

Samata

D.No. 14-37-9, First Floor,
Krishna Nagar, Maharanipeta
Visakhapatnam – 530002
Telfax: +91-891-2737662, 2737653
Email: samataindia@gmail.com
Website: www.samataindia.org

Date: 20th October, 2011

To,

Dear Sir/Madam,

Subject: Illegal Laterite Mining Application in Surugudu Panchayat, Nathavaram Mandal,
Visakhapatnam District

I would like to bring to your notice the illegality of a mining proposal made in Nathavaram mandal of Visakhapatnam Agency, a Fifth Schedule Area.

Proponent: *M/s J. Lakshmana Rao*

Project No.: *J-11015/379/2010-IA.II(M)*

Category: *Mining Projects, Proposed Laterite Mining*

Location: *Bhamidika village, Sarugudu Grampanchayat, Nathavaram Mandal, Visakhapatnam, Andhra Pradesh*

We've been operating alternate learning centres in this area from 1987, and have a keen awareness of community issues and the socio-geography of the area. It is criss-crossed with streams, contains a large number of habitations and is home to the mouse deer, a Schedule 1 endangered species, glaringly omitted from the proponent's Environment Impact Assessment (EIA) report.

Leading local dailies Eenadu and Andhra Jyothy have reported that this particular lease holder is a non-tribal, using a fake caste certificate.

The articles have highlighted the illegal nature of the mining activity, the rise in official interest to push benami applications and have also pointed out that the proponent, J Lakshmana Rao, is an autorickshaw driver living in a hut in Koyyuru mandal, with little means to invest 80 lakhs in a laterite mine. The Andhra Pradesh Girijan Sanghama has launched a complaint with revenue authorities in this regard.

Just as laws such as the Samata Judgment and the new MMDR Act are working towards giving more equity and power to communities over their resources, there are a growing number of blatant violations of community rights by benami companies and those that use tribals as a front for land transfer.

A short list of laws that the project will out rightly violate:

a. Land Transfer Regulation: Section 3 of Land Transfer Regulation 1 of 1970 prohibits 'transfer of immovable property to any person other than a tribal.'

b. The Supreme court's Samata judgement

c. MMDR Act: According to Section 11(5) of the Mines and Minerals (Regulation and Development) Act, 1957, or the Mining Act, which was amended by the State Act on August 14, 1991, no mining lease in the Scheduled Area should be granted in favour of non-tribal people.

d. PESA Act – As stipulated by the Panchayat (Extension to Scheduled Areas) Act 1996, a consultation with the grama sabhas of the tribal areas is a must and in this mining project, consultation with neither grama sabhas nor mandal sabhas was done.

e. FRA 2006: According to the Forest Rights Act of 2006, the rights of the locals on the forest land are to be recognized. In the area proposed for mining, the tribals have not been issued documents to support their rights and claims to forest land.

f. Forest Conservation Act, 1980: Contrary to what has been stated in the EIA, the lease falls under Reserve Forest area. This Act strictly restricts and regulates the de-reservation of forests or use of forest land for non-forest purposes without the prior approval of Central Government. To this end the Act lays down the pre-requisites for the diversion of forest land for non-forest purposes.

g. The Terms of Reference (TOR's) granted by the Ministry of Environment and Forests were on a false premise, as the EIA for this mine grossly misses the mark of the prescribed TORs. Nowhere is the presence of Reserve Forest mentioned in the entire 121 ha lease area in the land use pattern. Instead, the area is described as devoid of all vegetation, habitation and forests. No endangered species has been mentioned, no R&R plan given and especially no mention of this being a Fifth Schedule Area. One season (non-monsoon) primary baseline data has not been collected and no details of pending litigation have been given

It begs the question, did they actually collect any data? Local people have said that no one has been observed collecting any environmental or socio-economic information.

As per the **MoEF memorandum** dated 05-10-2011, "*if at any stage, it is observed or brought to the notice that the contents of the EIA report pertaining to a project have been copied from other EIA reports, such projects shall be summarily rejected and the proponent will have to initiate the process afresh including conduct of public hearing.*"

Based on this, there are more than several glaring instances of copy-paste activity in the EIA prepared by SV Enviro Labs, where it refers to the mine as all kinds of things from a paint manufacturing to a fertilizer plant, as well as drawing from other EIA reports.

Summing up, we deem that this EIA is not fit to even come up to the stage of being issued Terms of Reference,. However, in Sarugudu, the public hearing date has been fixed for the 17th of November, 2011.

From a severely flawed EIA that fails to meet the prescribed Terms of Reference issued by the MoEF, misrepresentation of facts and dubious content, we demand that the public hearing for this illegal mining project be cancelled. We ask that their environment clearance and mining lease be revoked if they are found guilty of copying from other EIA reports.

We also appeal that all mining lease applications in Fifth Schedule areas be put on hold until further scrutiny.

From our experience of working here for over 2 decades, this is a sensitive area, and deployment of police force to facilitate public hearing will only create a law and order situation.

We shall extend all possible help to the government in this regard to up hold the law of the land and preserve the mineral resources of our country so that the rightful ownership vests with the local tribal societies and proper revenues are accrued to the state.

Thanking You
Sincerely

Ravi Rebbapragada
Executive Director

*CC to District Collector , Visakhapatnam
Superintendent of Police , Visakhapatnam Rural
V.C & M.D of APMDC / Director of mines & Geology, Hyderabad
P.O ITDA – Paderu, Visakhapatnam District
Director Tribal Welfare, Hyderabad*