

MOST IMMEDIATE

**No.19-58/2010-IA-III
Government of India
Ministry of Environment and Forests**

**Paryavaran Bhawan
CGO Complex, Lodi Road,
New Delhi - 110 003**

Dated: 14th December, 2010

ORDER

Sub: Show Cause Notice under Section 5 of the Environment (Protection) Act, 1986 for violation of the provisions of Environment Impact Assessment Notification, 1994, as amended in 2004 and 2006 by M/s Lavasa Corporation Limited - regarding.

The Hon'ble High Court of Bombay vide its order dated 7th December, 2010 in Writ Petition No. 9448 of 2010 directed the Ministry of Environment and Forests (MoEF) (Respondent No. 3) that:

"The order of status quo contained in the show cause notice is stayed. The Petitioners to appear before Respondent No. 3 on 9th December, 2010. Respondent No. 3 shall hear the petitioners on the question whether any interim order to operate till final order on the show cause notice is to be made or not. Respondent No. 3 shall make final order on the aforesaid question with reasons therefore on or before 16th December, 2010.", and

"Respondent No. 3 is also directed to hear the complainant National Alliance of People Movement along with the petitioners and Mr. B.G. Ahuja, Intervener".

2. In pursuance of the above directions of the Hon'ble High Court of Bombay, Dr. Nalini Bhat, Advisor, Impact Assessment Division, Ministry of Environment and Forests heard all the three parties, namely; M/s Lavasa Corporation Limited, National Alliance for Peoples Movements and Shri B.G. Ahuja together at 3.00 P.M. on 09.12.2010 in the Committee Room in the MoEF, New Delhi.

3. It was made clear, at the outset by Dr. Nalini Bhat, that as per the directions of the Hon'ble High Court of Bombay the hearings would be limited to the question of interim order of whether to stop the work at the project site or not till a final decision is taken by the Ministry on the Show Cause Notice.

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4.1 Shri Suresh Pendharkar represented M/s Lavasa Corporation Limited and was accompanied by their legal advisers, Shri Rishi Agarawala and Shri Kamleshwar Singh of M/s Agarwal Law Associates and Sr. Counsel, Shri Shekhar Naphade and Counsel Shri Aniruddha Joshi. Shri Pendharkar handed over the letter of 9th December, 2010 submitting the company's view point on various environmental matters. He said that the development work was commenced from 2004 onwards and due to their presence at site and the development works undertaken, the area has improved to a large extent. The company has planted 6 lakh trees and has also undertaken the latest technologies of hydro-seeding, stabilization of slopes through contour trenching etc. Further, the project proponents have stated that they have not violated any norm during the development of this project. The project area is comprised of 18 villages having population of 3100 (Census of India - 2001) and approx. 441 local villagers are working with the company. It was further informed that presently the work is underway only in 1825 acres out of about 5000 acres (2000 ha.) for which the company has the approvals and the footprints are only over an area of 40 acres. The project proponent informed that the height of the project site was determined based on the topo-sheets of the Geological Survey of India and only the symbolic entrance gate and the approach roads etc. are above 1000 mts. During the submissions, it was also brought out that the Ministry has given clearances for the diversion of reserve forest land, which forms the part of the project.

4.2 Shri Pendharkar indicated that the interim stop work order has resulted in:

- (i) Depriving 1000 of employees of their source of livelihood;
- (ii) Financial bankruptcy of the clients;
- (iii) Has put the investment and the loans from the public sector Banks into serious jeopardy;
- (iv) Jeopardization large number of third party rights of the domestic and foreign customers;
- (v) Depletion of the opportunity available to the local populace to improve the social, educational and economic life.

4.3 M/s Lavasa Corporation Limited were then requested to give in writing any additional submissions they wish to make.

5.1 The National Alliance for People Movement (NAPM), represented by Ms. Medha Patkar, Dr. Vishwambhar Choudhari, Ms. Suniti S. R. and Ms. Virali Gokaldas, was heard. She pointed out that the natural resources of the area are life support system of local people and it is the responsibility of the State to ensure socio-economic justice and implementation of Rule of Law. In case the work is allowed to be continued, it will be a violation on both the parties i.e. the promoters and the Ministry of Environment and Forests. While, making a case for the continuation of the stop work, she, further emphasized that:

W. Kulkarni

- (i) Large scale development/construction work is going on without necessary environmental clearances. Most of the construction is coming in the immediate vicinity of bank of water reservoir and also violating the Development Control Rules constructing five storey building instead of one storey;
- (ii) The project is located in the Western Ghats, which is ecologically sensitive and fragile, and development of this magnitude should not be permitted without proper assessment and safeguards.
- (iii) The natural forests have been replaced with concrete jungle, harming the biodiversity of Western Ghats;
- (iv) Blockages have been created in some pockets of their main reservoir for ensuring water availability to the project. These blockages have also raised the threat to safety of the dam. Due to various construction activities and cutting of hill slopes, meddling of water courses, has grabbed the water even before coming to Varasgao dam;
- (v) The stone crushing activity is polluting the area and is impacting on the vegetation. The Ongoing blasting and cutting of hills and the operations of stone crushers which are using the quarries from the hill sides are adding to the environmental problems of the area;
- (vi) The project has affected the livelihood of the local people and also the 2000 ha. of adjoining forest area;
- (vii) Promoters have been submitting different areas for obtaining different clearances and have not provided correct information about the area under the project.

