

Orientation on Environmental and Forest Clearance Processes and National Green Tribunal

22 June 2013
Coimbatore (Tamil Nadu)



Organized jointly by
EIA Resource and Response Centre (ERC),
Nilgiri Unit, Kotagiri, Tamil Nadu
and
OSAI, Coimbatore, Tamil Nadu

Orientation

Orientation on Environmental and Forest Clearance Processes and National Green Tribunal (NGT) Act, 2010 was organised by EIA Resource and Response Centre (ERC) in collaboration with OSAI, an environmental organization at Coimbatore, at Vijay Park Inn, Coimbatore on 22 June 2013. More than 80 persons including lawyers, NGO representatives, activists, businessmen, farmers etc interested in environmental issues actively participated in the Orientation. Representatives of People's Union for Civil Liberty (PUCL) also participated. Representatives of people affected by Dyeing Industry along the Noyyal river from Tirupur also participated and discussed the issue of pollution and compensation.

Welcome and Introduction

The Orientation started at 10.00 am with a welcome by Mr. M.A. Ten Muruga Kani, Joint secretary - OSAI and Mr. Kalidasan, President – OSAI. Mr. Ritwick Dutta, Environmental Lawyer, ERC, explained the background, importance and need of NGT. There was a round of brief introduction by participants.



Welcome address by Mr. Kalidasan, President – OSAI

Agenda for the Orientation

Time	Programme
10:00 -10:30	Introduction to the orientation: OSAI & ERC
10:30 -10:45	Brief introduction by participants
10:45 -11:30	Environmental Clearance Process by Mr. Ritwick Dutta, Mr R Sreedhar and Mr. A. Pragatheesh
11:30 - 11:45	Tea
11:45 - 12:15	Forest Clearance Process by Mr. Pushp Jain
12:15 - 01:15	NGT Act: Key provisions of the Act and decisions of the Tribunal (locus standi, limitation, structure, jurisdiction) by Mr. Ritwick Dutta
01:15 - 02:15	Lunch break
02:15 - 03:00	NGT Act continued (appellate and original jurisdiction, nature of relief, non compliance of orders)
03:00 - 05:00	Open discussion

Environmental Clearance Process

Mr. Ritwick gives an introduction about the environmental clearance process and the EIA (Notification) 2006. Mr A. Pragatheesh, presented various sections of the EIA (Notification) 2006, while Mr. Ritwick Dutta and Mr R. Sreedhar added interpretation with examples.

Mr. Pragatheesh explained the requirement of EIA, stages in the Environmental Clearance (EC) process, categorization of projects into broad 8 sectors and 38 sub sectors, and category A and B projects. The categorization is based on the spatial extent of potential impacts on human health and natural and manmade resources. He explained about the Stages in Environmental Clearance process like Screening, Scoping, Public Consultation and Appraisal.

Throughout the presentation Mr. Ritwick Dutta, Mr R. Sreedhar provided their input with examples.



A. Pragatheesh making presentation on EIA Notification 2006 while Ritwick Dutta (Centre) provides interpretation and explanation

Mr. Ritwick Dutta explained about the Application for prior environmental clearance *Form 1, IA* and the information and declaration which the project authority needs to fill certifying the correctness of information. This can be used for the litigation purpose if any misleading information is provided for getting the clearance.

He explained the importance of cumulative impact assessment of different projects at particular location with example of *Jeet Singh & ors vs MoEF, Dheeru Powergen Private Limited & ors* case on thermal power plant at NGT.

Forest Clearance Process

Mr. Pushp Jain started his presentation with a startling revelation that 135 ha per day forest diversion is being recommended by the Forest Advisory Committee (FAC) of the Ministry of Forest and Environment (MoEF). The analysis is based on FAC recommendations for forest diversion during Nov, Dec 2012 and Jan 2013 – 12266 ha diversion in 90 days!

He explained the Forest (Conservation) Act, 1980 in which section 2 restricts de-reservation/use for non-forestry purpose of forest, and State Government shall divert forest with the approval of the Central Government and Section 3 provides for creation of the Forest Advisory Committee.

