

REPORT ON THE PROJECT

**Strengthening Legal Support for
Wildlife Conservation in India**

April 2006

Grant Recipient

RITWICK DUTTA

OBJECTIVES OF THE PROJECT

- **EXTENDING LEGAL SUPPORT:**

The first and principle objective of the Project was to provide critical support through legal assistance to various groups interested in wildlife protection and in instituting legal proceedings before the appropriate fora on issues having crucial conservation value. It was planned that during the project period 2004-2005 a minimum of ten litigations would be undertaken on such issues. The Applicant has successfully initiated fourteen legal proceedings in various fora. As the Applicant and the organization is strategically based in New Delhi, where the Supreme Court of India as well as the Central Empowered Committee (CEC) which has been constituted by the Supreme Court are situated, it has facilitated the access of the highest judicial fora for environmental issues in India at minimum costs to affected groups.

- **CAPACITY BUILDING AND TRAINING:**

A second objective of the Project was to conduct at least two training programmes for lawyers, activists and non governmental organizations (NGO's) in areas of high conservation value, so as to enable them to take up conservation related cases, and at the same time making them aware of the important developments in the field of wildlife conservation.

- **DISSEMINATION OF INFORMATION:**

The third objective of the Project was dissemination of wildlife law related information including Court rulings, new legislations and Notifications as well as amendments through electronic and published media. There exists very little authentic information on legal developments in the field of conservation law.

DETAILS OF LITIGATION

The funding for this Project was sought mainly for the purpose of providing legal support for wildlife conservation in India through the use of appropriate legal fora. The aim was to assist groups and individuals who are unable to seek and utilize legal resources in view of the expensive litigation process and few lawyers prepared to take up such cases.

During the Project period we have been able to assist a number of individuals, NGOs and groups in initiating legal proceedings. In the process, we have covered a wide geographical area, especially areas that are ecologically sensitive.

I. PROTECTION OF THE HABITAT OF THE WROUGHTONS FREE TAILED BAT, KARNATAKA, WEST INDIA

Group/Individual Supported - *Durgesh Kasbekar*

The case concerns the protection of the only known roosting site of the highly endangered *Wroughton Free Tailed Bat*. The roosting site along with the surrounding rainforest of the Western Ghats, situated in the western coast of India currently receives no legal protection in view of the fact that most of it is under private or community control. The case which was originally filed in 2003 on a *pro bono* basis in the CEC was reworked in August 2004 and a comprehensive picture of the destruction of the habitat due to large scaling mining, illicit felling of trees, unauthorized construction and poaching was brought to the notice of the CEC. A site inspection was ordered which proved that all allegations made in the application were true. The Report of the Forest Department

highlighted the urgent need to protect the habitat through the declaration of the area as an ecologically sensitive area.

The funds from RSG were used in filing the additional application, providing photographic evidences and in pursuing the litigation further. The case has been widely reported in the media.

See: <http://www.indianjungles.com/011104d.htm>

<http://www.indiatogether.org/2005/feb/env-bhimgad.htm>

OUTCOME: Steps have been initiated for declaration of the area as an ecologically sensitive area. The Ministry of Environment and Forests (MoEF) is developing a time frame to be presented before the CEC for declaring about 7500 sq. Km. area as ecologically sensitive for the purpose of restricting ecological harmful activities.

II. DESTRUCTION OF WILDLIFE HABITAT DUE TO PROPOSED UNIVERSITY, KARNATAKA, SOUTH INDIA

Group/ Individual Supported: Wildlife Aware Nature Club, Tumkur, Karnataka

An important Tiger habitat faces destruction due to the proposed construction of a 300 acre University in the Southern State of Karnataka. An application has been filed before CEC to bring to its notice the issue and to pray for a stay on the construction of the University.

On January 30, 2006, in a significant development, the CEC was informed that due to the objection raised by the Applicant, a survey was conducted on the site of the proposed University and it was 'found' out that the land proposed to be given to the University was forest land and

as such the government has decided to withdraw the approval for the proposal.

OUTCOME: *The allotment of the land in favour of the University stands cancelled and the tiger habitat saved from diversion.*

III. PROTECTING A TIGER CORRIDOR, UTTARANCHAL, NORTH INDIA

Group/ Individual Supported: *Biodiversity Conservation Trust of India, New Delhi*

A major Tiger Corridor in the Himalayan state of Uttarakhand in Northern India, which is a part of the Terai Arc conservation unit¹ , , was threatened by the proposed laying of electricity transmission lines. The transmission lines were meant to provide electricity to a village called Bindukhatta in Terai East Forest Division of Uttarakhand. This village encroaches upon reserved land. No permission was sought. Based on the application filed before the CEC, a stay has been granted to the electrification. The case is pending in view of the fact that contempt proceedings are being initiated against the concerned authorities for willful violation of the forest laws.