5.2 The National Alliance of People Movement was of the view that although M/s Lavasa Corporation Limited have made a case for continuation of the project due to expenditure on the project so far, yet if the work continues it would finally result in the "point of no return" and become fait accompli.

5.3 In conclusion Ms. Medha Patkar said that there was a strong case that the project is going to damage the entire river valley, livelihood of local people and the continuation of work would further be in violation of the Law.

5.4 The National Alliance for Peoples Movements was requested to give in writing any additional submission, they wish to make.

6.1 Shri B.G.Ahuja, Intervener mainly emphasized on the 20 kms. stretch of the river, which is being used by the promoters without adequate approvals. He pointed out that:

B.G. Ahuja

- (i) The project of M/s Lavasa Corporation Limited is not viable as they have taken charge of 1031 million cubic feet of water, which is meant for Pune city.
- (ii) The Lavasa Corporation have wrongly assumed that the Maharashtra Krishna Valley Development Corporation (MKVDC) have power to lease out the water within a river stretch of 20 kms.
- (iii) The Lavasa Corporation had approached the Government of Maharashtra for varying areas for the project for the approval from time to time.
- (iv) The Ministry is fully competent to issue Show Cause Notice and status quo as the promoters have started the work without obtaining clearance.

6.2 Shri B.G.Ahuja was requested to give in writing any additional submissions that he wants to make.

7. As requested above, all the three parties namely; M/s Lavasa Corporation Limited, National Alliance for Peoples Movements and Shri B.G. Ahuja made their additional written submissions on 10th December, 2010 at enclosed I, II, III respectively. These additional submissions are reiterative in nature.

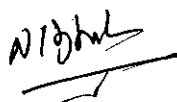
8. After hearing the parties and after perusing the relevant documents and written submissions made by them, the following serious issues emerge:

A. Lack of Clearance

- (i) The Government of Maharashtra vide their letter dated 18th March, 2004 issued environmental clearance for an area of 2000 ha.
- (ii) The Collector, Pune has approved a lay out plan on 31st August, 2006, for an area of 585 ha., out of which 47.3 ha. land was indicated above 1000 mt. of Mean Sea Level(MSL).
- (iii) At the present stage the Lavasa Corporation Ltd had not been able to show compliance with the EIA Notification of 1994, its amendment in July, 2004 and the subsequent substantive notification issued in September 2006.

B. Large scale Environmental degradation

- (i) The presentation and the submissions made during 09.12.2010 hearing indicating that large scale construction/development



work is going on which has resulted in the deterioration of the Environmental status of the area.

- (ii) The concentration of the construction activity along the water reservoir will seriously damaged the water quality and availability in the reservoir, which is the drinking water source to the downstream areas including city of Pune.
- (iii) Stone crushing is being undertaken for construction related activities, which is polluting the entire valley, particularly the air quality, noise and vibrations;
- (iv) There has been cutting of hill slopes which affect stability and though the promoters claim to have initiated activities for stabilization. This claim does not merit acceptance at this stage.
- (v) There is considerable erosion of biodiversity due to construction work, movement of man and machinery having serious impact on flora and fauna.
- (vi) The various development works will change the entire storm water drainage system of the area and may lead to flooding of some unexpected areas. A detailed analysis is pre-requisite for planning and implementation.

C. Other related issues

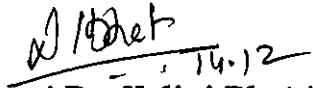
- (i) No proper traffic studies have been conducted to analyse the impact on the surrounding development and the nearby habitations. The project will require widening and strengthening of the road infrastructure but also would require new transport network with the nearby towns and cities.
- (ii) The other important issues also include the waste water management, construction debris, the waste generated through existing operational units and energy conservation including use of alternative source of energy.

9. In view of the above, Ministry is of the considered opinion that the directions issued under Section 5 of the Environment (Protection) Act, 1986 to M/s Lavasa Corporation Limited on 25th November, 2010 to stop project activities going on at the site should continue till the final analysis is undertaken by the Ministry and the same are being reiterated.


10. M/s Lavasa Corporation Limited had requested vide letter dated 9th December, 2010 for extension of time for two weeks to submit their detailed reply. However, the project proponents have submitted a letter containing some details on 13th December, 2010. Therefore, in line with the original show cause notice of the Ministry of Environment and Forests

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dated 25th November, 2010, the Ministry is ready to provide hearing on 22nd December, 2010 to M/s Lavasa Corporation Limited to consider the entire case. It is expected that an order could be passed on or before 31st December, 2010, provided M/s Lavasa Corporation Limited co-operates and files all necessary documents.


(Dr. Nalini Bhat)
Adviser (IA Division)

This order, which is issued with the approval of the competent authority, is submitted before the High Court of Bombay in Writ petition no. 9448 of 2010.


(Bharat Bhushan)
Director (IA.III)
14.12.2010

1. M/s Lavasa Corporation Limited, Hincon House, 247 Park, LBS Marg, Vikhroli (West), Mumbai - 400 083
Email suresh.pendharkar@lavasa.com
2. National Alliance of People Movement, A Wing First Floor, Haji Habib Building, Naigon Cross Road, Dadar (East), Mumbai - 400 014.
(email: napmindia@gmail.com)
3. Shri B.G.Ahuja, F-15, Parmar Trade Center, Sadhu Vaswani Chowk, Pune - 411 001