

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

23 February 2014

Nagpur



Organized jointly by

**EIA Resource and Response Centre (ERC), New Delhi &
Srushti Paryavaran Mandal, Nagpur**

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Introduction

Orientation Workshop on “Effective Legal and Scientific Tools for Participating in Environmental Decision-making” was organized by EIA Resource and Response Centre (ERC), New Delhi, in collaboration with Srushti Paryavaran Mandal, Nagpur, at VCMWA Hall, Surya Kiran building, VNIT Sq, Bajaj Nagar, Nagpur, on 23.02.2014. Around 45 people participated in the workshop including lawyers, NGOs, activists, university students and others interested in environmental issues.

Welcome Address and Introduction

The Orientation started at 10.00 am with a welcome address by Mr. Swanand Soni from Srushti Paryavaran Mandal.



Welcome address by Mr. Swanand Soni - Srushti Paryavaran Mandal

Mr. Ritwick Dutta, Environmental Lawyer, from Legal Initiative for Forest & Environment (LIFE) /ERC, explained the background, importance and need of the National Green Tribunal (NGT).

Subsequently, the participants and speakers introduced themselves briefly.

Environmental and Forest Clearance Processes

Mr. Ritwick explained the EIA (Notification) 2006 – Preamble, the need for EIA (Notification) 2006, different stages in the EIA process, developmental projects are categorised into 8 broad sectors and 38 sub-sectors - the developmental projects are categorized into A or B category based on the spatial extent of potential impacts on environment and on human health and natural and manmade resources; and experts committees for appraisal of proposals; the application for prior environmental clearance in Form 1, 1A, prefeasibility report etc.

He suggested that the information provided in the Form can be used for litigation purpose if any misleading information is provided for getting the Clearance.

The requirement of cumulative impact assessment of different projects was discussed by Mr. Ritwick, giving the example of Mr. Jeet Singh Vs UoI case on a thermal power plant proposal in NGT.

As per the Central Information Commission (CIC), direction, MoEF has to disseminate the information related to proposals under consideration of EAC 7 days before meeting like Form 1, Form 1A and EIA report etc.

Mr. Ritwick highlighted that in issuing Terms of Reference (ToR) for EIA studies for coal based thermal power plant, MoEF should incorporate studies on radiation because thermal power emits higher radiation than nuclear power.



Mr. Ritwick Dutta explaining Environmental Clearance process

Mr. Ritwick then explained the Forest Clearance process. He explained steps in the FAC process and he gave examples on how DFO filled out the Form A with incorrect information. He explained the roll of Nodal Officers, and how Nodal Officers provide comments in Form A with a sample.

Approaching the National Green Tribunal

Mr. Ritwick explained the preamble, certain important sections and aspects of NGT.

He explained about the different benches in different regions - the principal bench of NGT is in New Delhi and other benches are Central Zone (Bhopal). West Zone (Pune), East Zone (Kolkata) and South Zone (Chennai).

He explained about the time limitation for filing cases in the NGT. He explained the Jurisdiction of NGT (Original Jurisdiction Section 14 and 15 and Appellate Jurisdiction Section 16).

He further explained the relief and compensation to victims of pollution, restitution of property damaged, restitution of environment of such area and areas with example 'Deepor Beel' in Assam.

The limitation, as prescribed under Section 16 of the NGT Act, shall commence from the date the order is communicated. Communication of the order has to be by putting it in the public domain for the benefit of the public at large as was pronounced in the Save Mon Region Federation Vs Union of India case in NGT.

He shared some significant judgements by the NGT from cases like Prafulla Samantray Vs Union of India, Jeet Singh Vs Union of India, Adivasi Majdoor Kisan Ekta Sanghatan Vs Ministry of Environment and Forests (MoEF), Samata Vs Union of India, Gau Raxa Hitraxa Pauchav Trust Vs Union of India, and Pirna Naroda Kruti Vs MoEF.

Environmental Impacts of Thermal Power Plants (Coal)

Mr. Debi Goenka explained the impacts of Thermal Power Plants:

1. Site selection issues of Thermal Power Plants like Technical issues, Economic issues, Social parameters, Environmental considerations and Ecological and Biodiversity.
2. Technical Issues (like land, fresh water, sea water, coal transportation – sea, train, truck, conveyors, and transmission lines).
3. Economic Issues (like viability, location of demand centres, fuel prices, electricity prices, willingness to pay and ability to pay).
4. Social Parameters (like land use, direct displacement, indirect displacement, pollution, increase in cost of living and non-availability of traditional items – water, food, fuel, raw materials, etc.).
5. Environmental issues (like land, water, air, biodiversity, ash disposal and transmission lines etc).