OUTCOME: *Electrification of the encroachments has been stayed and proceedings initiated for the removal for encroachments.*

IV. ILLEGAL MINING IN PROPOSED ELEPHANT RESERVE. ORISSA, EASTERN INDIA

Group/ Individual Supported: *R Sreedhar and Prafulla Samantara*

¹ A geographical area demarcated for comprehensive conservation of the Tiger habitat in India and Nepal

The case concerns the illegal mining activities in a proposed Elephant Reserve in Kalahandi, Orissa, Eastern State of India, which is also the home of two of India's primitive tribal groups. The Sterlite Company has illegally started construction of a refinery without mandatory approval from the MoEF. Prime forests have been cleared and tribals brutalized. The area is extremely rich in wildlife specially elephants, leopards and other species. It adjoins a wildlife sanctuary and has been recommended for inclusion as wildlife sanctuary and Elephant Reserve. Two local groups approached the applicant and a case was filed before the CEC. Immediately a site visit was conducted and the allegations were found to be correct. A stay has been granted with respect to the forest clearance and the CEC has issued a show cause notice asking why the environmental clearance should not be cancelled.

Subsequently on September 22, 2005, the CEC submitted its report to the Supreme Court stating that if mining was allowed to happen it will seriously impact the wildlife of the area, specifically damaging the Elephant habitat. The approval granted by the Government of India undermines the ecological value of the area. The report recommends that the environmental clearance granted to the project should be cancelled. Specifically the report states:

- Vedanta, a fully owned subsidiary of the Sterlite Company, has taken up construction of the refinery without getting clearance under Forest (Conservation) Act, 1980 for 58.93 hectares of forest land, which is an integral part of project. Appropriate action should be taken against the company for clearing village forest land in violation of Forest Conservation Act and clearing the trees without proper sanction.
- Rehabilitation for those displaced is not in the interest of sustainable livelihood of the local communities.

- Niyamgiri, a densely forested hill with rich bio-diversity is a source of two important rivers in this region and serves as a crucial elephant corridor. The hill is also the habitat of the endangered Dongaria Kondhs tribals. Any mining activity on this hill is bound to destroy it and affect availability of water.

This issue has been widely reported in electronic and print media alike.

See:

http://www.indianexpress.com/res/web/ple/full_story.php?content_id=78874

<http://www.hindu.com/2005/03/19/stories/2005031908850400.htm>

<http://www.minesandcommunities.org/Action/press577.htm>

<http://kashipursolidarity.tripod.com/id12.html>

OUTCOME: The matter is pending in the Supreme Court and the Government of India has accepted the fact that the ecological assessment was not done properly and in four months a reassessment report is expected from the MoEF.

V. SEWAGE AND TANNERY EFFLUENTS DAMAGING RIVERINE HABITAT, UTTAR PRADESH, NORTHERN INDIA

Group/Individual Supported: Ecofriends, Kanpur

The disposal of untreated sewage and tannery effluents with high concentration of heavy metals like chromium, nickel etc. is threatening the wild flora and fauna in the riverine habitat of Ganga besides large scale impact of human health. An application has been filed before the Supreme Court Monitoring Committee on Hazardous Wastes (SCMC) in order to draw attention to this problem. The SCMC decided to undertake

a comprehensive visit as well as public hearing in order to arrive at a workable solution.

A site visit was conducted on the basis of the application filed by the Applicant. The site visit conducted by the SCMC confirmed most of the contentions of the Applicant. For the report of the site visit and directions of the SCMC see <http://www.ecofriends.org/reports/057SCMC3.htm>

OUTCOME: *Detailed directions were issued by the SCMC pursuant to the site visit and pollution abatement measures have been undertaken.*

VI. DIVERSION OF FOREST LAND FOR THERMAL POWER PLANT CONSTRUCTION IN CHATTISGARH, NORTH INDIA

Groups/ Individuals Supported: *Rajesh Tripathy*

A dam has been constructed by clearing natural forests in the State of Chattisgarh. This was opposed by local groups whose repeated requests to the Government to intervene failed to evoke any response. Finally, legal support was provided to the concerned groups to file an application before the CEC bringing to light the illegal construction of thermal power plant at Village Tamnar, Raigarh District and 18 metres high dam over Kurkut River, Rabo.

OUTCOME: *The matter is currently pending.*

VII. EXTENTION OF SPONGE IRON PLANT IN BIODIVERSITY RICH AREA OF CENTRAL INDIA

Group/ Individual Supported: *Ramesh Aggarwal, Lok Shakti Samity*

Expansion of Steel Plant in District Raigarh, Chattisgarh. The expansion will adversely affect the deciduous and Sal, bamboo and Teak forest. The area has natural regeneration of a number of plant species including *Anogeiouss latifolia*, *Terminalia tomentosa* etc. The EIA report that was prepared is grossly inadequate and failed to take into account the adverse impact on the flora and fauna. An application has been filed before the National Environmental Appellate Authority (NEAA) against the grant of environmental clearances.

