imageries of 1.5 m resolution (which would enable capture of coal dumps larger than 1.5 m diameter). Gap area for South Garo Hills for 2018 was 1384 sq km which is substantial. Similar picture was presented for other two districts as well (West Khasi hills presented gap of 1340 sq km for 2019 in respect of 1.5 m resolution satellite imageries).

However in spite of gaps in availability of satellite data in each of the districts NESAC has been asked to undertake land use and land cover study in the aforesaid four districts of Meghalaya where rat hole coal mining has been practiced since such a study would help in planning the environment restoration in these areas. For this study the final estimate of fund requirement for a total sum of Rs 90.80.445/-, which has been placed by NESAC with the Committee, has been considered and

approved by the Committee in the 28th sitting of the Committee on 8th December 2020. Further details of the study to be undertaken by NESAC, which the Committee has agreed in principle, are available in the minutes of the 23rd sitting of the Committee held on 1st July 2020 (para 1 under Agenda I of the minutes), and minutes of the 26th sitting of the Committee held on 18th November 2020 (para A.1 under Agenda II of the minutes) both of which would be again adverted to in the subsequent paras of this Chapter.

Insofar as recommendation at sl 4 is concerned the NESAC Director submitted orally on 02.03.2020 that it is not technically feasible to estimate quantity of coal remotely since they do not present a uniform surface. The report of the Director NESAC stating that it is not technically feasible to undertake such a study requiring quantitative estimation of coal is at last para of his report dated 21st April 2020 (which has already been enclosed as Annexure 8 to the 7th Report of the Committee)

It is in this background that the Committee in its 7th Report had suggested that it is not technically feasible to carry out recommendation No. 4 in view of express submission of NESAC in this regard and recommendation at SI No.5 being connected with recommendation No. 4 is unworkable too.

However, the Honble NGT in consideration of the 7th Report vide their order dated 27th July 2020, as already detailed in the preceding pages, directed that the said study may be entrusted to NRSC, Hyderabad, if NESAC expresses inability to undertake the same.

Pursuant to the aforesaid direction the matter was deliberated by the Committee in its 24th sitting. The issue pertaining to assessing the quantity of the coal at various coal dump sites provided by the Mining & Geology Department, Govt of Meghalaya to NESAC through remote sensing technique has been dealt under agenda III of the minutes of the 24th sitting of the Committee on 03.08.2020. A copy of the minutes of the sitting of the Committee on 03.08.2020 has already been annexed as Annexure 1.

In view of the direction of the Honble NGT to entrust the said study to National Remote Sensing Centre, Hyderabad (NRSC) to be duly co-ordinated by CPCB the Committee decided to write to NRSC to take up the said study. Pursuant to the decision of the Committee the letter in this regard addressed by the Committee to the Director, NRSC is annexed herewith as **Annexure 2**.

On receipt of the aforesaid letter, the reply of the NRSC is annexed herewith as **Annexure 3**. The NRSC too have stated that it is not technically feasible to undertake this study and approved the stand of NESAC that it is not

technically feasible to undertake study of this nature for the reasons stated in their letter dated 21st April 2020 (Annexure 8 of the 7th Report).

The Honble NGT is requested to kindly consider the reply of NRSC dated 31st August 2020 and approve the same or give any further advice/direction in the matter as deemed fit and appropriate by them.

From the foregoing it appears to the Committee that though estimation of the quantity of coal in the coal dumps is not technically feasible as elaborately explained in the preceding paras it is technically feasible and also useful to have the land use and land cover map prepared for the coal mining areas in Meghalaya to help plan restoration of environment in those coal bearing districts. The Committee has held several rounds of discussion with NESAC in this regard who have finally submitted an estimate for a total sum of Rs 90,80.445/-, which has been considered and approved by the Committee in its 28th sitting on 8th December 2020. At clause (v) of this report this remote sensing - GIS study to be undertaken by NESAC is being further elaborated in a detailed manner for consideration of the Hon'ble NGT.

- (ii) *The second direction of the Honble NGT is contained in para 13 of their order which is extracted below again for the purpose of ready reference:*

'13. 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 judgment of the Honble Supreme Court is not permissible. The Committee may revise its report accordingly.'