6. Ecology and Biodiversity (like loss of habitats, fragmentation of habitats, impact on corridors, reduction in quality of habitats, reduction in productivity of habitats, change in species composition).
7. Assessment of Total Impact (like impact of existing activities, impact of the proposed project, and impact of other proposed projects).
8. Cumulative Impacts (like impact of existing activities, impact of the proposed project, impact of other proposed projects).

He mentioned that there is separate notification of MoEF on fly ash. All thermal power plants have to utilise 100% fly ash after burning coal. But currently not a single company is achieving this condition.



Mr. Debi Goenka talking on Environmental Impacts of Thermal Power Plants (Coal)

Mr. Debi highlighted that for generating 1000 MW, a coal-based power plant which requires 600 acres of lands, 2,952,000CuM of water per day, 250 skilled employees, 14240 Tonnes of coal per day, will generate 5,040 Tonnes of ash, 740 Tonnes of sulphur and 153 Tonnes of nitrogen per day.

He explained the difficulty with pollution from the coal and ash disposal, ash pollute the air, ground water and contaminate the soil. He also highlighted that in India no effective mechanism exists for monitoring and that 6-monthly monitoring reports are not available on the MoEF website.

Mining in Tiger Landscape

Mr. Kishore Rithe started his presentation with information on 210 GW Electricity Generation in India. In India, 66% of the electricity comes from coal, which makes India ranked 5th in the world. Maharashtra alone consumed 71.5 m. tones in 13 plants generate 17,560 MW (2011-12).

He explained the impact of mining on:

1. Impact on Forests:

- Satpuda is a priority landscape for tiger conservation
- Last 5 year plan granted FC clearance to 113 coal mining projects
- 26,000 ha forest diverted for coal mining projects during 2007-2011.
- Dual blow for bio-diversity
 - A) Climate change
 - B) Forest loss
 - C) Decline in wildlife populations

2. Impact on Wildlife

- Threat for wild animal population dynamics (carnivores and herbivores)
- May cause human-wildlife conflict
- Chandrapur district recorded 87 human deaths from 2007-2013 in carnivore attacks
- Case studies substantiate the mining impact

3. Mining threat to Chandrapur tiger population

- Chandrapur district 34% forest.
- 3900 sq.km is forest land mainly Reserve Forest.
- Since 2000: Chandrapur lost 2558 ha of forest for coal mining projects and related infrastructure.
- 2010 report of NTCA found tiger occupancy in 3241 sq.km area of Chandrapur landscape (66-74 Tigers).
- Estimated 3.2 Billion tonnes of coal reserve in Wardha Coalfield (Chandrapur & Wardha)
- Threat to south and south-east corridor - Kawal WLS, Chaprala WLS. Northern corridor - Umred Karandla WLS.



Mr. Kishore Rithe talking on Mining in Tiger Landscape

Mr. Kishore highlighted issues like:

- No mine closure plans, backfilling and reclamation
- Air pollution and impact on human and wildlife health
- Hardly any effective mitigation measures for mining to avoid negative impacts
- How many Tigers? Vs how much more electricity?
- Absence of landscape level planning and cumulative impact assessment

Solutions

- Demand side management solutions
- Decentralized Renewable Energy System (DRE)
- Solar-Wind hybrid option (appliances, agriculture and Industry)
- Reduction in transmission and distribution losses
- Renewable energy
- National action plan on climate change promote RE
- India can generate 97000 MW from solar, wind and other non coal alternatives
- This is equivalent to 485 million tonnes of coal (2011- coal production in India)

Discussion on Environmental Issues

The final session was led by Mr Ritwick Dutta. This was a session for discussing various environmental issues of the people in the region. Local groups presented several issues with interventions from others familiar with the issues. Mr Ritwick discussed pros and cons of the issues and suggested actions by the local group for mitigation and/or judicial action. Other experts including Mr. Debi Goenka and Mr. Kishore Rithe supplemented the suggestions.

Following issues were discussed:

Issue 1: Vidarbha region has huge number of power plants

Name of presenters of the issue: Mr. Swanand Soni

Organisation: Srushti Paryavaran Mandal, Nagpur

Place: Nagpur, Maharashtra

Contact: 9960298639

General description and issues: During the monsoon in Chandrapur, a lot of Thermal Power plants open the fly ash ponds and discharge 100% of fly ash in to the river and pollute the entire river.

Response: Such types of issues can go to the NGT. Collect the photos of the ash ponds throughout the year and show that the ash pond was empty after the monsoon. The simple evidence like photos or video is more than enough to prove that the fly ash is disposed in to the river during monsoon.

Issue 2: Nag River is de-notified as (sewage) drainage

Name of presenters of the issue: Ms. Awantika Chitnaus

Organisation: Vidarbha Environmental Action Group

Place: Nagpur, Maharashtra

Contact: 9225216658

General description and issues: Nag Super River was supposed to be a polluted river in Nagpur. But the state department notified Nag River as (sewage) drainage. How do we prove that Nag is a river?