If the forest land diversion is more than 40 hectare it is dealt with at MoEF level, if the project involve up to 40 hectare it goes to MoEF regional office and dealt with by Regional Empowered Committee and if the forest diversion is less than 5 ha it is directly processed by the Regional MoEF Office.

He explained about Form A, Form B which have detailed information and opinion of the State government, cost-benefit analysis by User Agency etc. The Part IV of the form A/B is to be filled by Nodal Officer or PCCF 'the detailed opinion and specific recommendation of the State Forest Department for acceptance or otherwise of the proposal with remarks'.

He shared some sample forms highlighting the casualness with which the Nodal Officers take their responsibility. He also presented examples of ridiculous conditions like 'construction of over-pass and under-pass for elephants' and 'celebration of wildlife week' in lieu of mining as a condition for the forest land diversion.

He mentions the proposals which are declined come back again in subsequent meetings with some minor changes and finally get recommended.



Pushp Jain talking on Forest Clearance Process

National Green Tribunal (NGT) Act

Mr. Ritwick explains the need of NGT with an example of Yamuna river pollution case. He explained the difference between a court and a tribunal. The Supreme Court and the High Courts can take environment case and look at the procedural faults. But a tribunal is expert above the experts and can go into the merit of cases, as in the situation with the NGT, each bench comprises of judicial as well expert members.

Mr. Ritwick explains the NGT Act by taking up important sections of the Act. He explained about the compensation provision of the Act. He explained chapter III on jurisdiction, powers and proceedings of the tribunal and penalty and Schedule I, II and III.

He spoke about the qualification and the recruitment process for the expert members in the NGT. He explains about the different benches in different regions - New Delhi is the principal bench for NGT. At present only Bhopal, Chennai and Delhi bench are functional. Mr. Ritwick explained about the time limitation for filing cases in NGT.

He shared some judgements by the NGT from cases like Jeet Singh & ors vs MoEF, Dheeru Powergen Private Limited & ors, Adivasi Mazdoor Kisan Ekta Sangathan vs MoEF; and Sandeep Desai (Goa) Case 47-2012(T).

Discussion on Environmental Issues

Final session was led by Mr Ritwick Dutta. This was a session for discussion of various environmental issues of the people in the region. Several issues were presented by local groups with intervention from others familiar with the issues. Mr Ritwick discussed the pros and cons of the issues and suggested action by the local group for mitigation and /or judicial action. The suggestions were supplemented by other experts on the dais including Mr R Sreedhar.

Issue 1: Compensation for impact of dying industry along the Noyyal River from Tirupur

Name of presenters of the issue: P.Gunasekaran and M.Shanmugam

Organisation: Noyyall Aattrin Neerinal Bathikapetta Vivasaiyigalin Alachangam

Place: Tirupur district, Tamil Nadu

Contact: 9442160386

General description and issues: Government of India issues an order to realise Rs 74 Crores for 28,000 people affected by the dying industry in Tirupur. But only 534 people got 1 lakh as compensation, rest of the people were not given any compensation who were also affected by dying industry. Whether this case can go to NGT at this stage?

Response by Ritwick : This issue is already moved from Chennai High Court to the Supreme Court of India, at this stage this case cannot be taken to NGT. If any new information or new issues related to this case emerged then it can go to NGT.



Mr. Gunasekaran for Noyyall Aattrin Neerinal Bathikapetta Vivasaiyigalin Alachangam raising issues on the Noyal river



Dr.N.S.Satyasundari from Bhavani River Protection Council raising issue on Bhavani river

Issue 2: The Bhavani River Pollution

Name of presenter of the issue: Dr. N. S. Satyasundari

Organisation: Bhavani River Protection Council

Place: Gobi

Contact: 9790013404

General description and issues: In the Upper Bhavani River lot of dead bodies, ash, bones and dyeing industry waste water are getting mixed. The same polluted water is supplied for drinking purpose in the lower region. Who is responsible authority - Pollution Control Board, PWD or the Bhavani Dam Authority?