*In compliance of the above direction the Committee deliberated over the matter in the 24th sitting of the Committee on 03.08.2020. A copy of the minutes of the sitting of the Committee on 03.08 2020 is already annexed as Annexure 1. The matter pertaining to revising the comprehensive plan for auction and transportation of coal is dealt under agenda II of the minutes. In compliance of the decisions of the Committee in accordance with the directions of the Hon'ble NGT, the revised comprehensive plan prepared by the Mining & Geology Department in consultation with Coal India Limited and duly approved by the Committee is annexed herewith as **Annexure 4**, which has been duly uploaded in the website of the Mining & Geology Department of the Government of Meghalaya.*

The Mining & Geology Department is likely to commence auction of coal through e-auction portal shortly after due fulfilment of all requirements in this regard.

- (iii) *The third direction of the Honble NGT is contained in para 14 of their order which is extracted below again for the purpose of ready reference:*

"14. As regards restoration plan the remediation plan may be duly executed which may be supervised by the Committee. The steps suggested by the Committee may be taken. With regard to item no.10 relating to withdrawal of CTE it is not clear whether any CTE had ever been granted. If no CTE had been granted, question of withdrawal did not arise."

*The matter pertaining to execution of the action plan prepared by the Committee for restoration of the environment damaged on account of rat hole coal mining in Meghalaya has been considered in 23rd, 25th and 26th and 27th sittings of the Committee held on 01st July, 01st September, 01st October and 18th November 2020 respectively. A copy of the minutes of the aforesaid sittings of the Committee on 01st September and 01st October 2020 respectively are annexed herewith as **Annexure 5, Annexure 6, and Annexure 8 respectively**. The matter pertaining to execution of the action plan prepared by the Committee for restoration of the environment damaged on account of rat hole coal mining is dealt under agenda I, agenda II and III of the minutes dated 01st July, 01st September 2020 respectively under agenda II of the minutes dated 01st October 2020 and Agenda I of the minutes dated 18th November 2020.*

Insofar as CTE is concerned it is clarified that the same pertains to cement and thermal power plants in Meghalaya which use coal and does not pertain to coal mines. These cement and thermal power plants have been granted environmental clearance and also CTE by the Meghalaya State Pollution Control.

- (iv) *Availability of fund is a vital requirement for execution of the Action Plan which is to be sourced from MEPR fund collected from transporters of coal as per earlier direction of the Hon'ble NGT. The Committee vide its 4th report dated 31st August 2019, at SI. No. 18 of their recommendations, which is extracted below. had recommended preparation of guidelines for utilization of MEPR Fund:*

"18. The State of Meghalaya shall within one month formulate draft guidelines, strictly in conformity with the broad parameters suggested by the Justice Katakey

Committee in its fourteenth sitting held on 03.06.2019. for utilization of amounts available in the MEPR Fund in an expeditious and transparent manner and submit the same to the Committee. The Committee shall examine the draft guidelines and place the same along with its comments thereon before this Tribunal within one month of receipt of the guidelines. (para 5. 5. 9. 8 (i).

Accordingly, the Mining & Geology Department, Govt of Meghalaya, had submitted the draft guidelines for utilization of MEPR Fund which has been carefully considered by the Committee in their 22nd sitting on 19th June 2020.

*Several components of the guidelines have been duly edited by the Committee and the final approved version of the guidelines which have been notified by the Govt of Meghalaya is annexed herein as **Annexure 9**. The Hon'ble NGT is requested to kindly consider and approve the same to facilitate expeditious utilization of the MEPR Fund which would eventually pave the way for effective implementation of the Action Plan for restoration of the environment in Meghalaya.*

- (v) *Another vital component of the Action Plan is preparation of land use and land cover map of the rat hole coal mining affected areas in several districts of Meghalaya by NESAC (North Eastern Space Application Centre), Umiam, Meghalaya. The said issue has been considered in several sittings of the Committee as would be evident from the aforesaid minutes of various sittings of the Committee. The final estimate of fund requirement for a total sum of Rs 90,80,445/- which has been placed by NESAC with the Committee, has been considered and approved by the Committee in the 28th sitting of the Committee on 8th December 2020. A copy of the minutes of the said sitting is annexed herein as **Annexure 10**.*

The Hon'ble NGT is requested to kindly approve release of the aforesaid sum of Rs 90.80,4451- to Director, NEAC from MEPR fund to facilitate execution of the aforesaid study by NESAC, Umiam, Meghalaya.

