

**REPORT BY THE INDEPENDENT FACT FINDING TEAM ON ISSUES
RELATED TO THE PROPOSED POSCO PROJECT IN
JAGATSINGHPUR (ORISSA)
19th to 22nd April 2007**

A strong people's resistance has been going on in the parts of Jagatsinghpur district of Orissa against a steel plant and captive port proposed in the area, since July 2005, a month after the Memorandum of Understanding regarding the project was signed between the Government of Orissa and Pohang Steel Company Limited (POSCO). Things seemed to have come to heat when several platoons of Orissa Military Police were deployed in the area on 9th of April, six days before the mandatory environmental clearance public hearing on 15th April 2007, and pressure to expedite the implementation of the project continued to mount at various levels.

A team of independent observers comprising Sumit Chakravartty, Editor Manistream Weekly, New Delhi; Sridevi Panikkar, Delhi Solidarity Group; Bijulal M V, Indian Social Institute, New Delhi; Manshi Asher, National Centre for Advocacy Studies, Pune, visited Bhubaneswar and Jagatsinghpur between 19th and 22nd April 2007, for a fact finding inquiry with the following objectives:

- to get an insight into the concerns being raised in relation to the project by the affected communities
- to understand the steps taken by the concerned authorities to address these concerns
- to assess the processes that have taken place over the last two years in relation to the project

Background

On 22nd June 2005 the State of Orissa in India, signed a Memorandum of Understanding (MoU) with the South Korean Steel giant– Pohang Steel Company Limited, also known as POSCO. Touted as India's largest Foreign Direct Investment(worth Rs. 52,000 crore), the project involves building of a 12 Million Tons Per Annum (MTPA) integrated steel plant and a captive port in the Ersama Block of Jagatsinghpur district, Orissa. As per the MoU, based on the needs of the "Steel Project", the Company will also develop and operate the following infrastructure:

- i. Mining facilities in the areas allocated by Government of Orissa/Government of India (the "Mining Project");
- ii. Road, rail and port infrastructure (the "Transportation Project"), including the dedicated railway line from the mine-belt to Paradeep;
- iii. Integrated township; and
- iv. Water supply infrastructure (the "Water Project").

The construction of the steel plant and captive port are expected to have far reaching socio-economic and environmental impacts. As a result, there has been growing opposition to the project in the project affected area as well as the state in general. The proposed plant and port will adversely

affect 11 villages and hamlets in three Gram Panchayats in Jagatsinghpur district, namely – Dinkia, Nuagaon and Gadakujang. The opposition at the plant site built up rapidly when the news of the project spread. While there were mixed reactions initially, the threat of losing lands in return for nothing soon caught up with the communities. Around April 2005 news of that a MoU is to be signed, was already out. The MoU was finally signed in June and by July 2005 the three Panchyats that were to be affected came together to oppose the project. There are three groups at present who are opposing the plant- POSCO Pratirodh Sangarsh Samiti (PPSS), Nav Nirman Samiti and Bhita Mati Bachao Andolan. These groups, though different in their methods, are united in their protest against the project. The local opposition is based on the ground that they will lose their critical sources of livelihood, which are unique to this area and hence irreplaceable, as fallout of the land acquisition for the project.

4000 acres of land have been earmarked in Ersama block of Jagatsinghpur district for the purpose of setting up the Steel Project and associated facilities, including the port facilities and a storage yard for coking coal by the Company and the government. The land that would be required for the railway, road expansion and mines is not included in this.

According to the MoU, the Government of Orissa is to permit drawal and use of water (near about 12 thousand to 15 thousand crore liters) from the Mahanadi barrage at Jobra and Naraj in Cuttack for construction and operation of the “Overall Project”. Concerns have been repeatedly raised over the past two years by citizens of the area and technical experts that this would severely impact the drinking and agricultural water supply of Cuttack and neighbouring four districts. These concerns have not been addressed by the government yet.

While notices for land acquisition were served by the District administration as early as November 2005, all attempts of the officials were thwarted once the area was blocked for entry by the local communities. The mandatory Environment Impact Assessment and socio-economic survey reports have been submitted by the company. However, the locals as well as government officials have confirmed the fact that no survey teams have been able to visit the area.

