

Subject: letter to be taken up at the NAC

From: shekhar singh <shekharsingh@vsnl.com>

Date: Mon, 20 Sep 2004 12:36:55 +0530

To: "mkssrajasthan@yahoo.com" <mkssrajasthan@yahoo.com>, Jean Dreze <j_dreze@hotmail.com>, Jean Dreze <dreze@econdse.org>, nc saxena <ncsaxena@vsnl.net>

BCC: shekharsingh@gmail.com

Dear NC, Aruna, and Jean

I attach a letter that has been signed by a large number of people and people's groups concerned about the environment. In fact, every day we are getting additional endorsements and, as far as I know, no one who was contacted has yet disagreed with the contents of the letter.

As you will see, the letter lays out a set of very serious [problems with the functioning of the MoEF and the GOI vis a vis the environment. I would urge you to get the NAC to urgently set up a group to look at these issues and report back to the NAC. This group could comprise of Mr. R. Rajamani, former MoEF Secretary, Mr. Ramaswamy Iyer, former water resources secretary, Sanjay Parikh, a well known lawyer and Suman sahai, convenor of Gene Campaign and a distinguished scientist. It could either be convened by one of the NAC members (Dr. NC Saxena) or, if he is not free, by one of the nominated members.

regards.

Shekhar

Shekhar Singh <shekharsingh@vsnl.com>

MoEF rot, Joint NGO statement, Final w. merged names, 18.9.2004_0.doc

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Why is the Government Systematically Undermining the Environment?

As people's groups, NGOs, and mass movements, we are deeply concerned and anguished at the way governments over the last few years have severely undermined the importance of environmental issues in decision-making. In particular, the role of the Ministry of Environment and Forests (MoEF) seems increasingly to be that of simply a clearing agency for unsustainable and destructive economic and commercial activities. To make matters worse, the MoEF appears to be systematically undermining the participation of citizens in its decision-making process, and has become more and more closed in its functioning. Lack of transparency not only reduces public participation, it is also a way to avoid serious scientific scrutiny. These trends seem to have become worse in the last few years, such that the lay person is left wondering: is the mandate of the MoEF to help industries and 'developers' by-pass or get over environmental regulations, rather than safeguard the country's environment?

Several actions of the MoEF (and of GOI in general) point to the following broad trends:

1. Severe reduction in opportunities available to citizens to input into MoEF (and GOI) decisions, and in the seriousness with which MoEF considers such inputs;
2. Decline in the ability and willingness of MoEF to ensure that 'development' processes and projects (e.g. in hydro-power and infrastructure) are oriented towards integrating environmental and social concerns.
3. Declining emphasis on improving regulation and regulatory mechanisms, and instead pushing for 'voluntary' and 'market based' instruments.

Examples of the above (which have been clearly pointed out to the government) include:

1. **The notification of the Biological Diversity Rules 2004:** These Rules notified under the Biological Diversity Act 2002, are scientifically unsound, considerably undermine the role of local communities in safeguarding biodiversity and traditional knowledge, and have *completely* ignored the very many sound inputs provided by NGOs and activists when the draft Rules were first put out by MoEF. These Rules actually dilute the spirit and letter of the Act, which in any case was not fully adequate in its provisions regarding conservation, sustainable use, and equity.
2. **The dilution of notifications under the Environment Protection Act:** Over the last few years MoEF has considerably reduced the scope and weakened the provisions of various notifications and rules under the Environment Protection Act 1986. The promulgation of this comprehensive Act had in 1986 indicated that the government was committed to environmental conservation, and towards making development projects sustainable. However, a series of dilutions (about 30 in all!) have considerably weakened various notifications under the Act. The dilutions include: (in the case of the Environment Impact Assessment notification) public hearings being dropped for projects such as the widening of highways and mining leases for major minerals under 25 ha.; (in the case of Coastal Regulation Zone notification) allowing Special Economic Zones, effluent treatment plants, industrial salt pans, and the mining of atomic minerals in coastal areas. These dilutions have significant impacts. For instance, in the case of the mining projects, Indian Bureau of Mines data shows that almost 50% of the mining leases for major minerals are below 25 ha (and they add up to tremendous environmental and social destruction).