- (vi) *The Hon'ble NGT had also considered IA No 244/2020 in OA No. 110(THC)/2012 filed by applicant Pawan Sharma. The direction passed by the Hon'ble NGT on the said IA vide their order dated 27th July 2020 is extracted below:*

“We also take notice of the application filed by one Shri Pawan Sharma. G. S. Road, Shillong, East Khasi Hills District, Meghalaya on 30.06.2020 to bring on record non-compliance of the directions of this Tribunal dated 17.01.2020. The application may be forwarded to the

Committee headed by Justice B.D. Agatwal. former judge of the Gauhati High Court, for being looked into and taking such further action as may be found necessary.

*In compliance of the above direction of the Hon'ble NGT the aforesaid IA was considered by the Committee in its 24th sitting on 03.08.2020. A copy of the minutes of the sitting of the Committee on 03.08.2020 is already annexed as Annexure 1. The Govt of Meghalaya was directed to file their counter to the averments contained in the IA of Shri Pawan Sharma. Accordingly, the counter affidavit in the matter was submitted to the Committee by the Mining & Geology Department, Govt of Meghalaya which was replied to by Pawan Sharma. A copy of the counter affidavit of Govt of Meghalaya and reply filed by the applicant are annexed herewith as **Annexure 11** and **Annexure 12** respectively. The pleadings of the parties having been completed the said matter was considered by the Committee in its 28th sitting on 8th December 2020.*

The complaint of Shri Pawan Sharma was finally disposed-of vide Order dated 08.12.2020. The relevant directions given to the Chief Secretary and DGP, Meghalaya are reproduced below for ready reference:

"8. Hence, the Committee directs the Government and, more particularly to the DGP, Meghalaya to take the following actions immediately to arrest the offence of transportation of illegally mined coal:-

(i) File Charge-sheets in all the cases. registered u/s 21 of the MMDR Act within a period of 2 (two) months from the date of registration of the case. This will deter the coal smugglers from violating the ban order of the Honble NGT.

(ii) The Chief Secretary and DGP, Meghalaya are also directed to issue necessary instructions to the investigating officers and other concerned officers to sell the seized coal within a period of 3 (three) months. This step will also discourage the owners of coal from transporting it illegally without payment of royalty and taxes. In case there is any delay in giving orders for auction of the seized coal and equipments by the courts/magistrates the Government should approach the Honble Meghalaya High Court for appropriate directions to the concerned magistrates. Till now the seized coal are lying in open causing environment hazardous. Hence, disposal of seized coal at the earliest is also imperative on this count.

(iii) The Chief Secretary and DGP, Meghalaya are also directed to issue necessary instructions to the investigating officers and other concerned officers to confiscate and sell the seized trucks, dumpers, conveyances and equipments in accordance with law

within a period of 3 (three) months. This step will also discourage the owners of coal and trucks from transporting it illegally without payment of royalty and taxes.

(iv) As per resolutions taken by this Committee in various meetings and recommendations to the Hon'ble NGT (subsequently approved by the Hon'ble NGT by its Order dated 17.01.2020) the Govt. of Meghalaya is directed to install centralized server, uploading of transport permits/challans and tracking of coal laden trucks through GPS and RFID tags. as stipulated in Appendix XII to the E1A Notification. 2016 and also introduce high security mineral challans to prevent and detect multiple use of transport challans within a period of four weeks. It is further ordered that no new challan for coal transportation shall be issued by the Director of Mineral Resources, Meghalaya till the aforesaid system is put in place.

(v) Take legal action against the officials who fail to detect and detain the trucks and other conveyances from their respective check points.

(vi) To increase the Police patrolling in the coal bearing areas to prevent illegal coal mining, if any. “

*The order of the Committee in the matter disposing of the IA of the applicant is annexed herewith as **Annexure 13**. The Hon'ble NGT is requested to kindly peruse the same and pass further orders as they deem fit and appropriate in the matter.*

(vii) The Hon'ble National Green Tribunal had considered the earlier reports filed by the Committee and vide judgment dated 17.01.2020 had issued further directions in OA 110 (THC)/2012 for compliance of all concerned as already stated earlier in Chapter I of this report. The direction pertaining to the Committee is at para 23 of the judgment (page 45) wherein the Committee has been entrusted with the responsibility to monitor the compliance of recommendation furnished by the Committee to the Hon'ble NGT in its 4th 5th and 6th Reports submitted to the Hon'ble NGT. Accordingly the Committee has taken stock of the progress in implementation of its recommendations furnished to the NGT as aforesaid in its 23rd sitting on 15th July 2020 a copy of which has been already annexed as Annexure 5. The action taken in the matter has been discussed under Agenda II of the minutes. The Mining & Geology Department was instructed to submit report of compliance of the directions pertaining to them who have submitted the same. Copies of the compliance reports dated 24th July 2020 and 30th September 2020 submitted by the Mining & Geology Department are annexed herein as

Annexure 14 and **Annexure 15** respectively. Similarly, the Meghalaya Police too were directed to submit report of crime statistics pertaining to coal in Meghalaya. The latest report submitted by the Police in this regard furnishing details of cases registered cases charge-sheeted quantity of contraband coal seized etc is enclosed herewith as **Annexure 16**.

