

India: POSCO is not a closed chapter

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The battlelines have been drawn like never before. While the Odisha state government and POSCO India Ltd have made categorical statements that they have acquired 2,700 acres for an eight million tonnes steel project, the agitations in Gobindpur and Dinkia continue. Each day there are incidents of a tussle when efforts are made to forcibly cut betel vines and dig trenches to construct a boundary wall for the POSCO project. There are emphatic statements that land acquisition has been completed, all permissions are in place and construction work will begin soon.

From the other side, there are determined statements that indicate that people of the area have not given up despite an eight-year struggle. They are ready to return to their homes and their betel vines that have been destroyed in the tussle for power. Far away from the site of the contest, legal battles and the opinions of experts continue to ascertain the future of the people of Jagatsinghpur where an investment of `52,000 crore is directed at the construction of a captive steel plant, power plant and port. Many livelihoods dependant on betel vine cultivation, agriculture and fishing in the villages of Dinkia, Gobindapur, Nuagaon, Polanga, Bhuyanpai, Bayanal, Kandah, Noliasahi and Jatadhar will be affected by the project.

When POSCO signed its MoU with the Odisha government way back in 2005, their intention was to set up a 12 MTPA steel plant along with several other components of the project. The first public hearing for the project in April 2007 was for the construction of a 4 MTPA steel plant, a 400 MW power plant along with a captive port. Even as permissions for the above were granted in July and May 2007 respectively, POSCO continued to acquire land keeping in mind its final steel plant of 12 MTPA. POSCO's website says they will complete the project in three phases, constructing the steel plant to accommodate 4 MTPA capacity each time, with the first phase to be completed by 2016-17.

With various legal issues and battles on the ground, alongside assessments commissioned by the Union Ministry of Environment and Forests (MoEF), POSCO first received its environment clearance in 2007 which was reviewed through the recommendations of the MoEF constituted Meena Gupta Committee's reports in 2010. A final environment clearance (issued under the Environment Impact Assessment notification, 2006) was granted on 31 January 2011. For all practical purposes this was to be considered the final clearance as project activity had not begun on the proposed site. In May and June 2012, the environment clearances granted to POSCO in 2007 also expired given that they were to be valid only for a period of five years.

Meanwhile both the 2011 and 2007 approvals were challenged before the National Green Tribunal (NGT). The tribunal on 30 March 2012 issued a strong judgment upholding that there was indeed a lacuna in the manner in which the approval for POSCO had been granted. The tribunal said that it was necessary to ensure optimum use of land (both forest and non-forest) being acquired for POSCO keeping in mind a 4 MTPA plant. The company had carried out an Environment Impact Assessment (EIA) as well as the public hearing process on the basis of this capacity. Based on this and several other contentions a fresh review of the environment clearance was to take place.

In mid 2012, two parallel processes began in the MoEF. The first was the process of revalidation of

the 2007 clearances and the second the setting up of an expert committee under K.Roy Paul, Former Secretary to the Government of India. The process of revalidation and the review by the Roy Paul committee took place simultaneously till all the documents were placed in a meeting of the MoEF Expert Appraisal Committee (EAC) for industrial projects in March 2013. In this meeting POSCO contented that while they are currently pursuing the plan for a 4 MTPA plant, their final intention is to set up a 12 MTPA plant which has not changed. At this stage the EAC sought a revised layout design for not just a 4 MTPA plant but also an 8 MTPA one.

Many of the contentions made in the Roy Paul Committee report which was submitted to the MoEF in October 2012 did not seem to have been discussed by the EAC, if one is to go by the official minutes of the meeting. In fact the Roy Paul committee had recommended that a range of studies should be carried out by the project proponent related to shoreline changes, source sustainability study of water requirement, marine environmental conservation plan, the impact on the local fishing community etc, which don't find mention as well.

One of the foremost observations of the Roy Paul committee was that POSCO should state unambiguously whether the reduced project area based on land optimisation for 4 MTPA will be able to accommodate all its future expansion plans. The report observes that based on information provided, the project area had been reduced to 2,700 acres by leaving out most of the private land in Govindpur and Dhinkia villages and the portion of forest land where betel vines were being grown by people of these villages. This implies that the project would be constructed around these villages implying these lands are not to be acquired only in the current proposal.

In the subsequent meeting of the EAC of 16-17th May this year, the expert committee recommended the revalidation of the approval for an 8 MTPA plant. What is ironic is that the original application as well as the EIA report of 2007 is all based on the impact assessment of a plant of 4 MTPA capacity. Although the final approval letter from the MoEF is yet to be issued, it is questionable how an approval for 8 MTPA has been recommended by the EAC.

POSCO's legal tussles are also back in the NGT in another form. An application has been filed highlighting that POSCO has been carrying out felling of trees on 1253.225 ha of forest land without the final forest clearance order being issued by the Odisha state government. This application builds on the reiteration and interpretation of both the Forest Conservation Act (FCA) 1980, by the NGT Act which states that the permission for diverting forest land for non-forest purposes under Section 2 of the FCA by the MoEF needs to be followed by an order of the state government as well. No construction work on the project can begin till the order of the state government has been issued. In POSCO's case this has not happened.

As per a Right to Information (RTI) response received on 13 March this year to an application filed by Chandranath Dani, the Odisha state government has confirmed that no such order has been issued. Based on this and additional contentions the NGT on 28 May stayed the felling of trees by the company. On 11 July this order was allowed to continue till the final hearing of the case on 12 August.

There are other legal procedures that are likely to crop up for POSCO. In the 16th May meeting of the EAC (Industry) a recommendation has been made that POSCO should obtain an additional CRZ clearance for discharge of wastewater into the sea through a pipeline. This process is yet to begin.

For the people of India the eight-year-old tryst with POSCO has many lessons. There are international and national reports highlighting a list of human rights and regulatory violations that the history of the project is marred with. In Jagatsinghpur, each day is a new day for villagers who don't know what form of aggression will come their way and how they will be able to withstand it.

The fact is that the people of the area have not given up. What is clear for now is that POSCO is certainly not a closed chapter.

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P.S.

* <http://www.civilsocietyonline.com/pages/Details.aspx?382#Comments>