

DESTROYING ENVIRONMENT

Make Law, Break Law

Manas Joardar

Mr Jayram Ramesh appeared quite an uncompromising man with a seemingly strong determination to maintain environment clean. That he would show zero tolerance towards any violation of laws prescribed to this end was made amply clear when he ordered, soon after assuming the charge of the UPAIL ministry of Environment and Forest (MoEF), demolition of the high rise Adarsh Housing Society building for disregarding Coastal Regulation Zone (CRZ) Act.

In 2010, the Union minister directed the Orissa government to stop land acquisition for the South Korean steel giant POSCO since it violated environmental laws. On similar grounds Jayaram Ramesh opposed the Vedanta mining project in Orissa, Lake City project in Pune by Lavasa Corporation, the Maheshwar Hydel Power project in Madhya Pradesh and many others.

But during recent times many of the earlier victims, hand in glove with powerful lobbies across political lines, got relief of his outrageous environmental activism. They include 25000 acre township project in Lavasa, diversion of 600 hectares of forest land for Chiria mines in Jharkhand, Rs 100 crore project to build a ropeway for pilgrims in Gir Forest and quite a few more. Orissa government also decided to start land acquisition for the mega POSCO project with fresh vigour.

The new CRZ notification, 2011 announced by the MoEF withdraws many existing restrictions and supports intrusive activities in eroded areas. In the “no development zone”, for example, the high-tide line has been reduced from 200 metres to 100 metres apparently to meet increased demands of housing of fishing and other traditional coastal communities. This is sure to turn fishing villages into clusters of skyscrapers, threatening destruction of mangroves, vulnerable coastlines and creating concrete jungles at the coast line.

In the devastating Lavasa case, not only was Adivasi land illegally grabbed, mountains re-contoured, streams diverted, in future too it would go on telling heavily upon the precious ecology with virgin rainforests. But amazingly, the promoters were all let off with a paltry fine and ludicrous “remediation” measures.

ADARSH HOUSING SOCIETY

The 31-storey Adarsh Housing Society building at Kolaba, originally meant to be a six-storey structure to house Kargil War heroes and their kin, was extended to 31 floors allegedly without necessary permission. Investigations revealed that flats were doled out to top defense personnel, politicians and bureaucrats – having no perceptible relation with the Kargil war. Medha Patkar had been trying, without success, to expose the scandal since 2005. It was in 2010 only that the issue was made public by the media in a big way.

Maharashtra CM Ashok Chavan was to quit because of his alleged involvement in the flat distribution scam. The deceased mother-in-law of the CM was reportedly one of the beneficiaries.

The Environment Ministry under Jayram Ramesh instructed the Society - “The unauthorised structure built... should be removed in its entirety and the area should be restored to its original condition.” The Ministry had earlier served a notice to the society asking it to demolish all the illegal floors of the building.

In reply to a question - whether he can stick to his rigid stand, the minister replied-"In the case of Adarsh, matter is in the court and I don't want to say anything more. But my decision was very clear. The only option before me was to recommend complete demolition of Adarsh. Signal has to go to the people who violate law that violation of law will not be tolerated."

The minister candidly admitted at the same breath that he has been forced to regularize illegality many times which he termed a "peculiar Indian characteristic".

The Society has been asked to remove the structure on its own within three months failing which the Environment Ministry will be "constrained to enforce this direction and undertake action" in accordance with the Environment Protection Act.

POSCO

South Korean steel giant POSCO signed a Memorandum of Understanding with the Government of Orissa in June 2005, to set up a steel plant at Paradeep, in Jagatsinghpur district with an estimated investment of US\$ 12 billion - the largest FDI in India so far. The integrated steel plant includes a captive power plant and a minor port. Whereas the combined capacity of the 6 steel plants of SAIL at Bhilai, Bokaro, Durgapur, Rourkela, Burnpur and Salem put together is around 13.5 million tones per annum (mtpa), the proposed project, when completed, is to have a production facility of 12-mtpa.

The company POSCO-India Pvt. Ltd. incorporated in August 2005 with the Registrar of Companies, Orissa, under the Companies Act was however, planned for a capacity of 4-mtpa during the first phase.

In the year 2007 itself, POSCO obtained all necessary clearances to set up the steel plant and the minor port.

Coastal Regional Zone and Environment Clearance was offered by the Government of India in May 2007 for the Captive Minor Port and for the Integrated Steel Plant and clearance for the Captive Power Plant, two months later.

The Ministry also granted in-principle (stage I) clearance for diverting 1253.225 ha forest land for the project in September 2008 under Forest Conservation (FC) Act 1980. A set of conditions were, however stipulated for compliance before final clearance.

Forest Rights Act (FRA),2006 for the Scheduled Tribes (ST) and other Traditional Forest Dwellers (OTFD) became operational from January 2008. The Act envisages relevant Gram Sabhas' approval mandatory to divert forest land for non-forest purposes.