On 15th April an Environment Clearance public hearing was held for the steel plant and the captive port of the project. It has been widely reported in local newspapers, more than 20,000 people from the three affected gram panchayats boycotted the hearing organised at Kujanga dubbing it a “farce”. The fact that the Orissa government deployed several platoons of armed paramilitary forces in the Jagatsinghpur District on 9th April, five days before the hearing, also had an impact.

On 18th of April, hundreds of children from Dinkia, Patna, Gobindpur and other villages marched through the streets of the 3 gram panchayats, giving slogans such as `Posco Hatao, Ama Bhitamati Banchao (drive away POSCO, Save our land). Amidst this and the ongoing resistance, pressure continues to build on the state government at all levels to expedite the implementation of the project. Prime Minister Manmohan Singh has, in a meeting with Orissa Chief Minister Naveen Patnaik on 19th April 2007, asked the state government to expedite the process of land acquisition for the project.

Persons interviewed during the visit

The team met with the following persons during the visit to Bhubaneswar, Dhinkia, Nuagaon and Jagatsinghpur

- Local people from the affected areas – Suhas Mahapatra, Tilottama Raut, Hemlata Raut and several others (in 2 focused group discussions) from Dhinkia and Nuagaon Panchayats
- Abhay Sahoo, President of the POSCO Pratirodh Sangram Samiti
- Members of the Nava Nirman Samiti - Akhay, Biswajeet, Umakant
- Devindra Kumar Singh, Sub Collector, Jagatsinghpur
- Y.K.Jethwa, Superintendent of Police, Jagatsinghpur
- Debashish, Tehsildar, Kujang
- Dr. Damodar Raut, MLA from Erasama constituency and Ex- Minister of Panchayati Raj, Orissa
- Nityanand Pradhan, State Secretary of the CPI Orissa
- Madhumita Ray, Programme manager, Action Aid, Bhubaneswar
- Srikant Jena, Local Congress Party Leader and Former Member of Parliament
- Suresh Mahapatra, Revenue Divisional Commissioner(telephonic interview)

The team contacted the POSCO office in Bhubaneswar for a meeting with the concerned officials but did not receive any response. However, we got a letter from the Executive Director of the POSCO-India Pvt limited, Mr G.W. Sung on 28 April 2007.

Observations

1. On dependence of the communities on the local resource base and the socio-economic profile of the area

- As per data received from Tehsildar, Kujang, the total land area that has been sanctioned by the government for the project is 4004 acres out of which 3566 acres is government land, and the rest of land, 438 acres, is private land. In all 471 families would be affected from three Panchayats, according to official statistics quoted below:
 - Gadkujang Panchayat - Polang village-62 families, Bhuyalpal village-12 families, Nuliyasahi village-135 families
 - Dhinkia Panchayat -Dhinkia village-162 families; Gobindapur village-90 families
 - Nuagaon Panchayat - Nuagaon village-10 families.

The Tehsildar acknowledged that these figures are just an approximation, as no thorough survey has been done till now and therefore there could be an error of 5%.

The Company in its letter to the team puts the figure of to-be-displaced families even lower, at 450.

- However, as per the local leadership of the movement against POSCO more than 4000 families and a population of 22000 will be affected by the project in the area. These include all those persons directly dependent on the betel vine cultivation, pisciculture, cashew nut cultivation and fishing in the Jatadhari Muhana where the port is expected to come up.
- Loss of livelihood, of a self sustained and thriving local economy and of an entire way of life are concerns on which the local resistance to the project is largely based on. These were continually articulated by women and men from the community. Tilottama Raut from Nuagaon said "*They are asking us to leave from here... what do they mean? We leave this soil, this wind, this sky and the peace we enjoy here...no we will not leave, this is our motherland...We have many examples of the families who were displaced in Trilochanpur by the IOCL plant. Those families are today in a state of misery. They have spent their compensation money and the women have suffered the most – having to do hard labour all day to support the family*".
- Though, according official statistics, merely 438 acres land of the required 4000 acres is private land, displacing 471 families. The rest is government land, under forest or recorded 'anabadi'. What Government records do not reflect is that most of this land has been under betel, cashew and other cultivation for generations. Applications for claims on titles have been repeatedly made by the local communities; however regularisation and settlement of the betel vine lands has not yet been initiated by the government. The Settlement record was prepared last in 1984. It recognizes only claims on agricultural lands under regular occupation. Other uses like grazing, collection of firewood, forest produce and cashew or even fishing go unrecorded.
- The local economy is a thriving, labour-intensive one, based on agriculture and fishing. The economy is based, apart from crops such as paddy, coconut etc., largely on cash crops such as betel, cashew, *supari* and *kenra*. Fishing and pisciculture are also prominent sources of livelihood. Most of these sources provide income and employment throughout the year..
- The uniqueness of the betel vine cultivation economy, due to the typicality of the geographical and topographical features like soil, was highlighted repeatedly by everybody the Team interviewed. It is a thriving, highly labour intensive activity which provides income throughout the year, supporting and providing work to a wide age group of people – from the young to the old – who are engaged in various productive tasks related to cultivation, plucking, transport and marketing of betel leaves. Though the Orissa Government and POSCO often quote that the plant and port would create an estimated 48,000 direct and indirect jobs in the region, there is an overwhelming skepticism regarding these figures. The locals are certain that they will not be able to get most of these jobs because they do not have the requisite skills. Even if they do manage to get a few of these jobs, they emphasise, the steel project and port will not be able to provide with the kind of secure livelihood they currently enjoy.

