

To,
Shri Kishore Chandra Deo
The Minister
Ministry of Tribal Affairs
Shastri Bhawan
New Delhi 110001

27th September 2011

Dear Sir,

Sub: permission granted to Andhra Wind Power Project Enercon-India, Maharashtra, in violation of the Forest Rights Act 2006

We would like to bring to your notice a serious violation of the Forest Rights Act that has taken place in Maharashtra. Forest clearance has been granted to Andhra Wind Power Project Enercon-India on 10th December 2009 on the total Reserved Forest area of 194.66 hectares falling within the boundaries of 14 villages of Khed and Maval Taluka's in Pune District. A significant part of this area lies within 10 km radius of Bhimashankar Wildlife Sanctuary.

The ecological value of Bhimashankar wildlife sanctuary is well established. These forests are the northern most stretch of semi-evergreen and seasonal cloud forests and home to some endangered fauna and flora such as the Indian Giant Squirrel (the subspecies found here is endemic to Bhimashankar), the leopard, some rare medicinal plants and the bio-luminous fungus, among others. The above mentioned area, for which clearance has been granted, is an extension of similar forests to the south of the sanctuary forming the southern corridor and buffer for the fauna and flora. This area is also important for the Scheduled tribes and other forest dependent communities such as the Mahadeo Kolis, Katkaris (STs) and Dhangars (pastoralists) for subsistence and cultural reasons. These communities depend on these forests for a number of livelihood generation activities, including collection of medicinal plants.

We would like to bring to your notice that the forest clearance has been granted without completing the processes under the Forest Rights Act. This is a violation of the government circular of 2009 (F. No. 11-9/1998-FC (pt) Government of India, Ministry of Environment and Forests, (FC Division). As per this circular it is mandatory to complete processes under FRA before considering an application for forest clearance. The circular clearly states that the following processes should be completed and documents attached with the proposal for forest clearance:

1. Identification and settlement of rights should have been completed for the entire forest area and the letters of all the relevant meetings and consultations.
2. State government must place a letter before the concerned gram sabhas giving details of the project.
3. Letter from the concerned gram sabhas giving consent for the project must be sought.

4. Letter from the state government stating that the gram sabha meetings in which the consent was given was attended by 50% of the population.
5. Obtaining written permission from the gram sabha accepting or rejecting the proposal.

None of the above conditions have been fulfilled by the project proponent or the state government while seeking forest clearance.

Since the company has already started construction activities and restricted entry to the sites, the processes of claiming rights under the Forest Rights Act 2006 is unlikely to be completed, and rights of the local people will not be recognized and granted under these circumstances. This is a direct violation of Section 4 (5) of FRA which obligates the government to ensure that rights of STs/OTFDs are protected till recognition process is complete.

The documents submitted for seeking clearance (acquired by us using the RTI Act) include resolutions signed by the Forest Rights Committees (FRCs) of the 14 villages, accepting the proposal. This is procedurally incorrect as the resolution for acceptance of the project needs to be passed in the gram sabhas of the villages. The FRC does not have any legal right to accept or reject a project, it is only a committee set up to facilitate the process of claiming rights under the Forest Rights Act. Legally, it is the gram sabha that needs to discuss the proposal with 50% quorum and pass a resolution for accepting or rejecting the proposal. There needs to be a record of such meetings where the proposal has been discussed in the gram sabha. This procedure has not been followed before submitting the proposal for forest clearance.

Villagers from Kharpud and Kude Budruk of Khed taluka deny having given any such permission to the company. Kude Budruk has filed a complaint with the Collector of Pune district in a meeting held on 20/12/2010 (*Letter from Collector, Pune District 7.02.2011 with minutes of the meeting with Kude villagers and Enercon Company officials*, attached) stating that “the no objection resolution that the company has sought from the village is bogus as there are no minutes in any gram panchayat meetings about such a resolution having been passed”. They have accused the company of having obtained these resolutions by bribing the sarpanch and the gram sevak”. The Collector has ordered an inquiry into the matter, the results of which are not yet available.

Given all the above factors we request you to kindly look into the matter urgently and initiate relevant action.

Looking forward to a positive response from you,

Yours sincerely,

Neema Pathak Broome (Kalpavriksh, Pune)

Saili Palande (Kalpavriksh, Pune)

Atul Kale (local RTI activist)

c.c.

- 1. Commissioner Tribal Development, Maharashtra, Nashik**
- 2. Collector, Pune District**

Annexure 1

Letter from Collector, Pune District 7.02.2011 with minutes of the meeting with Kude villagers and Enercon Company officials (Annexure 1)