Response by Ritwick: All the authorities have to answer. Refer to The Water (Prevention and Control of Pollution) Act, 1974 and Environmental (Protection) Act, 1986. This case can easily go to NGT.

Issue 3: Pillur Dam

Name of presenters of the issue: Peter Prem Chakravarthi

Organisation: WWF India

Place: Pollachi

Contact: 9486245097

General description and issues: Pillur Dam is located in the upper stream of the Bhavani river. Huge amount of water is removed from the Pillur Dam for industrial purposes which is impacting the Bhavani River water flow, Already in Coimbatore, the lower Noyyal River is dried due to excess water removal for the upper stream. If too much water is removed from the Pillur Dam similar kind of impact may happen in lower stream of the Bhavani River. How to stop this activity?

Response by Ritwick: This issue can go to NGT under section 14 of the NGT Act, 2010.

Issue 4: Lower Bhavani River Pollution

Name of presenters of the issue: Dr.N.S.Satyasundari

Organisation: Bhavani River Protection Council

Place: Gobi

Contact: 9790013404

General description and issues: Lower Bhavani River has 5 paper mills, these paper mills are using the Bhavani River water for the industrial purpose, after using the river water they are dumping waste water underground along the river basin. Because of this activity, the surrounding area's ground water/drinking water is getting polluted. How to stop this?

Response by Ritwick : Collect evidence on waste water dumping and test the underground water to know the pollution status / level as per the drinking water standard and file a case in the NGT.

Issue 5: Non-forestry activities around Bhavani Dam

Name of presenters of the issue: Saravanan

Organisation: Wild Wing Society

Place: Coimbatore

Contact: 9003099166

General description and issues: Local people and migrated people from other part of Tamil Nadu had settled along the Bhavani Dam and started doing banana plantation in and around the Bhavani Dam submergence zone. These days they have started doing banana plantation in adjacent Reserve Forest also and started doing electric fencing along the banana plantation. This activity is affecting the elephant and other wild animal moment for access water from the Bhavani Dam during summer, when water is limiting factor. How to stop this and can we take the issue to the NGT?

Response by Ritwick: Yes, if the forest land is used for non forestry activity it is a violation under Forest (Conservation) Act, 1980. You can file a case in the NGT for doing non forest activity in forest area.

Issue 6: Sand mining in the Bhavani River

Name of presenters of the issue: Sivakumar

Organisation: Save Coimbatore Wetlands

Place: Coimbatore

Contact: 9843222000

General description and issues: In the Bhavani River huge amount of sand mining legally/ illegally is going on. Due to uncontrolled sand mining the entire river is affected. As per the mining permit they can do mining only 3 m but they are removing sand more than the permitted limit. How to stop this?

Response by Ritwick : Please refer to sand mining judgment Dipak Kumar vs State of Haryana decided by the Supreme Court of India in 2012. If they are violating the rules you can go to NGT.

Issue 7: Promotion of CNG for Coimbatore Public Transport

Name of presenters of the issue: Kalidasan

Organisation: OSAI

Place: Coimbatore

Contact: 9443022655

General description and issues: Is it possible to promote CNG in Coimbatore Public Transport? The level of Air pollution is increasing day by day in the Coimbatore city.

Response by Ritwick : Yes, before that you have to prove the level of air pollution is high/increasing and project the pollution level for 5 years to show how it is going to increase in future and request for CNG in public transport to mitigate.

Issue 8: Tree felling for road widening in Coimbatore

Name of presenters of the issue: N.I. Jalaluddin

Organisation: Nature Conservation Society

Place: Coimbatore

Contact: 9489602878

General description and issues: Tree felling for road widening in Coimbatore is taking place every day. If any NGO or any individual raises issue to stop the tree felling, the District Magistrate has given order to arrest them. How to stop this?

Response by Ritwick : Please refer to urban development guidelines and use this as a base to stop the tree felling. Calculate the ecosystem service provided by a tree and show the importance to the urban trees.

Vote of Thanks

The Orientation ended with vote of thanks by Mr. Kalidasan, and Mr. Ritwick Dutta.

List of Participants

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