(viii) During the 28th sitting held on 8th December 2020 the Committee deliberated over scientific mining of coal in Meghalaya. A copy of the minutes of 28th sitting held on 8th December 2020 has already been annexed herein as **Annexure 10**. The Hon'ble Supreme Court vide order dated 03.07.2019 in Civil Appeal No. 10720/2018 State of Meghalaya Vrs All Dimasa Student Union Dima-Hasao District Committee, directed that mining of coal could be allowed in Meghalaya only in compliance with Mines and Minerals (Development and Regulation) Act 1958. Mines Act 1952, the Environment Protection Act 1985 which would necessitate mining in accordance with approved mining plan. The mining plan for mining coal in Meghalaya needs to be scientific, environment friendly and least hazardous and suggest the mining method best suitable to Meghalaya. The aforesaid mining plan would also require the approval of the Ministry of Coal. The Committee agreed to request the Indian School of Mines Dhanbad and the Central Mine Planning and Design Institute (CMPDI) to suggest mining methods best suitable for Meghalaya in the manner indicated above to help the State undertake coal mining in the State in a scientific and environment friendly manner. The Hon'ble NGT may kindly approve the decision of the Committee in this regard.

(ix) The Committee has also been in receipt of a report filed by the CPCB pursuant to the directions of the Committee in its 18th sitting on 15th September 2019 in relation to the coke oven plants operating in Meghalaya suggesting that they have been using illegally mined coal of Meghalaya. The Committee has considered the said report in its various sittings viz., 24th sitting held on 3rd August 2020. 26th sitting held on 1st October 2020. 27th sitting held on 18th November 2020 and 28th sitting held on 8th December 2020. A copy of the minutes of 28th sitting held on 8th December 2020 has already been annexed herein as **Annexure 10**. Copies of the minutes of the remaining sittings of the Committee have already been annexed in this report. The issue continues to be under active consideration of the Committee.

CHAPTER IV

RECOMMENDATIONS OF THE COMMITTEE

The recommendations of the Committee on various issues under consideration of the Committee for acceptance of the Hon'ble NGT are as below:

1. The Hon'ble NGT may kindly approve the guidelines for operating Meghalaya Environment Protection and Restoration Fund (MEPRF) notified by the State Government (**Annexure 9**), which has been duly approved by the Committee in its 22nd sitting held on 1st June 2020.
2. The Hon'ble NGT may kindly approve for release of a sum of Rs 90.80.445/- from MEPR fund to NESAC, Umiam, Meghalaya, being the estimate of fund requirement of NESAC for preparation of land use and land cover map of the districts in Meghalaya affected adversely on account of illegal coal mining, which has been approved by the Committee in its 28th sitting held on 8th December 2020.
3. The Hon'ble NGT may kindly approve the directions of this Committee to the Indian School of Mines, Dhanbad and Central Mine Planning and Design Institute (CMPDI), Dhanbad, to advise the Govt of Meghalaya on the method of coal mining, suitable for Meghalaya, for the purpose of preparation of mining plan to enable scientific coal mining in Meghalaya with minimum impact on the environment.
4. The Hon'ble NGT may kindly ratify the approval granted by the Committee to the revised comprehensive plan prepared by the Mining & Geology Department, Govt of Meghalaya in consultation with Coal India Limited for the purpose of transport and auction of coal (**Annexure 4**).
5. The Hon'ble NGT may kindly approve the directions given to the Chief Secretary and the DGP of Meghalaya while disposing of the complaint of Shri Pawan Sharma (**Annexure 13**).

The Hon'ble NGT may kindly approve the final order passed by the Committee disposing of the application filed by the applicant in IA No 244/2020 transferred by the Hon'ble NGT to the Committee (Annexure 13).”

Stand of the State

14. Before filing the above report, the State of Meghalaya has filed its additional affidavit dated 24.09.2020 explaining its position with regard to the suggestion of draw of lots to select the owner for transportation of the coal, which aspect has already been mentioned in the report of the Committee already quoted above.