- The Jatadhari river, estuary and the forest resource base play a very important role in supporting the cultivation, fishing as well as household needs like fuel wood etc. In the late 1960s, Loknath Chaudhary, a local leader and MLA, led a struggle for transfer of much of the common land in the area, some of which was already under betel vine, from the revenue records to the forest department so that afforestation initiatives could be carried out to provide a natural barrier for protection of villages from impacts of cyclone and to provide for the basic needs of firewood and stalk for betel vine cultivation. Finally the land was transferred to the category of *gramya* jungle or community forests.
- We found in our interactions with a cross section of people that the concern of loss of livelihoods dependent on betel vine as a result of the project was commonly recognised by all as genuine – including the local government officials, law and order authorities, political representatives, civil society members and others.

2. Other concerns raised on the impact of the project

- Dr Damodar Raut clearly raised a concern pointing out that "the SEZ status that has been granted to the project (principle approval has been granted by the Ministry of Commerce) would deprive the government of taxes and pose a threat to security of the country considering the location of the project which has also been highlighted by the Home Ministry." He said that he was in support of the project without the SEZ status.
- Members of the community based Nava Nirman Samiti repeatedly highlighted the fact that the project was problematic on the grounds that it is a Foreign Direct Investment where the Multi National Company is clearly interested in capturing the iron ore and minerals on a large scale which will affect the national economy and the local natural resource base. They termed it as unsustainable. They also highlighted that the Bank of New York had a major share in POSCO and were of the opinion that the proposed project including the port would serve the interests of the US.
- They also said that some local organizations are distributing learning materials and other materials as gifts through schools, which they said was routed through these organizations by the company. According to local people in Nuagaon village, this act had been objected by them, at least in two occasions.
- It was pointed out that initially, the Paradeep Port authority as well as TR Balu, central Minister for Shipping, Road Transport and Highways and former Chairman of the Cochin Port Trust had raised concerns about the captive port affecting the business of the government port at Paradeep.
- Nityanand Pradhan and others informed us that extraction of large quantities of water for the project will affect, not only the local communities but would have far reaching impacts – severely affecting the drinking water supply up to Cuttack and irrigation supply of four neighbouring districts.

- Several environmental concerns including deforestation and destruction of coastal, riparian and estuarine ecosystems which will have impacts on the entire East coast in the long run were raised. The sea ingress as a result of forest loss is also an area of concern.
- The Jatadhari river and the Muhana are crucial to rain water drainage of the whole of Jagatsinghpur district. Concerns have been raised time and again that if a port is built on the Muhana, this natural drainage system will be adversely affected, resulting in increased siltation in the river, water logging and increased chances of floods.

3. On the issue of legal titles for cultivators in government land

- The government authorities and the local communities informed us that the land under betel vine and other cultivation expected to be acquired by the project was under the category of government land – inclusive of revenue land, forest land and also village forests or ‘gramya jungle’, to which people do not have legal titles.
- It was found however that the land in question has been in possession of the people for several generations. This is proven by the fact that the people have been paying an illegal occupancy fine to the local revenue administration since time immemorial. Royalty for betel vine sales is also being paid.
- As per the Sub Collector, according to the Orissa Land Reforms Act, 1960, peaceful, continuous, uninterrupted possession of land, if proved, mandates regularisation of titles and recording of rights. Applications for claims on titles have been repeatedly made by the local communities; however regularisation and settlement of the betel vine lands is yet to happen.

