

Orientation Workshop on
**Effective Legal and Scientific Tools for
Participating in Environmental Decision-making**

8-9 March 2014

Bhubaneswar



EIA Resource and Response Centre (ERC)
Supported by
Shakti Sustainable Energy Foundation



Introduction

A two-day workshop was organized on 8th and 9th March 2014 at DRTC-CYSD in Bhubaneswar by EIA Resource and Response Center (ERC), New Delhi. There were nearly 40 participants including representatives of Non-Government Organizations (NGOs), Civil Society Organisations (CSOs), activists and individuals from different parts of Odisha. Mr. Ritwick Dutta (Environmental lawyer, LIFE/ERC), along with Mr Debi Goenka (Conservation Action Trust), Dr. R. Sreedhar (Enviro-nics Trust and mmP) and Dr Biswajit Mohanty (RTI expert) were the key experts and resource persons for the workshop. Mr Prafulla Samantara, an eminent environmental activist from Odisha, delivered the key note. The workshop was coordinated by advocate Sankar Prasad Pani.

Objectives of the Workshop

Odisha is one of the States where indiscriminate mining and industrialization has caused severe and irreparable loss to community and environment over last two decades. As a result, there has been a growing resistance against such hazardous activities across the State in various pockets. So as to address these concerns and explore the possible ways to combat this man-made havoc, this orientation programme was organized for lawyers and activists seriously engaged on these issues.

The programme focused on:

1. Critiquing the Environmental Impact Assessment Reports
2. Strategizing the Environmental Litigation
3. Role of citizen/civil societies in Public Hearing
4. Possible avenues to challenge the Illegalities
5. Non-compliance of various environment laws
6. RTI as a tool in seeking environment related information
7. Environmental Impacts of Mining Projects

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The meeting started with welcome address by Sankar Prasad Pani. Participants coming from different parts of Odisha gave their introduction.

Prafulla Samantara shared the current situation of Odisha in the context of environmental governance, exploitation of natural resources and pollution of major rivers. Main points raised by him are given below:

- ★ Independency of Environmental Impact Assessment report is a major concern because it is funded by the project proponent, so there is every possibility that the third party sponsored by the company is to take the side of proponent and in many of the reports, environmental

concerns are not reflected in the EIA report. It shouldn't be influenced by the company, government or political parties.

- ★ Collection of data and evidences play a major role in order to design a movement and advocacy. The petition should be based on data and evidences. Advocacy should be based on different issues such as health, water, land environment etc. Each and every issue is important. None of them should be ignored.
- ★ Lack of knowledge among the activists of environmental law and the National Green Tribunal (NGT) is a major challenge
- ★ Mining, sponge iron and thermal power plant, are three emerging environmental challenges for the people of Odisha
- ★ Relief and compensation is also a vital part which is not been explored much, though severe damages have been caused to environment and public health in recent past

Ritwick Dutta took a session on the National Green Tribunal (NGT). He focused on different aspects of the Tribunal. During his presentation, he also touched the EIA process. Some highlights of his presentation are given below:



- ★ The volume of cases in NGT has increased but should increase more.
- ★ It is sad that litigations on compensation and restoration are very few. There are only 5 cases where NGT has given order for compensation and restoration.
- ★ EIA is an evolving process. New interpretations are coming frequently.

- ★ Compensation is related to rights. It is not a charity. The affected people have the right to demand compensation.
- ★ About 85,000 to 1,10,000 people died of coal burning
- ★ EIA notification issued on 14th September 2006 under the Environmental (Protection) Act 1986 is an outcome of an executive order and not of the legislative process.
- ★ An existing project requires EIA for any kind of modernization, expansion etc.
- ★ There are also State Environment Impact Assessment Authority (SEIAA) and State Expert Appraisal Committee (SEAC) functional at the State level.
- ★ Cumulative impact assessment of projects is usually missed / ignored during EIA process.
- ★ Form 1 submitted by project proponent is very important in order to monitor any project.

Debi Goenka spoke on thermal power plant and its impacts. He broadly focused on 5 different issues related to the impacts of power plant. He also discussed the term "Reasonably Foreseeable". During his presentation he talked about the precautionary principle upheld by Supreme Court on various occasions. Following is the outline to critique a thermal power project



1. **Technical Issues:** - Land, fresh water, sea water, coal transportation in sea, train, truck, conveyors, transmission lines etc.
2. **Economic issues:** - Viability, location, fuel price etc.
3. **Social Issues** - Land use, direct displacement, indirect displacement, pollution, increase in cost of living, Non availability of traditional items - water, food, fuel raw materials etc.
4. **Environmental Issues** -

Alternate site selection, alternate energy options, land, water, air, bio-diversity, ash disposal, transmission lines, other infrastructure such as rail, road, conveyors etc. Thermal discharges, radioactivity, impacts of coal mining. Bio-diversity aspect is usually ignored in almost every case. The water which has to be discharged to river, sea, lake etc. should be below 5 degree Celsius. Chemicals which are used in the cooling power plant are toxic in nature for the living water organism. Radiation in thermal power plant is 100 times more than nuclear power plant.