Stand of the Applicant

15. The applicant has filed a rejoinder to the reply affidavit filed on behalf of the State of Meghalaya on 24.09.2020 to the effect that illegal mining and transportation was still continuing. Reference has been made to the media report as follows:-

“

(i) The Shillong Times dated 12.03.2020

East Jaintia Hills Police seized 23 coal laden trucks illegally transporting coal which include 12 (twelve) trucks on 10.03.2020 at Kuliang; 9 (nine) trucks on 11.03.2020 at Sonapur Umkiang and accordingly several cases were registered by the Police at Lumshnong Police Station.

(ii) The Shillong Times dated 19.03.2020

Illegal coal transportation on March 16 around 4.30 p.m Police detected two containers transport vehicles, transporting coal in violation of N.G.T. order at Lumshnong Eat Khasi Hills. However, driver of the truck managed to escape.

On March 15, around 3 a.m. Police detected one truck transporting coal in violation of N.G.T. order at Mukhep, Lad Longkaluh East Khasi Hills

(iii) The Shillong Times dated 29.03.2020

Despite curfew and lockdown illegal transportation of coal continues. According to Police on March, 26 around 1.30 p.m. 10 ten coal laden trucks were detected and seized from Umbir Village in Ri-Bhoi District for violation of N.G.T. order.

On 24.03.2020 around 7.30 p.m. Police detected 2 (two) trucks while transporting coal in violation of the N.G.T. ORDER OF Umkiang check gate, East Jaintia Hills.

(iv) The Shillong Times dated 07.04.2020

Despite the curfew and lockdown in the State, illegal transportation of coal trucks in violation of the N.G.T. orders, continues in the State.

Only recently 5 (five) coal laden trucks at Nongsning and Mynkre Village from East Jaintia Hills District were seized. At Mynkre Village, however the members of the Village Defence Party VDP were ones to seize 4 (four) trucks for flouting the lockdown and N.G.T. order.

(v) The Shillong Times dated 10.04.2020

Illegal coal transportation on April, 3 around 7.30 p.m. Police seized 3 (three) coal laden trucks at Mawlien Mawkhoon village in Ri-Bhoi District.

(vi) The Shillong Times dated 13.04.2020

In violation of the N.G.T. Order as well as lockdown imposed in the State along with the rest of the Nation, Police on April, 7 around 2.05 A.M. detected one stationary coal laden dumper truck MH-12-TRDK-2796 without driver at Rymbai Road, East Jaintia Hills.

(vii) The Shillong Times dated 14.04.2020

Shri S. Marwein, E.A.C. Khliehriat lodged a complaint that on April, 11 around 11.30 A.M. while conducting mine raids along with the Police at Moopynien, Khliehriat East, 6 to 8 labourers were seen mining in 2 (two) coal mines, however they managed to escaped. 2 (two) mining equipments were seized from the spot.

(viii) The Shillong Times dated 09.05.2020

Coal truck seized - A.Nongdhar, Mines and Royalty Inspector, D.M.R. Umkiang, East Jaitia Hills lodged a complaint that on May, 6 around 4 A.M. 1 (one) truck was detected at Umkiang check gate while illegally transporting coal in violation of the N.G.T. order.

(ix) The Shillong Times dated 21.05.2020

Workers unload freshly mined coal at Moolang village in East Jaintia Hills on Wednesday. Earlier on May 13 the Police seized 22 trucks carrying coal illegally which were parked at Ratacherra and Malidor in East Jaintia Hills.

(x) The Shillong Times Dated 26.05.2020

Despite the ongoing lockdown and restrictions there seems to be no end to illegal coal mining in the State. The Ri-Bhoi District Police in the last one week have detected as many as 4 (four) trucks laden with unauthorized coals.

(xi) The Shillong Times Dated 16.07.2020

On July 11, around 5 p.m., the Police detected and seized 1 (one) truck while illegally transporting coal under Shillong Police Station in West Garo Hills.

(xii) The Shillong Times Dated 06.10.2020

On 1 October around 9.30 A.M. Police detected transporting coal in violation of N.G.T. order at Sohiong petrol pump East Khasi Hills.

