

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 3280 of 2020

Star Cement Limited & Ors

.... Appellant(s)

Versus

State of Meghalaya & Ors

....Respondent(s)

WITH

Civil Appeal No 4144 of 2020

Civil Appeal No 2302 of 2021

Civil Appeal No 2355 of 2021

Civil Appeal Nos 2726-2727 of 2021

Civil Appeal Nos 4991-4992 of 2021

Civil Appeal No 781 of 2022

Civil Appeal No 3528 of 2022

Civil Appeal No 4962 of 2022

ORDER

- 1 This batch of appeals arises from a judgment of the National Green Tribunal¹ dated 17 January 2020.
- 2 In 2012, the Gauhati High Court registered a public interest litigation *suo motu* on the basis of a news item in the month of July, stating that several labourers were trapped inside a coal mine resulting in large scale deaths. The proceedings before the Gauhati High Court were transferred to the NGT and were numbered as Original Application No 110 (THC)/2012.
- 3 In the meantime, in 2014, All Dimasa Students Union Dima Hasao District Committee instituted Original Application No 73 of 2014 before the Principal Bench of the NGT making serious allegations against 'rat-hole' mining operations which were being carried out in Jaintia Hills of the State of Meghalaya without regulation under the law.
- 4 The NGT issued an order on 17 April 2014 directing the State of Meghalaya to ensure the cessation of rat-hole mining forthwith and of the illegal transportation of coal.
- 5 During the pendency of the proceedings, a Committee was constituted on 9 June 2014 to quantify the coal that had already been extracted before the ban and to assess its location and value. The Committee was also to prescribe the mode of transportation. This was followed by subsequent orders of the NGT. On 31 August 2018, the NGT constituted a Committee chaired by a former Judge of the
1 "NGT"

Gauhati High Court to look into the restoration of the environment and rehabilitation of the victims. The Committee was also to supervise issues pertaining to receivership / custodianship of the already extracted coal, including environmental issues arising out of storage and remedial steps. The Committee furnished a report on 2 January 2019, which was considered by the NGT in an order dated 4 January 2019.

- 6 The order also took note of another tragic incident which had taken place on 13 December 2018, despite the earlier ban by the NGT.
- 7 From the impugned order of the NGT, it emerges that the Committee had submitted three reports on 2 January 2019, 31 March 2019 and 2 August 2019, which were dealt with by the NGT in its orders dated 4 January 2019, 11 April 2019 and 22 August 2019. The Committee thereafter submitted reports dated 31 August 2019, 2 December 2019 and 3 December 2019. The gist of these reports was set out by the NGT. The Committee, in the course of its fifth interim report dated 2 December 2019, arrived at the conclusion that there was a huge gap in the quantity of coal required to produce the reported quantity of clinker and/or power and the coal reported to have been purchased from legal sources by the cement manufacturing plants and thermal power plants in the State of Meghalaya for which an audit was completed by the Committee. The Committee estimated the year-wise quantity of the coal required to produce the reported quantities of clinker and/or power, the coal actually purchased from legal sources and the gap between them for 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19. Having carried out this exercise, the Committee estimated in the case of nine industrial units:

- (i) The quantity of illegal coal used in metric tonnes;
- (ii) The royalty payable;
- (iii) The contribution required to be made to the Environmental Protection and Restoration Fund; and
- (iv) GST/VAT payable.

The Committee submitted its sixth interim report dated 3 December 2019 to deal with the objections raised by the State of Meghalaya.

- 8 From the impugned order of the NGT, it emerges that the proceedings before the NGT came up for hearing on 9 January 2020 and the impugned order was uploaded on the website on 17 January 2020. After setting out the gist of the reports, the NGT dealt with the objections which were filed by the State of Meghalaya to the reports submitted by the Committee on 31 August 2019 and 3 December 2019. After rejecting the objections of the State of Meghalaya, the NGT proceeded to issue its directions, accepting all the recommendations of the Committee in the fourth interim report dated 31 August 2019, fifth interim report dated 2 December 2019 and sixth interim report dated 3 December 2019. The directions which have been issued by the NGT are summarized thereafter in paragraph 23, which is extracted below:

“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.”

- 9 None of the appellants were parties to the proceedings before the NGT. It is common ground that the appellants were called upon to submit information to the Committee appointed by the NGT. According to the appellants, the fifth interim report dated 2 December 2019 was uploaded on 8 January 2020 at 1655 hours, following which a hearing took place on 9 January 2020. Neither were the appellants impleaded as parties to the proceedings nor was any notice issued to them to submit objections to the interim reports which were filed before the NGT. Eventually, the NGT, as noted earlier, accepted the recommendations of the Committee.

- 10 Section 19(1) of the National Green Tribunal Act 2010 provides that the NGT shall not be bound by the procedure laid down by the Code of Civil Procedure 1908, but shall be guided by the principles of natural justice. The National Green Tribunal (Practices and Procedures) Rules 2011 provide in Rule 15 for service of notice and processes and in Rule 16 for the filing of replies and other documents by respondents.
- 11 The appellants were not parties before the NGT and did not have the opportunity to deal with the contents of the reports of the Committee appointed by it. The NGT had assigned a fact finding and recommendatory role to the Committee. The ultimate decision on the reports of the Committee had to be taken by the NGT, which could only be arrived at after considering the submissions of the parties, who would be directly affected by the findings of the Committee if they were to be accepted by the NGT.
- 12 Reading the impugned order of the NGT, we do not find any independent application of mind. The Committee, which was chaired by a former Judge of the High Court, had in the view of the NGT, carried out a copious exercise. But that would not obviate the need for the NGT to arrive at its own independent findings after furnishing the parties, who would be directly affected, an opportunity of being heard. The NGT having not done so, we would have to restore the proceedings in relation to the appellants back to the file of the NGT, at the stage, at which they stood prior to the passing of the impugned judgment dated 17 January 2020. Consequently, and to facilitate the above exercise, we set aside the impugned judgment dated 17 January 2020 in relation to its applicability to the appellants before this Court and direct that:

- (i) The appellants shall submit their responses to the interim reports of the Committee appointed by NGT within a period of four weeks;
- (ii) NGT shall furnish to the appellants an opportunity of being heard, after which it shall proceed to pass orders after dealing with the suggestions and objections of the appellants in accordance with law;
- (iii) NGT shall take a final decision in three months; and
- (iv) The appellants would be at liberty to apply to the NGT for inspection of records, including the underlying documents which were submitted by the Committee.

13 The appeals shall accordingly stand disposed of.

14 Pending application, if any, stands disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

New Delhi;
May 02, 2023
-S-

ITEM NO.11

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).3280/2020

STAR CEMENT LIMITED & ORS.

Appellant(s)

VERSUS

THE STATE OF MEGHALAYA & ORS.

Respondent(s)

(WITH IA No. 101983/2020 - APPLICATION FOR PERMISSION, IA No. 119002/2022 - CLARIFICATION/DIRECTION, IA No. 87559/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 101998/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 87560/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 87558/2020 - STAY APPLICATION)

WITH

C.A. No. 4144/2020 (XVII)

(WITH IA No. 120345/2020 - EX-PARTE STAY, IA No. 120344/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 2302/2021 (XVII)

(WITH IA No. 69802/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 69801/2021 - STAY APPLICATION)

C.A. No. 2355/2021 (XVII)

(WITH IA No. 72268/2021 - EX-PARTE STAY, IA No. 72271/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 72270/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 72274/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

C.A. No. 2726-2727/2021 (XVII)

(WITH IA No. 76856/2021 - EX-PARTE STAY, IA No. 76860/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 76858/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 4991-4992/2021 (XVII)

(WITH IA No.91889/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.91888/2021-EX-PARTE STAY and IA No.91887/2021-PERMISSION TO FILE APPEAL)

C.A. No. 781/2022 (XVII)

(WITH IA No.3537/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.3536/2022-STAY APPLICATION and IA No.3534/2022-

PERMISSION TO FILE APPEAL)

C.A. No. 3528/2022 (XVII)

(WITH IA No.60554/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.60553/2022-EX-PARTE STAY and IA No.60555/2022-EXEMPTION FROM FILING AFFIDAVIT and IA No.60552/2022-PERMISSION TO FILE SLP)

C.A. No. 4962/2022 (XVII)

(WITH IA No. 85588/2022 - STAY APPLICATION)

Special Leave Petition (Civil) Diary No(s). 22753/2022 (XIV)

(FOR ADMISSION and I.R. and IA No.123797/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.123795/2022-PERMISSION TO FILE SLP, IA No. 187837/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 02-05-2023 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE J.B. PARDIWALA

For Appellant(s)

Mr. Shyam Divan, Sr. Adv.
Mr. Udayaditya Banerjee, AOR
Mr. Sudipto Sircar, Adv.
Ms. Shreya Bhojnagarwala, Adv.

Mr. Pinaki Misra, Sr. Adv.
Mrs. Vanita Bhargava, Adv.
Mr. Ajay Bhargava, Adv.
Mr. Shantanu Chaturvedi, Adv.
Ms. Prerna Singh, Adv.
M/S. Khaitan & Co., AOR

Mr. Dhruv Mehta, Sr. Adv.
Mr. Nawneet Vibhaw, Adv.
Mr. Himanshu Pabreja, Adv.
Mr. S. S. Shroff, AOR

Mr. Huzefa A Ahmadi, Sr. Adv.
Mr. E. C. Agrawala, AOR

Dr. Ashok Saraf, Sr. Adv.
Mr. Kaushik Choudhury, AOR

Mr. Manpreet Singh Lamba, Adv.
Mr. Pulkit Agarwal, AOR
Mr. Sanampreet Singh, Adv.

Mr. Shivani Sharma, Adv.
Mr. Ashutosh Kumar, Adv.
Mr. Palav Agarwal, Adv.
Mr. Aditya Mishra, Adv.

For Respondent(s) Mr. Avijit Mani Tripathi, AOR

Mr. Saurabh Mishra, AOR
Mr. Nirbhaya Tewari, Adv.
Mr. Rakesh Chander, Adv.
Mr. Abhishek Pandey, Adv.
Ms. Priya Kaushik, Adv.

Mr. Avneesh Arputham, AOR
Ms. Anuradha Arputham, Adv.

Ms. K. Enatoli Sema, AOR
Mr. Amit Kumar Singh, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Prang Newmai, Adv.

Ms. Richa Kapoor, AOR
Mr. Kunal Anand, Adv.
Ms. Tusharika Sharma, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 The appeals are disposed of in terms of the signed order.
- 2 Pending application, if any, stands disposed of.

Special Leave Petition (Civil) Diary No 22753 of 2022

- 3 In view of the order which has been delivered in the batch of appeals² listed together with the Special Leave Petition, Mr Shyam Divan, senior counsel, seeks the permission of the Court to withdraw the Special Leave Petition so as to pursue appropriate remedies before the High Court.
- 2 Civil Appeal No 3280 of 2020 etc.

- 4 The application for permission to file the Special Leave Petition and the Special Leave Petition are dismissed as withdrawn.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)