Simultaneous to these dilutions, regulatory norms are being eased for developmental projects and industries. A MoEF press release in June this year on "good practices" to be adopted to facilitate 'expeditious decision making' stated that no application (for clearance) will be rejected on procedural grounds alone. This could mean that applicants could get clearance even when they provide incomplete and inadequate information.

3. **The clearance of 'development' projects without adequate assessment:** There are many shocking instances where MoEF has given clearance to dams, mining, roads, ports, industries, and other projects, without an adequate environmental impact assessment or without ensuring that environmental safeguards are built into the project. This is not surprising because increasingly members of various environmental clearance expert committees of MoEF, have little or no independent environmental record or credibility. NGOs and community groups have frequently pointed out such faulty decision-making, and have provided strong evidence of the dangers posed by such projects, but have been consistently ignored. Examples of this abound: Lower Subansiri hydro power project (Arunachal Pradesh), Allain Duhangan H-E project (Himachal), Teesta Low Dam (W. Bengal), Bodh Ghat project (Chhattisgarh), Raoghat Bauxite project (Chhattisgarh), and many others. Some of these projects even threaten many areas that governments have themselves declared protected for wildlife.
4. **Reluctance to insist that environmental conditionalities are followed by project proponents:** A large number of development projects cleared by MoEF do not fulfil the conditions under which they were cleared, yet MoEF has taken action on hardly any of them.
5. **Waste of capacity building funds:** A huge loan was received by MoEF some years ago, for "Environmental Management Capacity Building Programme" which essentially required: a) A comprehensive review of the Environmental Clearance Mechanism ; b) Preparation of Manuals for Environment Impact Assessment ; c) Development of an Environmental Information Centre and d) Environmental Law Capacity Building both for the Ministry and for other agencies. Yet this process has been developed with meager consultation, and despite the debt incurred, the results do not seem to have resulted in any significant improvement in the functioning of the MoEF.
6. **The framing of a National Environment Policy without public participation:** Having heard that MoEF is drafting a National Environment Policy, some of us have repeatedly asked for details on how this is happening and how citizens can make inputs. A draft was put up on the MoEF website on 21st August, for comments. There has been no other process of reaching out to the citizens of India for inputs to the Policy, in particular to local communities who do not access websites or read English. Moreover, what is the guarantee that this Policy will not be pushed through like the Biodiversity Rules 2004, completely ignoring public inputs?
7. **The delaying of the National Biodiversity Strategy and Action Plan (NBSAP):** Despite itself facilitating a uniquely consultative process over four years, to prepare the NBSAP, MoEF is now delaying its final approval, publication, and release. The reasons being given are that even as a final technical report, the draft needs to go through Cabinet approval, and that it needs to wait for the National Environment Policy to be finalised (though the process of framing this Policy began over three years after NBSAP did). We understand the need for the final NBSAP to get political (cabinet) approval, but there is no justification for delaying the printing and public release of the final technical report. MoEF is neither respecting the effort and time put into this process by tens of thousands of people, nor its contractual obligation to the Global Environment Facility and United Nations Development Programme (UNDP) who funded the process.
8. **Siding with the building lobby:** Rather than help conserve natural ecosystems against unchecked urban growth, MoEF has often tried to make the way easier for the building lobby. For example, instead of supporting people's groups to protect some of the last

remaining forest areas in the highly polluted city of Delhi, including parts of the Delhi ridge, MoEF has favoured the lobby that wants to promote the construction of five star hotels and shopping malls in this area. This is also despite the fact that these are critical water catchments and their destruction would result in the further lowering of an already very low water table in Delhi.

9. **Ignoring Supreme Court orders on A&N Islands:** In violation of Supreme Court orders, the MoEF has refused to close down the Andaman and Nicobar Islands Forest and Plantation Development Corporation that has been destroying the forests and the habitat of the tribals in the islands. Orders to control mining of sand from the beaches of the islands and deal with inappropriate tourism too have not been satisfactorily complied with. In fact, the MoEF even tried to initiate an exercise to study 'some of the environmental issues related to forestry and wildlife in the islands', which appeared more an attempt to solicit "expert" opinion that could be used to circumvent the concerned orders.
10. **Lack of public discussion and transparency on genetic engineering:** Another example of the increasing opaqueness of functioning in the government is the lack of public participation in decisions regarding genetic engineering. This risky technology is being pushed through with no long-term safety tests, and almost no independent scientific or public inputs.