(xiii) The Shillong Times Dated 07.10.2020

*According to media report in Assam , 150 trucks entered Assam on the night of October 5 and only 2 were detained in Beltolla in Guwahati, while on the morning of October 6 as many as 650 trucks entered Assam. There is no way anyone can check the veracity of the numbers quoted but it is an incontrovertible fact that is being clandestinely sold in Assam Shri Lakhmen Rymbui was entrusted with the Home Portfolio in controversial circumstances when his predecessor James Sangma's name figured in smuggling of coal — a lucrative trade for the coal rich State. Informed sources claimed that the State Police are like a caged parrot unable to function freely i.e. **they sometimes intercept coal laden lorries as an eyewash***

It may be mentioned that the issue pertaining to the illegal transportation of coal even forced a group of Cabinet Ministers to take it up with the Chief Minister, Conrad Sangma. Although the Home Portfolio got shifted from one minister to another, not much change seems to have occurred and the coal seems to be finding their way out of the State, inspite of the N.G.T. ban.

(xiv) The Shillong Times Dated 08.10.2020

While the M.D.A. Government continues to be on denial mode on the allegation of syndicated supply of coal to Assam led to James Sangma being stripped from his portfolio earlier this year

(xv) The Shillong Times Dated 10.10.2020

The clamour for action against coal racketeering in the State is apparently getting louder. For its part, the N.P.P. led M.D.A. Government seems to be getting concerned with unremitting allegations over illegal transportation of coal from several quarters.

Soon after B.J.P., an ally in the M.D.A., demanded arrest of Power Minister James Sangma over the matter, civil society groups in the State are now demanding a C.B.I. inquiry into the alleged coal syndicate.

(xvi) The Shillong Times Dated 12.10.2020

Meghalaya B.J.P. which has been demanding arrest of Power Minister James Sangma for his alleged involvement in illegal transportation of coal has asserted that they would approach the Prime Minister's Office, P.M.O., on the matter.

(xvii) The Shillong Times Dated 13.10.2020

Sangma further said that the Government was serious about dealing with the illegal transportation of coal and hence the Government has also prepared selling up of integrated check gates which will have live C. C. T. V. cameras along with other technological solutions to check all the trucks.”

16. It is further stated that:

“4. That the Applicant has set up a case for the failure of the State to comply with the direction of this Hon'ble Tribunal. In para 3 of the

Application the Applicant has specifically mentioned about the 19 directions of this Hon'ble Tribunal which has not been complied been with.

For instance no steps have been taken:—

- a) For electronic recording of movement of coal including by way of G.P.S and R.F.LD. Tags and having Central Server for the purpose.*
- b) Monitoring of sourcing of illegally mined coal by Cement Manufacturing / Thermal Power Plant for enforcement of Mining Law including punitive and remedial action for*

sourcing of illegally mined materials as found by the Committee.

- c) Building of Board's home in Khliehriat and Sutnga area in East Jaintia Hills District, Meghalaya for preparation of Geological Report and Feasibility Report for scientific coal mining.*
- d) Compiling information about locations of dumps of coal.*
- e) Finalizing mode and manner of handling of coal and its disposal including e-auction;*
- f) Transfer of coal to Coal India Limited;*
- g) Adopting Satellite Surveillance systems;*

5. That had the aforementioned directions of this Hon'ble Tribunal been complied with the illegal extractions of coal by way of rat-hole mining and transportation would have stopped but as would transpire from the above media reporting that thousands of illegally mined coal laden trucks would not have been moving out of Meghalaya.

6. That it took almost 9(nine) months for the Chief Minister of the State to declare that it was serious about the dealing with the illegal transportation of coal and hence, the government is proposing to setup integrated check gates which will have live CCTV cameras along with other technical solutions to check all the trucks as published in The Shillong Times dated 13.10.2020 (Annexure XVII) and that to mere lip service to cover up the inaction in complying with the Hon'ble Tribunal's direction.*

7. That as stated in the above media report i.e. the Shillong Times dated 07.10.2020 (Annexure - XVII) the police as an eyewitness has been detecting merely one or two trucks while leaving hundreds of trucks to pass through unchecked, which speaks volume of the conspiracy of the coal syndicate causing immense loss to the public exchequer.”

Consideration of the Eighth Report and directions

17. We have given due consideration to the report and heard learned Senior Counsel Shri Panjwani for the applicant and other appearing Counsel. We have also considered the written submissions filed on 10.03.2021 by Shri Panjwani, Senior Advocate.