5. **Ecology and Bio-Diversity:-** Loss of habitats, fragmentation of habitats, impact on corridors, reduction in quality of habitats, reduction in productivity of habitats, change in composition of species etc.

Assessment of Total Impact:- Thermal power plant, dams and water pipelines, ash pond, port, cooling water channels/pipelines, Transportation of ash, rail lines, transmission lines, mining of coal, roads etc.

Cumulative Impact:-The EIA reports of projects must include the cumulative impact of existing projects as well as impact of the proposed project and impact of other proposed projects in pipeline.

Biswajit Mohanty took a session on 'Effective use of RTI' in seeking environment and forest related information. He discussed different provision given under this Act and how can it be used to monitor a project. He emphasised on the section 4(1) of RTI Act, which mandates for *suo-moto* disclosure of information.

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Ritwick Dutta took another session on the NGT. He particularly focused on the provisions for compensation and relief under the NGT Act 2010. He discussed important provisions in the NGT Act. He also elaborated on public consultation and cited different judgments of NGT. Some highlights of his presentation are as follows:

- ★ Public hearing has been replaced by public consultation in EIA
- ★ Public consultation has generally 2 parts. One is physical participation and other is written representation. Written representation is very important
- ★ NGT consist of 1 judicial member as well as 1 technical member. All together it has 18 members
- ★ Some other critical issues like the Land (Acquisition) Act, the Wildlife (Protection) Act and the Forest Right Act, are not under the purview of NGT
- ★ NGT has provisions for relief and compensation in 3 boarder category i) Relief and compensation to victims of pollution (ii) Restitution of property damaged (iii) Restoration of environment of such area
- ★ NGT is more a human rights tribunal than environment tribunal, so more number of people affected by industrialisation and mining should approach NGT for appropriate remedy.

R Sreedhar discussed about the impact of mining and shared some of his experiences in the context of Odisha.

Discussion of Issues

At the end some major issues in Odisha were discussed briefly and listed for further follow up.

The lists of issues:

- Environmental pollution due to the Kurmitar mining in Khandadhar
- Ground water depletion in Kalinganagar
- Industrial Pollution in the Bheden river, Sambalpur
- Pollution due to sponge iron plants in Sundergarh district
- Pollution in the Nagabali river due to paper mill

Vote of Thanks

On behalf of the organizers, Adv. Sankar Prasad Pani, thanked Shakti Sustainable Energy Foundation, whose support was quite essential for this programme. Ritwick Dutta was specially thanked for his valuable inputs and for his commitment to carry forward the issues in the NGT. He also thanked Debi Goenka, R. Sreedhar and Biswajit Mohanty for their valuable contribution in the programme. Finally, Pani thanked all the participants for sharing their valuable experience in the meeting.

(Report prepared by Abhishek Kumar Dash & Sankar Prasad Pani and edited by Pushp Jain)

Orientation Programme
8 March 2014

Time	Topic	Presenter
10:00 am – 10:15 am	Introduction to Workshop	Sankar Pani
10:15 am – 10:30 am	Self Introduction by Participants	
10:30 am – 10: 50 am	Key Note Address	Prafulla Samantara, Loka Shakti Abhiyan
10:50 am -11:30 am	The Environmental Impact Assessment Process	Ritwick Dutta
11:30 am -11:45 am	Tea	
11:45 am – 1:00 pm	Approaching the National Green Tribunal: The Appellate and Original Jurisdiction and the power to award compensation, direct for restoration	Ritwick Dutta
1:00 pm -1:45 pm		
1:45 pm – 2:30 pm	Thematic Areas : Mining and EIA and FC Process	R Sreedhar, Environics Trust & mine minerals and PEOPLE (mmP)
2:30 pm -3:15 pm	Thermal Power Plants and the EIA Process	Debi Goenka, Conservation Action Trust
3:15 pm - 3:40 pm	Significant decisions of NGT on Thermal Power Plants	
3:40 pm - 4:00 pm	Tea	
4:00 pm - 4:30 pm	Forest Clearance Process	Debi Goenka and Ritwick Dutta
4:30 pm - 5:00 pm	Effective use of RTI in seeking environmental and forest related information	B. Mohanty

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Time	Topic	Presenter
10:00 am -10:20 am	Recap of the first day	
10:20 am -11:00 am	Environmental Impact of Mining in Odisha	R.Sreedhar
11:00 am -11:30 am	Advocacy Around Coastal Issues (CRZ)	Debi Goenka
11:30 am -11:45 am	Tea	

11:45 am -1:30 pm	Seeking Compensation and Relief	Ritwick Dutta
1.30 pm - 2.30 pm	Lunch Break	
2:30 pm - 4.00 pm	Discussion of Issues for Action in Odisha	
	Vote of Thanks	

List of Participants

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