These are only a few of the many examples where MoEF in particular and the GOI in general, have undermined environmental issues and ignored public inputs. **In almost all such cases NGOs and affected people have protested, pointed to violations and destructive implications, and often even offered alternatives, yet all this has been systematically ignored.** Indeed, resistance to the trends by sensitive government officials themselves has been largely sidelined. Worse, there is no accessible platform on which MoEF (and GOI in general) can be made accountable to the public. It is not surprising therefore that citizens have had to take recourse to the courts to obtain justice.

These trends have occurred within the context of both the previous government and the current one, providing almost no serious consideration to the environment. The previous government systematically undid many of the gains of growing ecological awareness and standards of the earlier decades. The current governments in its Common Minimum Programme has almost nothing on the environment. Nor has there been acknowledgement of the fact that tens of millions of people in India continue to depend directly on natural resources for their survival, livelihood, health, and future development with dignity. Indeed many of the decisions taken by MoEF have further reduced the access and rights of communities to livelihood resources and supported 'development' projects that impinge on community lands and resources.

We do believe, however, that the new government has the opportunity to reverse this trend. **It needs to take at least the following steps:**

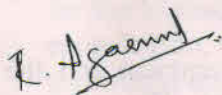
1. Providing a legally mandated and explicit role for citizens (especially local communities) in the decision-making process within MoEF (and GOI in general). This can be done by including independent and credible representatives of communities and civil society in the various expert committees; ensuring that citizens' inputs in draft notifications and legislation are considered through a transparent process; strengthening the public hearing process for 'development' projects; constituting an independent monitoring and evaluation agency to assess compliance of environmental conditions and regulations; and other such measures.

2. Considerably strengthen the mandate and functioning of the Ministry of Environment and Forests, e.g. by increasing the number of technical experts and officials who are known for their commitment to the environment.
3. Centrally integrate environmental considerations across the entire decision-making process, right from the planning and design stage of economic sectors and projects and not only at the final stage of clearance. This includes, the strengthening of the EIA, clearance, and monitoring procedures.
4. Reviewing the Common Minimum Programme and its implementation from the environmental perspective, including through a serious consideration of environmental issues in forums such as the National Advisory Council (NAC). The NAC is a step towards more public participation in decision-making, but needs a greater integration of environmental concerns in its deliberations.

We urge the government to draw up a concrete action plan on how to take the above and other steps, to significantly improve the manner in which decisions are taken on environmental issues. This should include the setting up of an independent monitoring and evaluation body, comprised of community and civil society representatives, that can ensure environmental sensitivity in decision-making. While drawing up such an action plan, there should be active and meaningful participation of community organisations, people's movements, NGOs, and other civil society organisations.



Ashish Kothari
Kalpavriksh



Ravi Agarwal
Toxics Link



Shekhar Singh
Centre for Equity Studies

On behalf of*:

1. Samir Acharya, Society for Andaman and Nicobar Ecology, Port Blair, A&N Islands
2. Ravi Agarwal, Toxics Link, Delhi
3. Sunderlal Bahuguna, Save Himalaya Movement, Tehri
4. Gautam Bandopadhyay, People's Alliance for Livelihood Rights, Raipur, Chhatisgarh
5. Jayanta Bandopadhyay, Environmental Expert, Kolkata
6. Amitabh Behar, National Centre for Advocacy Studies, Pune

