

GONZALO CASTRO DE LA MATA
Chairman
The Inspection Panel

IPN REQUEST RQ 18/06

November 5, 2018

NOTICE OF REGISTRATION

Request for Inspection

INDIA: Rural Water Supply and Sanitation Project for Low Income States (P132173)

Summary

1. On September 21, 2018, the Inspection Panel (“the Panel”) received a Request for Inspection (“the Request”) of the India Rural Water Supply and Sanitation Project for Low Income States (RWSSP) (“the Project”). The Request was submitted by 104 Santhal tribal community members (“the Requesters”) from a village in the state of Jharkhand, India. On October 9, 2018, the Requesters sent to the Panel a supplement to their Request, explaining the alleged harm in further detail. The Requesters asked for confidentiality.

2. The Requesters are concerned about the construction of a water treatment plant in their village as part of a scheme financed under the RWSSP (“the Scheme”). They claim the plant is being built on their community land, which has historical and cultural significance to the Santhal tribe due to the presence of an ancestral sacred grove, as well as burial and cremation grounds. They contend they may lose access to community resources and medicinal herbs. They express concern over the environmental impacts of the proposed plant, the lack of analysis of alternatives and insufficient environmental and social assessment. The Requesters also claim lack of consultation and information disclosure in local languages and raise concerns about retaliation. They request the Panel to carry out an inspection of the adverse impacts of the Project on their tribal community.

3. After conducting initial due diligence and confirming that the Request meets the Panel’s admissibility criteria, I am notifying you that I have, on November 5, 2018, registered this Request.

The Project

4. The Rural Water Supply and Sanitation Project (P132173) is a US\$1 billion project, of which the International Development Association (IDA) finances US\$500 million equivalent and the Government of India finances the rest. The Project was approved on December 30, 2013, and the closing date is March 31, 2020.

5. The Project’s development objective is “to improve piped water supply and sanitation services for selected rural communities in the target states through decentralized delivery

systems and to increase the capacity of the Participating States to respond promptly and effectively to an Eligible Crisis or Emergency.”¹

6. The Project has four components: Component A) Capacity Building and Sector Development; Component B) Infrastructure Development; Component C) Project Management Support; and Component D) Contingency Emergency Response. The Request relates to Component B.

7. The Project Appraisal Document (PAD) states that this component “will support investments for improving water supply and sanitation coverage, including construction of new infrastructure and rehabilitation and augmentation of existing schemes.”² According to the PAD, the water supply investments will include water source strengthening and catchment area protection activities. Whereas most habitations are expected to be served by Single Village Schemes using local groundwater sources, the document explains that “[m]ulti Village Schemes (MVSs), mainly relying on surface water sources, will be taken up for habitations where the local source is either not sustainable or not of acceptable quality.”³

8. The Project was assigned an Environmental Category B and triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01), Natural Habitats (OP/BP 4.04), Forests (OP/BP 4.36), Indigenous Peoples (OP/BP 4.10) and Projects on International Waterways (OP/BP 7.50).

The Request

9. The Request was submitted by 104 Santhal tribal community members from a village in the state of Jharkhand, India. The Requesters claim that “the way of life of the indigenous peoples of [their village] is inextricably linked to the site of the water treatment plant” and that “taking the hill away threatens the culture and economic stability of the community.” They allege the harms described below.

10. **Cultural impacts.** The Requesters explain the Project has not appropriately assessed the impacts on indigenous peoples in non-compliance with OP 4.10. They allege the water treatment plant is being constructed on their community lands, which have had historical and cultural significance for the Santhal indigenous community for many generations. The Requesters claim that on the edge of their village, where the plant is being built, there is a sacred grove inhabited by spirits. They explain the community worships at the sacred grove, in a cultural and spiritual practice called *Jantad Pooja*, and that a series of festivals take place at this site. The Requesters also state the water treatment plant is being built on a hilltop that has been a community graveyard and cremation ground “since time immemorial.” They argue the Project should have triggered the Physical Cultural Resources Policy and that the absence of assessment and mitigation measures related to impacts on physical cultural resources is in non-compliance with OP 4.11. The Requesters state that various affected shrubs and herbs found on the affected hilltop are used by the community for traditional medicine. They also explain that the red mud found on the hilltop is used for painting their houses, cleaning and packing goods.

¹ Project Appraisal Document, p.3.

² Ibid., p.5.

³ Ibid.

11. **Livelihood impacts.** The Requesters allege that vegetables growing on the hilltop are consumed by the community and plants are used as fuel for household fire and for fencing home gardens. They also claim the affected hilltop was used as pasture land for their goats, but the access to this land is hindered by the construction of the plant. The Requesters explain they currently have access to water free of charge and the water is appropriate for consumption. They claim the Scheme “threatens to make [their] already poverty-stricken communities more vulnerable by charging [them] for drinking water.”

12. **Legal protections for indigenous peoples.** The Requesters claim that, as an indigenous-majority area, their village enjoys special protections under national law, which requires the consent of the *Gram Sabha*⁴ to proceed with any development scheme and any decision regarding community lands. They allege that the relevant *Gram Sabha* has not consented to the construction of the water treatment plant on the current site and therefore the Scheme is unconstitutional.