4. On the question of rehabilitation and alternative site for the project

- We were informed by the Superintendent of Police and Sub-Collector that in order to look into the rehabilitation and resettlement of the families/persons displaced/affected due to coming up of the project, a Rehabilitation and Periphery Development Advisory Council (RPDAC) under the chairmanship of the Revenue Divisional Commissioner has been formed.
- The RPDAC was formed under Notification no. 23108 dated 21st June 2006 by the Revenue and Disaster Management Department and is expected to review the socio-economic conditions and make recommendations to the government for appropriate measures. As per the government order, the RPDAC comprising of local NGOs as well is expected to have meetings once in three months as well as have consultations with the local people.
- The local administration informed us that consultations with people by the RPDAC were ongoing. However, on asking for details they said that they did not have any written report or recommendations of the RPDAC. We were told that the records of the RPDAC meetings were confidential.

- On the issue of rehabilitation the local authorities said that the Orissa Resettlement and Rehabilitation Policy, 2006 is applicable on all projects in the State. We were given a copy of the Policy. We have seen the policy and found that tentative expressions of addressing rehabilitation make the policy a weak one. When discussed with local leaders they were of the opinion that the Rehabilitation Policy in its current form does not address the concerns of the community as far as loss of livelihoods in the Proposed Project Area are concerned. The overwhelming opinion of the locals and other we interviewed, seems to be that the Orissa Resettlement and Rehabilitation Policy, 2006, was in fact hurriedly passed as a result of the pressure from the Tata's and POSCO.
- The local administrative authorities said that the rehabilitation concerns specific to the POSCO affected area are being looked into and that a Special Package has been designed by the company for the same. No papers or documents of this were made available even on request.
- On discussing with the local communities we found that they were not in a position to consider rehabilitation because the alternative sites as well as the quantum of alternative land being considered would not support the betel vine cultivation. They mentioned about the typicality of the geographical location and topographical features of the soil etc. which made betel vine cultivation qualitatively better and productive in the existing area.
- On the issue of looking for an alternative site for the project we were informed by the Superintendent of Police that an alternative site was explored 10 kilometers down the coast but it was a Coastal Regulation Zone-I area with a lot of creeks and water bodies where statutory provisions do not permit industrial activity on environmental grounds. Further we were told that the company finds the present site to be most appropriate and is not willing to shift because of access to Port base. Our impression is that the government's efforts for "options assessment" have been highly inadequate.
- It is important to reiterate here that the local movement that has been building up in the area since 2005 in opposition to the project has differences in expression of protests, however the local community is united in their opposition to the project being set up in the proposed area.
- The claims by the Government and the Company that the Orissa R&R Policy 2006 will address the people's needs are debatable. The policy through its statement that alternate land will be made available subject to availability, has clearly remained non-committal to ensuring land for land compensations, which is essential to agrarian communities, when projects come up in their land. The policy is also non committal and vague about guaranteeing employment for project affected individuals. Based on the history of implementation of rehabilitation packages in Orissa and elsewhere, from Hirakud Dam to the Indian Oil Corporation Limited plant in Jagatsinghpur itself, the community's mistrust in such policy and claims by both the government and the Company is explicable.