7. Erach Bharucha, **Bharatiya Vidyapeeth Institute of Environment Education and Research**, Pune
8. Seema Bhatt, Biodiversity Consultant, Delhi
9. Prashant Bhushan, Advocate, Supreme Court, Delhi
10. Achyut Das, **Agramee**, Kashipur, Orissa
11. Sripad Dharmadhikary, **Manthan**, Badwani, Madhya Pradesh
12. Dilip Gode, **Vidarbha Nature Conservation Society**, Nagpur, Maharashtra
13. Debi Goenka, **Bombay Environment Action Group**, Mumbai
14. Colin Gonsalves, **Socio-Legal Information Centre**, Delhi
15. Pandurang Hegde, **Appiko/Prakruti**, Sirsi, Karnataka
16. Ramaswamy Iyer, Former Secretary, Ministry of Water Resources, Delhi
17. Bharath Jairaj, Citizen, **Consumer and Action Group**, Chennai
18. Nalini D. Jayal, **Himalaya Trust**, Dehradun
19. Asmita Kabra, **Samrakshan Trust**, Delhi/Madhya Pradesh
20. Smitu Kothari, **Lokayan**, Delhi
21. Ashish Kothari, **Kalpavriksh Environmental Action Group**, Pune/Delhi
22. Ashok Kumar, **Wildlife Trust of India**, Delhi
23. Souparna Lahiri, **Delhi Forum**, Delhi
24. Harsh Mander, Delhi
25. Thomas Mathew, **South Asian Conservation Foundation**
26. Kisan Mehta, **Save Bombay Committee**, Mumbai
27. T. Mohan and S. Devika, Advocates, Chennai
28. Fr. Victor Moses, **St. Xavier's Social Service Society**, Ahmedabad
29. Somnath Nayak, **Nagarika Seva Trust**, Gurvayankere, Karnataka
30. Satheesh P.V., **Deccan Development Society**, Pastapur, Andhra Pradesh
31. Rekha Panigrahi, **Vasundhara**, Bhubaneshwar, Orissa
32. Sanjay Parikh, Snr. Advocate, Supreme Court, Delhi
33. Medha Patkar, **Narmada Bachao Andolan**, Narmada Valley
34. Sujit Patwardhan, **Parisar**, Pune
35. Pradip Prabhu, **Kashtakari Sanghatna**, Dahanu, Maharashtra
36. M.K. Prasad, **Kerala Sastra Sahitya Parishat**, Cochi, Kerala
37. Asad Rahmani, **Bombay Natural History Society**, Mumbai
38. Sreedhar Ramamurthy, **mines, minerals and People/ Academy of Mountain Environics**, Dehradun, Uttaranchal
39. Ravi Rebbapragada, **Samata**, Hyderabad, Andhra Pradesh
40. Suman Sahai, **Gene Campaign**, Delhi
41. Bittu Sahgal, **Sanctuary Magazine**, Mumbai
42. Salam Rajesh, **Manipur Nature Society**, Imphal, Manipur
43. Leo Saldanha, **Environment Support Group**, Bangalore, Karnataka
44. Priya Salvi, **Prakruti**, Mumbai
45. John Samuel, **National Social Watch Coalition**, Pune
46. Madhu Sarin, Independent consultant, Chandigarh
47. Savyasaachi, Academic, Jamia Millia University, Delhi
48. Jai Sen, Delhi
49. Devinder Sharma, **Forum for Biotechnology and Food Security**, Delhi
50. Gam Shimray, **All India Coordinating Forum of the Adivasi/Indigenous Peoples**, Delhi
51. Samar Singh, **Samarpan Foundation**, Delhi
52. Shekhar Singh, **Centre for Equity Studies**, Delhi
53. Indu Prakash Singh, Activist/Researcher, Delhi
54. Neera Singh, Independent Researcher, Bhubaneshwar
55. Subrata Sinha, former Dy. Director General, Geological Survey of India, Kolkata

56. Aarthi Sridhar, Independent Researcher, Bangalore, Karnataka
57. K.S. Gopi Sundar, **Indian Cranes and Wetlands Working Group**, Delhi
58. Bibhab Talukdar, Environmental Activist, Guwahati, Assam
59. Himanshu Thakkar, **South Asia Network of Dams, River and People**, Delhi
60. Lokendra Thakkar, Bhopal, Madhya Pradesh
61. David Thangliana, Editor, Newslink English Daily, Aizawl, Mizoram
62. E. Theophilus, **Foundation for Ecological Security**, Uttaranchal
63. Thoraya, Freelance Writer, Secunderabad, Andhra Pradesh
64. Malavika Vartak, **Housing and Land Rights Network**, Delhi
65. Vincent, **National Campaign on Dalit Rights**
66. A.C. Zonunmawia, **Centre for Environment Protection**, Aizwal, Mizoram

* These are endorsements to the Open Letter as of 18th September 2004, including several that came after the Letter was released on 3rd September.