From the day the MoU was signed, the local inhabitants there have been organizing massive protests against the project which , they felt, would displace them and adversely affect their livelihood.

In July, 2010 , a joint committee constituted by Ministry of Environment and Forest and Ministry of Tribal Affairs visited the project affected villages and submitted a report where violations of FRA norms in the POSCO project were highlighted.

A four-member committee was immediately formed thereafter by the MoEF for an in-depth investigation. The Orissa government was also asked to stop all works undertaken for the project.

The majority report of the committee brings to the fore an incredible story of obnoxious scandals relating to POSCO. Quoted below are some excerpts :

- "A large number of documentary and oral evidences have been found to support the presence of forest dwelling STs and OTFDs in the proposed POSCO project area contrary to the claim made by the district administration and the Orissa government that there are none."

- “Instead of obtaining certificate from Gram Sabhas, Orissa government ... forwarded certificate of the Collector of Jagatsinghpur enclosing proceedings of the Sub-Divisional Level Committee of FRA. This is clearly not in compliance with but actually in violation of the conditions imposed by the MoEF.”
- “the committee feels that POSCO-India Pvt Ltd has not been able to address all the issues relating to CRZ notification. The proposal in its present form is not fit for approval as there are a number of serious lapses and violations. The environment clearance given by the Ministry of Environment and Forests vide letter dated 15 May 2007 should be therefore suspended till the company makes the necessary modifications as per the provisions of the CRZ Regulations.”
- “There is a flagrant violation of all substantial and procedural rules and regulations in granting the EIA and CRZ clearances to POSCO. The entire clearance process has been reduced to a farcical and empty formality by all concerned. The environmental clearance process has been severely compromised by a complete lack of application of mind by the concerned authorities, and a deliberate failure to assess the project in accordance with law.”
- “POSCO has suppressed material fact that parts of the steel plant are located in the CRZ I and III areas which is clearly impermissible and hence illegal.”
- “there is a need to enforce accountability for violations of statutory, legal and environmental norms. Where officials have colluded with project applicants or been negligent of their duties, prosecution under the respective statutes should be automatically initiated. At present numerous such violations are brought to light on a regular basis, but no one is held to account for them. In the absence of such accountability, violations will simply continue”.

The concluding remark of the report is mind boggling - “The POSCO project is an example of how a mirage of “development” can be used in an attempt to bypass the law. Such attempts, if allowed to succeed, will result in neither development nor environmental protection, but merely in profiteering. This will cause immeasurable harm to the nation and to the rule of law and justice in our society.”

VEDANTA RESOURCES

No less was the extent of violation of laws of the land by the Vedanta bauxite mining project in Orissa.

In the face of continued agitation, the MoEF constituted in 2010 a four-member committee headed by Dr S C Saxena. The report is an unbelievable embodiment of corrupt practices of the powerful people on the one hand and interminable deprivation of the under privileged community and disastrous degradation of environment on the other.

According to the considered opinion of the committee, mining operations in the proposed site “involves stripping off more than 7 square kilometres of the Niyamgiri hill top which would drastically alter the region’s water supply, severely affecting both ecological systems and human communities dependent on this water.

Further, “More than 1.21 lakh trees would need to be cleared for mining besides many lakh more shrubs and herbal flora.”

The committee observed palpable violation of various rules. In context of Forest Rights Act, their comments: If mining is permitted on this site it will not only be illegal but it will also:

- Destroy one of the most sacred sites of the Kondh Primitive Tribal Groups;
- Destroy more than seven square kilometres of sacred, undisturbed forest land on top of the mountain that has been protected by the Dongaria Kondh for centuries as sacred to Niyam Raja and as essential to preserving the region’s fertility;
- Endanger the self-sufficient forest-based livelihoods of these Primitive Tribal Groups;
- Seriously harm the livelihood of hundreds of Dalit families who indirectly depend upon these lands through their economic relationship with these Primitive Tribe Groups; and
- Build roads through the Dongaria Kondh’s territories, making the area easily accessible to poachers of wildlife and timber smugglers threatening the rich biodiversity of the hills.

- The refinery was accorded clearance under the EPA (Environment Protection Act) on the condition that no forest land would be used for the establishment of the refinery. But now it is clearly established that the company has occupied 26.123 hectares of village forest land within the refinery boundary with the active collusion of concerned officials. Hence, the environmental clearance given to the company for setting up the refinery is legally invalid and has to be set aside.
- The company is in illegal occupation of 26.123 hectares of village forest lands enclosed within the factory premises. The claim by the company that they have only followed the state government orders and enclosed the forest lands within their factory premises to protect these lands and that they provide access to the tribal and other villagers to their village forest lands is completely false. This is an act of total contempt for the law on the part of the company and shows an appalling degree of collusion on the part of the concerned officials.