13. The Requesters express concern that the Scheme is part of a larger plan to expand the city limits of the adjacent city and convert their indigenous area into an urban zone. They state that this could threaten the nature of the area and erode the legal protections related to rights over land and water resources afforded to their community as a rural village in India, and lead to further marginalization.

14. **Consultation.** The Requesters allege that no consultation meetings were held in their village and the “community was not consulted on any aspect of the [Scheme].” They claim most community members learned about the Project a month before it started when the local government came to a neighboring village with police forces. They explain this cannot be considered a consultation because it was meant to “reportedly coerce the villagers into giving their consent for use of their sacred grove for the water treatment plant.” The Requesters also allege that women from their village were not involved in any consultations in other villages. They state the lack of free, prior and inform consultation constitutes non-compliance with OP 4.10.

15. **Disclosure of information.** The Requesters claim they have not been provided adequate information regarding the Scheme in a language they understand. According to them, documents were available in English, but not in Hindi or Santali. The Requesters explain they were able to access some Project documents after claiming the right to information but had to incur related expenses and were not given environmental or social assessments for the Scheme.

16. **Retaliation.** The Requesters contend that when the works started, police officers accompanying the workers reacted to a peaceful protest by using force. They allege that community members who tried to intervene were beaten and several villagers suffered serious injuries and had to go to the hospital. The Requesters claim that several community members who had protested have been charged with unproved criminal offences and now have difficulty obtaining from the police character certificates, which are needed in India for various purposes, including securing employment.

⁴ Gram Sabha is a deliberative body to which every village resident belongs, that meets periodically and is expected to debate, discuss and ratify budgetary allocations, the selection of beneficiaries for public programs, and other important issues.

17. **Project alternatives and environmental assessment.** The Requesters question the location of the Scheme since they claim they already have access to clean water. They also allege the Project did not properly assess Project alternatives that would have minimized adverse impacts and maximized possibilities to restore the environment. The Requesters argue that only a baseline environmental and social assessment was prepared for Jharkhand as a whole and no specific environmental or social assessment was carried out particularly for the Scheme. They express concern that the Scheme will extract significant volumes of water from a nearby river and adversely impact the hydrology of the area, thus affecting the ability of indigenous communities to access water. They also express concern about cumulative hydrological impacts of the Scheme, as well as other schemes that have been implemented under the Project in surrounding areas. The Requesters complain about the lack of information on sludge management and possible toxic contamination. Finally, they claim the Project was wrongly assigned an environmental category B instead of category A.

Initial Due Diligence

18. After receipt of the Request, the Panel conducted its initial due diligence and verified that the Request meets the admissibility criteria for registration, as follows:

19. The Request is not frivolous, absurd or anonymous, and was submitted by 104 Santhal tribal community members from a village in the state of Jharkhand, India, where the Project is located.

20. The Requesters provided evidence of previous correspondence with the Bank Management dated April 6, 2018, in which they raised concerns about the Project. According to the Requesters, Management acknowledged their e-mail and promised to forward the complaint to the Project Implementing Unit. The Requesters explained they sent another email to Management on June 10, 2018, stating that no steps were taken to address their concerns. The Requesters pointed out they received a response from Management on October 6, 2018, after they filed the complaint with the Panel. However, they stated they find Management's response inadequate and the issues raised remain unresolved.

21. The Panel also verified that the subject matter of the Request does not concern issues of procurement and, at the time of the receipt of the Request, the Project was 21.68 percent disbursed. The Project closing date is March 31, 2020. The Panel has also not made a recommendation on the issues raised in this Request.

22. The Panel spoke to the Requesters by phone on October 3, 2018, and on November 1, 2018, to better understand their concerns. They provided further details on the alleged harms and requested the Panel to urgently carry out an inspection of the Project.

23. The Panel met with Bank Management on October 29, 2018. Management explained they conducted a mission to the Project area and met with community members after the Panel issued a Notice of Receipt of the Request on October 4, 2018. They stated they are considering steps to address the issues raised by the Requesters.

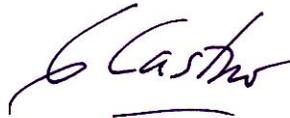
Registration of the Request

24. As provided in paragraph 17 of the IDA Resolution (“the Resolution”) that established the Panel, “the Chairperson of the Panel shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection.”⁵ With this notice, I am notifying you that I have, on November 5, 2018, registered this Request.

25. The Panel’s registration implies no judgment whatsoever concerning the merits of a Request for Inspection. As provided in paragraph 18 of the Resolution, and paragraphs 2 and 8 of the “Conclusions of the Board’s Second Review of the Inspection Panel” (“the 1999 Clarification”), Bank Management must provide the Panel within 21 business days (by December 6, 2018) a response to the issues raised in the Request for Inspection. The subject matter that Management must deal with in the response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarification.

26. After receiving the Management Response, the Panel will, as outlined in the 1999 Clarification and as provided by paragraph 19 of the Resolution, “determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.”⁶ This Request has been assigned IPN Request Number RQ 18/06.

Yours sincerely,



Gonzalo Castro de la Mata
Chairman

Attachments

Mr. Jim Yong Kim, President
International Development Association

The Executive Directors and Alternates
International Development Association

⁵ Resolution Establishing the Panel (September 22, 1993), Resolution No. IDA 93-6, <http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/Resolution1993.pdf>

⁶ Ibid.