OUTCOME: *Notices have been issued and arguments are to take place.*

**VIII. IMPACT ON PROTECTED AREAS DUE TO THE CONSTRUCTION OF
INDRASAGAR MULTIPURPOSE (POLAVARAM) IRRIGATION PROJECT,
ANDHRA PRADESH, SOUTH-EAST INDIA**

Group/ Individual Supported: *R. Sreedhar, Dehradun, Uttaranchal*

The Polavaram irrigation cum power project will require about 3279 ha. of forest land in the states of Andhra Pradesh, Orissa and Chattisgarh. It will submerge a substantial part of Papinkonda Wildlife Sanctuary spread over an area of 590.68 sq. km. This area is habitat for bison (*Bos gaurus*), barking deer, sloth bear, leopard and tiger. Further, Reserve Forests area of East Godavari, West Godavari and Khammam District are coming under submergence. The construction of the canal will adversely impact the wildlife corridors and movements path and cause fragmentation of wildlife habitats. An application has been filed before the NEAA.

OUTCOME: *The application is pending. Notices have been issued.*

IX. CLEARANCE GRANTED TO THE MIDDLE SIANG HYDROELECTRICITY PROJECT, ARUNACHAL PRADESH, NORTH-EAST INDIA

Group/ Individual Supported: *Ravindranath, Dhemaji, Assam*

The Middle Siang Project is proposed to be located in the biodiversity hotspot region in the Eastern Himalayas. The project requires a total of 2751.95 ha. of forest land. The area forms the habitat of endangered species such as the Clouded Leopard (*Neofelis nebulosa*), Red Panda, tiger, and elephant among others. However the EIA report states that only five species of fauna exist at the site, of which one is a non-existent species i.e. Red Legged crane!. The project besides disrupting wildlife corridors will adversely affect the aquatic fauna which includes the Riverine Dolphin. A case has been filed before the NEAA.

OUTCOME: *The case is currently pending.*

Besides the above matter, three other additional cases are being pursued concerning the protection of the Himalayan fauna. Thus the local group Matu Peoples Organisation is being supported for cases concerning three big dams in Uttaranchal- Tapovan Vishnugad, Loharinagpala and Pala Maneri Hydel Power Projects.

CAPACITY BUILDING OF LAWYERS AND ACTIVISTS

Capacity building training programmes on wildlife and forest conservation laws have been conducted during the project period by the Applicant with other support organizations. The first training programme was conducted for members of the Bar Councils in the Western Ghats region, in Sirsi,, Karnataka. Over thirty five lawyers including judges participated in the same. It was organized on the December 21, 2005.

The aim of such programmes is to give first hand exposure to lawyers of wildlife cases and impart useful skills to handle them. The workshop was done in collaboration with local NGO's. One of the main issues discussed related to the problem of forest encroachments. Significant wildlife areas have been lost due to massive encroachments.

The second training programme was conducted at Kuno Palpur Sanctuary, Madhya Pradesh in collaboration with the Biodiversity Conservation Trust of India on August 23-24, 2005. Kuno Palpur is the proposed second home of the Asiatic lion. Over thirty five NGOs activists and Forest Department staff participated at the workshop. Advocate Bhupender Yadav, Advocate Rahul Choudhary, Faiyaz Khudsar, Wildlife Biologist and trustee of Biodiversity Conservation Trust of India were the resource persons for the workshop. The following topics were covered in the training programme:

- Wildlife (Protection) Act, 1972 and specifically provisions related to hunting, search, seizure and arrest/detention;
- Criminal Procedure Code;
- Provisions related to evidence collection;
- Filing of a complaint;
- Investigation techniques;
- High Court and Supreme Court Orders on forest conservation.

DISSEMINATION OF INFORMATION

An information dissemination exercise on forest and wildlife cases in the Supreme Court has been started. The RSG supports funding the cost for the procurement of Supreme Court orders. Over four hundred members across the country are provided monthly updates on Supreme Court cases concerning forest and wildlife. This is the only information

dissemination service for wildlife cases presently in India. The electronic monthly update reaches wildlife activists, NGOs and Forests officers across the country. A website has been launched and is regularly updated with the latest orders. To visit the website see www.forestcaseindia.org.

CONCLUSION

The grants received from RSG have been critical in securing wildlife areas from diverse threats. Significant successes were attained in protecting wildlife areas from the threat of encroachment and 'developmental activities'. In recognition of this work the grant recipient was awarded the 'Carl Zeiss Roll of Honour' 2005 for securing timely direction from the Courts in protecting wildlife and its habitat. The However many of the cases are still pending before the different fora and will need time as well as effort to achieve positive results. One of the most significant outcomes of the funds received is that groups across the country (most of them with limited financial resources) have been able to access the highest authorities of the country in order to bring to lights instances of ecological destruction. As natural forests in India continue to rapidly diminish in the face of developmental threats, the Courts are now the last if not the only resort in halting or at least slowing down the pace of destruction.