5. On the issue of public consultation and environment clearance public hearing

- The local authorities informed us that informal consultations with the people are going on to arrive at a mechanism to resolve various issues. However, the scenario and developments at the higher level, especially after the meeting between the Prime Minister and Chief Minister, are suggestive of the fact that the decisions on the project have already been made and are not dependent on consultations with the people and that these are being carried out, if at all, as mere formalities.
- The statements of the Chief Minister indicate that the process of land acquisition will be expedited. Our impression is that in the current situation at the ground level such focus on expediting the process and a deadline to do so will not facilitate genuine and participatory consultation, or mandatory “prior informed consent” of local people.
- On 15th April an Environment Clearance Public hearing was held for the steel plant and the captive port of the project. The legality of this Public hearing is questionable on the grounds that:
 - ⇒ The hearing was held 20 kilometers away from the affected area at Kujang, which is against the given statutory provisions in the Environmental Impact Assessment Notification 2006. The location of the hearing was also cited as one of the reasons for the local people not being able to attend the hearing. It was repeatedly reiterated even at the public hearing that as a consequence of this the hearing should be declared null and void.
 - ⇒ The authenticity of the data in the EIA report submitted for the project is questionable since the government officials and people have repeatedly clarified that no survey process of any kind –land, socio-economic and environmental -- has been done in the area because of the blockade imposed by the people since the past two years. It also therefore raises a question about the authenticity of the hearing and basing of an Environment Clearance on such a report that lacks field data.
 - ⇒ According to Madhumita Ray, who attended the Public Hearing, the atmosphere in the public hearing was of intimidation; those supporting the project verbally and physically assaulted those who raised objections, the Public Relations Officer of POSCO was sitting on the dais; and very few people from the affected area were present in the hearing. Several violations of the EIA notification 2006 were raised – these were submitted in writing by some NGOs and others from surrounding villages. The proceedings of the public hearing was abruptly wound up, without even allowing some persons to submit their memorandums.
 - ⇒ On 9th April, a week before the hearing, paramilitary forces were deployed in the area, creating an environment which was not conducive for people to attend and freely participate in the hearing. Suhaas Mahapatra of Dinkia village informed

us that several false cases have been filed against them and therefore the mobility of the people has been restricted due to fear of arrest.

6. On Law and order related questions

- The area has been barricaded by the local people since the announcement of the project. When we enquired about the barricades, the villagers informed us that it was done as a measure of protection from use of coercive and dubious tactics by the state government to put pressure on the people to accept the project against their will. The Superintendent of Police, Jagatsinghpur said that this barricading is illegal; however no action has been taken yet.
- Local women informed us of instances of harassment and attacks by henchmen of POSCO who have been paid to support the company. These anti-social elements have been running a misinformation campaign, doing false propaganda and vitiating the atmosphere in the villages. There have been instances of them creating conflict and filing false cases (almost 70 cases) against those opposing the project.
- Though the Superintendent of Police, Jagatsinghpur informed us that the deployment of the Orissa Military Police platoons at Kujang was routine, the local persons have a different opinion. They said that the presence of the platoons is creating an atmosphere of fear in the villages. This was also cited as a reason for people not attending the public hearing on 15th of April.
- It is our considered view that it is difficult to hold a democratic and inclusive dialogue in such an atmosphere.
- It is apparent from our interview with the SP, Jagatsinghpur and from the letter received from POSCO that both the government officials and the Company are trying to portray the local resistance as a law and order problem, branding the anti-POSCO movement as “disruptive elements”. There seems to be an indiscriminate misuse of legal provisions to threaten and curb the right to dissent and organise by the law and order agencies to quell the sustained people’s struggle, which forestalls all chances of a democratic dialogue.

Recommendations

It is clear that the situation in the area is tense. If force is used to expedite land acquisition, there is a high possibility of a violent confrontation. There is a clear lack of trust on the part of the local communities towards the local authorities since all decisions and processes in the past two years have been based on consultation only between the administration, government and the company, exclusive of the affected people.

Based on our observations, we make the following recommendations:

- During our interviews with the local community as well as a cross section of persons in different fields, we have come to an understanding that **various aspects regarding the project require more clarity**. Questions have been raised regarding many aspects of the project for which the government has not yet given satisfactory responses. Therefore **we demand that the Orissa Government must issue a white paper on the project and the issues related to it**. (Please find a detailed note on this at the end of this report).
- This project is yet another case of clear misuse of the Land Acquisition Act, 1894 and the colonial principle of ‘eminent domain’. We strongly recommend that **Government should not use the Land Acquisition Act to acquire land for companies** and to coerce people to give up their land.
- Nearly 900 acres of the so called government land which is to be acquired for the project belongs to the Forest Department and the rest belongs to Revenue Department. The entire land, both revenue and forest, has been, according to the locals, in their continuous possession and been used by them for betel vine cultivation for generations. They have also been paying fines to the authorities for which they have requisite government receipts. This means that the occupying cultivators have already acquired “occupancy” rights on the revenue land they cannot just be asked vacate it without due process. These lands should be legally given to the villagers as per the Orissa Land Reforms Act, 1960.