18. It is patent that the problem of rat hole mining in Meghalaya continues and progress of restoration of environment and disposal of illegally mined material is inadequate. The Tribunal has already recorded its findings which have been substantially affirmed by the Hon'ble

Supreme Court. Proceedings commenced on the basis of media reports on 6.7.2012 that 30 persons were trapped in illegal mining and 15 died. The Tribunal vide order dated 17.4.2014 directed stopping of rat hole mining and also sought information about the quantity of illegally mined material. On 31.3.2016, illegally mined material was directed to vest in the State. The mined material was as per order dated 7.10.2017 found to be of value of Rs. 307 crore and loss of royalty was found to be 400 crore. 10% amount was directed to be credited to Environment Protection Fund. Transportation of illegally mined material was required to be stopped vide order dated 31.8.2018. Further incident of illegal mining came to light on 13.12.2018 when 15 workers engaged in illegal mining were trapped resulting in casualties. There does not appear to be any explanation as to why if the quantity of mined coal was found to be 6.3 million tonne as per order of this Tribunal dated 07.10.2017 (referred to in Para 2 above), the said quantity was found to be 2.3 million tonne (was actually available) in the report of the Committee dated 02.01.2019 as noted in Para 4 above. There is a possibility of large amount of mined coal having been pilfered or illegally disposed of even though the same was to be custody of the State. This aspect may be looked into by the State of Meghalaya.

19. As per Supreme Court judgment dated 3.7.2019, it was held that mining can be done only after EC as per mining plan and owner's share will be the residue of sale proceeds after deducting charges payable to Coal India, Royalty amount for environmental protection and for illegally extracted coal, action under section 21 of the MMDR Act was to be taken by the State. The Committee has done substantial work in the form of eight reports details of which have already been mentioned. As already noted, the Committee formed on 31.08.2018. The Committee filed its first report on 02.01.2019 which was considered on 04.01.2019. The said report is

that illegal mining is going on and deals with the quantity of extracted coal, uninventorised coal, impact on environment and steps for restoration. The 2nd report inter-alia recommended installing digital display boards in respect of water quality, evolving mechanism for transportation of illegally mined coal, audit of sources of acquisition of coal by the power generation and cement companies. The same was considered on 11.04.2019, as already mentioned. The 3rd report dated 02.08.2019 inter-alia dealt with the remedial measures in the form of afforestation, reclamation of affected area, organizing awareness programs, protection of the mined coal, treatment of acidic water in identified streams. The same was considered on 22.08.2019. The 4th, 5th and 6th reports were considered on 17.01.2020. The 4th report dated 31.08.2019 is with regard to illegal raising and transportation of coal and action under Section 21(5) of the MMDR Act, Water and EP Act establishing coal mine surveillance system and considers mechanism for disposal of coal. The 5th report dated 02.12.2019 is inter-alia with regard to sources of coal used by the power and cement plants in the State. The 6th report dated 03.12.2019 is with regard to use of satellite to verify the details of the coal to be auctioned and to verify details of the location of the coal to be auctioned. The 7th report dated 30.04.2020 further considered the issue of transportation of the mined coal to designated place. Thus, the reports have deliberated in detail about the strategies for preventing illegal mining, taking action against violators, creating awareness, restoration of water quality, water supply to affected areas, compensation to the victims, scientific mining, handing over the mined material to Coal India for disposal and all related issues. However, disturbing fact is that even after 1 year and 8 months of the judgment of the Hon'ble Supreme Court, directing disposal of mined coal, the issue is still hanging fire. There is a possibility of such material being stolen or

pilfered and its value diminishing unless timebound action is taken for its disposal. Similarly, steps for restoration of environment need to be taken on war footing.

20. The newspaper reports filed on behalf of the applicant clearly show that illegal mining is still continuing. Restoration of environment, particularly water quality and rehabilitation of affected victims in terms of health, water supply, skill development, protection against illegal mining as well as steps to handle the illegally mined material remain a challenge which requires constant planning and action. Since sufficient deliberations have taken place and **to an extent road-map for further action has been laid out, it is now the implementation which needs to be expedited.** We propose to conclude the proceedings before this Tribunal and before the Committee so that the designated authorities now proceed further in the matter subject to the oversight of a joint Committee of Officers of the Central and the State Government, as follows.