Response: Collect evidence for Gazettes of Nagpur, which is 150 years old and shows the Nag River. Also get a map from the Irrigation department which has Nag River and take it to the NGT.

Issue 3: Is there any definition for river and lake

Name of presenters of the issue: Ms. Awantika chitnaus

Organisation: Vidarbha Environmental Action Group

Place: Nagpur, Maharashtra

Contact: 9225216658

General description and issues: Is there any definition for river and lake?

Response: Rivers and lakes are defined under the Wetland Conservation Rules 2010.

Issue 4: Tiger corridors do not have legal status

Name of presenters of the issue: Mr. Vijay Ghugey

Organisation: Nisarg Vidriyan Mandal

Place: Nagpur, Maharashtra

Contact: 9422801961

General description and issues: We have all of the tiger reserves and buffers notified. But many power plants are coming within the area of tiger corridors, which do not have legal status as corridors. An example is the Adani power plant in Tiroda. How could we challenge that it is a tiger corridor?

Response: Ask the forest department for the compensation that is given for a tiger kill. Use that as the evidence to show that tigers are using the area.

Issue 5: Project proponent did not know whether there is corridor or not

Name of presenters of the issue: Mr. Sudhir Paliwal

Organisation: Vidarbha Environmental Action Group

Place: Nagpur, Maharashtra

Contact: 9422114979

General description and issues: How do we expect the project proponent to know whether there is an animal corridor or not?

Response: This is the weakest part of the EIA report. There are few institutions that have information on this. They have to get suggestions from these institutions and the forest department.

Issue 6: Adani coal block

Name of presenters of the issue: Mr. Swanand Soni

Organisation: Srushti Paryavaran Mandal, Nagpur

Place: Nagpur, Maharashtra

Contact: 9960298639

General description and issues: The Adani coal block is located close to Pench TR. In the Form I, the forest department filled in that “due to power demand we granted the proposal”. Is there a way we can challenge this case?

Response: Yes, we can challenge it. The Forest department cannot take decision on the Power plant. The Government have to take the decision.

Issues 7: Can Encroachment issue go to NGT?

Name of presenters of the issue: Mr. Prafulla Bhorburkar

Organisation: Wildlife Trust of India

Place: Nagpur, Maharashtra

Contact: 9423150754

General description and issues: Can reserve forest encroachment issue go to NGT?

Response: Yes, but if the encroachment is because of the FRA violation, it cannot come under the NGT.

Issues 8: NH-6 cutting the corridor which connects Nagzira-Navegaon Tiger Reserve

Name of presenters of the issue: Mr. Milind Pariwakam

Organisation: Wildlife Conservation Trust

Place: Mumbai, Maharashtra

Contact: 9702120316

General description and issues: NH-6 is cutting the corridor that connects two Tiger Reserves in Nagzira-Navegaon. This is where the corridor connects the Kanha Tiger Reserve in Madhya Pradesh to Nagarjunsagar-Srisailem Tiger Reserve in Andhra Pradesh. On the Maharashtra side, only three forest patches are left. But in Chhattisgarh the entire NH-6 is upgraded into four lane.

Response: Check the FC and EC status in both states if any mitigation measures are suggested or not. If FC and EC suggested any mitigation, measure them and we can go to NGT. If not, we can use road kill data and animal movement information and show that the NH-6 is harming and damaging and ask them to restore and maintain the connective.

Agenda for the Orientation

Time	Topic	Presenter
10:00-10:15	Introduction to workshop	<i>Mr. Swanand Soni,</i> Srushti Paryavaran Mandal
10:15-10:30	Self Introduction by participants	
10:30-11: 15	Engaging with the environmental decision-making process for developmental projects [Template for EIA Analysis] <i>[The Environment Impact Assessment and Forest Clearance process]</i>	<i>Mr. Ritwick Dutta,</i> LIFE/ERC
11:15-11:30	Tea	
11:30-1:00	Approaching the National Green Tribunal: The Appellate and Original Jurisdiction and the power to award compensation, and direct for restoration	<i>Mr. Ritwick Dutta,</i> LIFE/ERC
1:00 -1:45	Lunch	
1:45 - 2:30	Environmental Impacts of Thermal Power Plants(Coal)	<i>Mr. Debi Goenka,</i> Conservation Action Trust
2:30 -3:15	Mining in Tiger Landscape	<i>Mr. Kishore Rithe,</i> Satpuda Foundation
3:15-3:40	EIA and Forest Clearance issues in Central Indian Tiger Landscape	<i>Mr. Milind Pariwakam and</i> <i>Mr. Aditya Joshi,</i> Wildlife Conservation Trust
3:40 - 4:00	Tea	
4:00- 4:20	Linear Intrusion and threats	<i>Shrikant Deshpande</i>
4:20 -5:30	Discussion on follow up action and prioritizing areas for specific focus	

List of Participants

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