Regarding betel vine in land under the Forest department, The Scheduled Tribes and other Forest Dwellers (Recognition of Forest Rights) Act 2006 bestows rights on these occupants as they are traditional forest dwellers.

The team felt that there is an attempt by the government to obfuscate the whole issue of land stating that 3566 acres belongs government and only 438 acres are in private hand when in fact the occupying cultivators have had already acquired occupancy right over the revenue land and the rights under the Forest Dwellers Act 2006.

A permanent, legal recognition of their tenural rights must be recognized, **regularization and settlement process must be guaranteed in a time bound way**

The Detailed Project Report (DPR) of the project must be made available to all concerned people who have objections regarding various aspects of the project, in local language/s.

- The **73rd and 74th Amendment of the Constitution** recognises that any and every planning exercise should begin with the lowest unit; which is the gram sabhas in the villages. These constitutional amendments also give a **complete right to communities to plan the use of their natural resources, which include riparian rights and rights to common property resources**. It is important to **ensure that this right is protected**.
- **The project should not be allowed to come up against the wishes of those affected by it.**
- **Political dialogue** on the concerns related to the entire project should be initiated **between the people of the concerned villages and the government**, in a conducive atmosphere.

- As a first step towards building such an atmosphere, **police and para-military forces, currently deployed in the surrounding areas, should be withdrawn immediately.**
- In the prevailing situation there is every possibility of a confrontation breaking out; such a confrontation could lead to violence and take the shape of civil war. Every effort should be made by all concerned to prevent such an eventuality in the larger interest.

Pending the white paper and a democratic dialogue between those affected by the project and the government, the project must not be implemented.

Why we need a white paper on the POSCO project from the Orissa State Government

The White Paper is demanded in the interest of making the information and the processes related to this largest ever Foreign Direct Investment in India available to all concerned, in the context of an ongoing protest on various aspects of the project at the proposed project site as well as an emerging global solidarity to their concerns. There is a grave lack of transparency which indicates concentration of decision making at the higher levels of bureaucracy. The administration seems to over utilize outdated information and data in order to finalize the official requirements to approve the project in an unjustified pace.

The white paper may consider the following areas of concern:

It is quite evident that the larger interest of the directly affected persons, the people living in the nearby areas, larger public interest relating to the effective use of natural resources, sustenance of eco system, drinking water and irrigation needs of the riparian districts of Mahanadi were not given due consideration while finalizing the project.

While Paradeep port is advancing interims of its ability to service more cargo why there is a need for another port for POSCO, affecting threat to operations of Paradeep port?

What are the guidelines for the operations for the proposed POSCO port and how, it differers from the operations of the state owned port at Paradeep?

What is the status of the much publicized report of the Revenue Divisional Commissioner following his visit in villages in October 2006, recommending the change of project site?

What were the objections raised by the Orissa government for the environmental clearance of the project initially?

How is it justified to have unusual fortification of armed police around the affected places, while the dialogue with the democratically established bodies is not effectively conducted in the processes?

Provide all the details of the consultation processes since 2005 including the minutes of the RPDAC meetings.

What is the compelling factor to overrule the statutory privilege of the gram sabha as the final decision making authority on issues of land acquisition?

Why is the land settlement in the villages not taking so that the villages get permanent possession on the lands they were occupying for generations, while the state Land Reforms Act, 1960 allows giving titles to cultivators in government land who have records of 'continuous peaceful occupation of land?

Is there any guarantee that processes for extraction for minerals will not bring environmental and livelihoods crises in different regions, the usual case in Orissa, wherever mining has happened before?

Why is it that the 30 years has been stipulated as the period for extraction of mineral resources, in this case how has the wider national interest has influenced this decision?

What safeguards are in place to prevent indiscriminate use of mining practices fetching permanent livelihood crisis?

What are the strategies to deal with flood water from four districts once the river mouth is closed for the POSCO port's needs?

What are the estimates on impact on the livelihoods of fisher folk, cultivators, seasonal migrants etc.?

The Detailed Project Report and the project's cost benefit analysis must be made public.

Demand

Investigate into various cash transactions which POSCO has done and verify the criticism from some local people that POSCO is trying to influence officials and others through bribes.