21. We may however deal with the recommendations of the Committee in the 8th Report. We approve the release of sum of Rs. 90,80,445/- in favour of NESAC. The recommendations for handling the MEPRF is approved with the modification that the steering Committee will comprise of the Oversight Committee which we are hereby constituting. The recommendations with regard to method of coal mining and for preparation of mining plan for scientific coal mining consistent with the concern for the environment is accepted, subject to the modification that the final view in the matter may be taken by the Oversight Committee which we are hereby constituting. Same is our direction with regard to recommendation for revised comprehensive plan prepared by the Mining & Geology Department, Govt. of Meghalaya in consultation

with Coal India Limited for the purpose of transport and auction of coal. We also approve the directions given to the Chief Secretary and DGP, Meghalaya on complaint of Shri Pawan Sharma. We also approve the final order passed by the Committee disposing of the application i.e. IA No. 244/2020 filed by the applicant and transferred by the Hon'ble NGT to the Committee.

22. **While placing on record our appreciation for the onerous task undertaken by the Committee, we are of the view that since the Monitoring by the Tribunal or Tribunal appointed Committee cannot continue forever, consistent with the orders passed so far and taking into account the deliberations by the Committee, further task needs to be taken over by the Executive Authorities in the manner we are hereby directing. Needless to say, under the public trust doctrine, the State authorities are bound to work for protection of scarce natural resources, the environment and public health. There is need in change of attitude towards the subject after the Hon'ble Supreme Court has pronounced in the matter.**

23. Accordingly, we dispose of these proceedings with a direction that ownership of the task of compliance of the Judgment of the Hon'ble Supreme Court with regard to preventing unscientific and unregulated mining, restoring the environment, rehabilitating the victims and handling of illegally mined coal should be taken over by the State Authorities, to be overseen by an **Oversight Committee of 12 members, headed by Additional Secretary, MoEF&CC (dealing with the environment and abatement of pollution issues) and comprising Chairman of the EAC, MoEF&CC, dealing with EIA of coal mining, Chairman Coal India, Joint Secretary, Ministry of Mining, Government of India, Director**

General of Mines Safety, Senior Scientist, Indian School of Mines/ IIT, Dhanbad, Regional Officers MoEF&CC and CPCB, Chairman, State PCB, Additional Chief Secretary dealing with the subject of mining in the Government of Meghalaya, PCCF (HoFF) Meghalaya and Additional DGP, nominated by the DGP, Meghalaya. The Regional Officer, MoEF&CC, Shillong will be the Member Secretary of the Committee to coordinate the working of the Committee and to deal with day-to-day issues as per decisions of the Committee. The Committee may meet within one month, take stock of situation and plan future course of action. **Its task will be to take forward compliance of judgment of the Hon'ble Supreme Court and further orders of this Tribunal for preventing unscientific and unregulated mining, handling the already mined material and all other incidental issues.** At the cost of repetition, we direct that the Committee may inter alia ensure that no illegal/unauthorized mining takes place, keeping combat plan and mining mishap management plan ready to avoid eventualities. Further, the Committee may take necessary measures for rejuvenating contaminated streams and rivers. The Committee will be at liberty to take assistance of any other institution/individual. The Chief Secretary Meghalaya will provide necessary logistics for functioning of the Committee. All concerned will be bound by the directions of the Committee, subject to any objection being considered by this Tribunal.

24. We further direct that compliance reports dated 24.07.2020 and 30.09.2020 and latest report submitted by Meghalaya Police with regard to crime statistics (Annexures -14, 15 and 16) may now be looked into by the Oversight Committee. All other surviving issues which may emerge from the report or otherwise will be finally looked into by the Oversight Committee. The Oversight Committee will give its periodical reports to the

Secretaries, Mines, Coal and MoEF&CC, GoI and also place the same on the website of the State of Meghalaya and the MoEF&CC. The said Secretaries may issue such directions as may be necessary in relation to their respective subjects, subject to any unresolved issue being raised before this Tribunal. The Regional Officer, MoEF&CC may take over the records from the Committee for further proceedings as per decisions of the newly constituted Committee.

25. We place on record our appreciation for the valuable assistance rendered by learned Amicus Curiae in dealing with the matter.

A copy of this order be forwarded to the Secretaries, Ministries of MoEF&CC, Coal and Mines, GoI, the Director General of Mines Safety, GoI, Indian School of Mines/ IIT, Dhanbad, CPCB, State PCB, Additional Chief Secretary dealing with the subject in the Government of Meghalaya, PCCF (HoFF) Meghalaya and DGP, Meghalaya by e-mail for compliance.

A copy of this order be also forwarded to Justice B.D. Aggarwal, former judge of Gauhati High Court.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

March 15, 2021
Original Application No. 110(T_{HC})/2012
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