ILLEGAL MINING

Illegal mining is rampant everywhere. A few months back, Supreme Court- appointed Central Empowered Committee (CEC) identified Karnataka as the topper among all states. The CEC in its report (15 April, 2011) made a mention of large scale illegal mining specially in the Bellary forest region. Backed by powerful mining magnets and high profile politicians, the heinous activity went on unabated all these years despite an adverse report by the state Lokayukta.

Lakshminarayana Mining Company in Sandur range of Bellary, had a mining lease over 175.63 hectares. The Lokayukta report dated December 18, 2008 indicted the firm for illegal mining and encroaching upon 41.93 hectares of forest area.

The CEC shockingly observed that the State government showed undue favour to the company by compounding illegal mining and encroachment, and also by withdrawing the forest offence case against the company.

Along with reckless illegal mining, all strict prohibitory rules and supervisory provisions notwithstanding, one must take into account the disastrous environmental pollution being brought about by small and medium scale industries, such as sponge iron producing factories. This is not to tell that big industries are all religiously meticulous about pollution control measures. Air, soil, water bodies – everything is getting polluted. Not only our precious store of underground minerals is being irreplaceably exhausted, that too in exchange of a ludicrously poor contribution to the government exchequer, underground water level also is getting depleted. Callous indifference to all this in the name of development is a criminal offence. Open market economy has blessed profusely the investors, the politicians and the bureaucrats in formulating a collusion course for plundering our invaluable national wealth.

The SEZ rules have encouraged the investors in exploiting the workers and depriving the government of its legitimate share of taxes and other dues. The SEZ Act was promulgated by the government of India in 2005. But amazingly, an export processing zone was established much earlier at Falta, West Bengal, in 1984. And the first SEZ Act was also enacted in West Bengal by the ‘pro-working class Left Front government’ in 2003! As of now, SEZ areas are spread all over the country in huge numbers.

The ever neglected forest dwelling tribals and those living nearby are, needless to say, the worst victims of mining operation and the golden output of the related industries leading to the much vaunted ‘national development’.

Jayram Ramesh could not stick to his principled stand for long and had to allow the POSCO project to push on as the Prime Minister himself was reportedly keen in POSCO’s taking off.

It has been stated earlier that the proactive environment minister has cleared during last few months the 25000 acre project to build township in Lavasa, Rs 100 crore project to build a ropeway for pilgrims in Gir Forest and diversion of 600 hectares of forest land for Rs 5000 crore Chiria mines in Jharkhand.

In case of the Maheshwar Hydel Power Corporation Ltd., the Environment Minister had made a stop-work order in February, 2010 for violating environment norms. But of late, there has been a perfect u-turn. A go-ahead signal for construction on the Maheshwar Dam has been issued instead, reportedly under pressure from the Prime Minister's office and Madhya Pradesh politicians.

Acquisition, sometimes forcefully, of land under their possession, has been a cause of great misery of the poor people. They have tried to resist, even at the cost of their lives. Many agitations have been organized and lives sacrificed for the cause. Ghastly oppressive measures on the hapless agitating villagers of Nandigram and Singur are fresh in our mind.

Anti-land grab cum environmental activists have been fighting during last 25 years or so over the Sardar Sarovar dam issue which has adversely affected nearly a million people of MP, Gujarat and Maharashtra. Going to resist installation of six thermal power stations around an ecologically sensitive wetland in Srikakulam, AP, four villagers were killed by the police. In Jaitapur, Maharashtra, one fisherman was shot dead while going to collectively protest their eviction for the purpose of installing a nuclear power station there.

Going to seek better compensation in the Greater Noida-Agra Express Way project, four villagers of the Bhatta-Parasaul villages were killed in clashes between police and villagers. People's agitation is gaining momentum. There has been enough of plundering and exploitation by the great combine. Now laws, such as The Mines and Minerals (Development and Regulation) Amendment Bill 2010, The Land Acquisition (Amendment) Bill, 2010, The Rehabilitation and Resettlement Bill, 2010 and the like are awaiting Parliament's nod ostensibly to make good appropriately the loss incurred by the poor victims.

Everybody knows what happens to the fate of laws, specially those which attempt to stand in the way of big money making opportunities of the industrialists, high profile politicians and the bureaucrats.

Not that Mr Ramesh is unaware of this all. During an interactive session of a conference organized by the All India Management Association in May, this year, at Delhi, the minister reportedly admitted that he is sometimes forced to clear projects in the name of development - "Unfortunately, many a time, I am forced to regularise because I have no option...because a refinery has been built or a steel plant has been built. So I feel guilty in some cases for actually having to condone the environmental violations".

"Regularisation of illegality is a peculiar Indian characteristic. First you make the law and then break law...,"

An innocuous confession indeed!

Why then is all this hoax before the downtrodden who have remained victims, through ages, of insatiable greed and inhuman oppression of the powerful? Happily, they are getting growingly aware of their rights and the way to resist their land or forest grab machinations through fearless struggle. □□□