

IPN REQUEST RQ 18/07

December 18, 2018

NOTICE OF REGISTRATION

Second Request for Inspection

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

Summary

1. On December 12, 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 130 Santhali and Ho tribal community members (“the Requesters”) from a village in the state of Jharkhand, India. The Requesters asked for confidentiality.
2. The Requesters are concerned about the construction of an elevated storage reservoir (ESR) in their village as part of a water supply scheme financed under the RWSSP (“the Scheme”). They claim the ESR is being built on their community land, which has historical and cultural significance to Santhali and Ho tribal community members. They also allege they will be impoverished by having to pay for water that is currently available for free. They express concern over the environmental impact of the Scheme and insufficient environmental and social assessment. The Requesters also claim lack of consultation and information disclosure in local languages, and raise concerns about retaliation.
3. On September 21, 2018, the Panel had received a first Request for Inspection of this Project from Santhali tribal community members. The Requesters were concerned about the construction of a water treatment plant in their community land that would adversely affect their historical and physical cultural resources. They also claimed negative environmental impact, lack of consultation and information disclosure, as well as fear of retaliation. The Notice of Registration of the first Request was issued on November 5, 2018. The Panel received the Management Response to the first Request on December 11, 2018. Since both Requests concern similar issues relating to the same Project, the Panel intends to process them jointly for reasons of economy and efficiency.

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: a) capacity building and sector development; b) infrastructure development; c) project management support; and d) contingency emergency response. The Request relates to component b. 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

7. 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 *"Multi 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 130 Santhali and Ho tribal community members from a village in the state of Jharkhand, India. The Requesters claim their *"collective cultural resources, livelihoods and autonomy"* have been affected by the Project. They allege the harms described below.

10. **Impact on cultural resources.** The Requesters allege the Project *"threatens the continuation of essential cultural practices of the [i]ndigenous communities."* They explain that an ESR is being built on their community land, which has cultural significance for residents of the village. According to them, annual celebrations take place at this site, as well as a sacrificial ceremony and feast, which is held every five years.

11. The Requesters contend that the ESR location is an important martyrdom site both for the community and for the state of Jharkhand in honor of men from this community who gave their lives to the struggle for Jharkhand's statehood. Annual martyrdom day is observed by the community at the site. They explain that the Project built a statue of martyrs

¹ Project Appraisal Document, p.3.

² Ibid., p.5.

³ Ibid.

as a mitigation measure. However, they state the community was not consulted about this issue, and they do not believe in erecting statues for members who have died. According to their culture, stones or boulders should have been placed instead in memory of the martyrs.

12. The Requesters claim that it is unconstitutional for the state to transfer land from a recognized *Scheduled Area*⁴ to a corporation for the construction and operation of the Project. They allege that Project documents incorrectly concluded that the Scheme would be built on government land. According to them, these documents did not consider the structures built on community land.

13. The Requesters argue that the Project should have triggered the Physical Cultural Resources Policy. According to them, the impact on physical cultural resources was not considered in the Project, in non-compliance with OP 4.11.

14. **Economic impact.** The Requesters allege that they currently have adequate access to water free of charge and they do not require piped water. They argue that after the Project they will have to pay for water and this will further impoverish their community.

15. **Impact related to the expansion of city limits.** The Requesters argue that the Scheme is a key component of the proposed Urban Agglomeration Plan and is being used to expand the city limits of the adjacent city. According to them, this expansion would have a “*disastrous impact on the indigenous community [...], including impacts on their culture, access to resources, and traditional governance practices.*” It would be a catalyst for dissolving the legal protections afforded their community as a *Scheduled Area*, and lead to further marginalization, they point out.

16. **Inadequate social assessment and indigenous peoples plan.** The Requesters claim the Project did not assess the adverse impact of this particular scheme on indigenous community resources in non-compliance with OP 4.10. They explain that there is no indication that a social assessment was prepared to evaluate this Scheme’s impact on indigenous peoples nor to examine project alternatives, and that “*Bank management failed to take steps to do a proper appraisal of risks to Indigenous communities.*” According to them, the Indigenous Peoples Plan for Jharkhand incorrectly concluded that “*program interventions will not impact indigenous communities*” and no measures to mitigate the negative impact of the Scheme on indigenous communities were envisioned.

17. **Consultation.** The Requesters explain that consultations for the Environmental Assessment-Environmental Management Framework, Social Assessment and Indigenous Peoples Plan were only conducted at the level of Jharkhand state and for the Project as a whole, and not for the specific schemes. According to them, “*these consultations did not make a rigorous attempt to understand the impacts of planned components of the Project on project-affected people.*” They explain that Bank Management and implementing authorities did not consult their community and that “*little attempt has been made to take community views into account even though construction of a key component of the Scheme is happening on land to which the community has deep historical and cultural ties.*”

⁴ Scheduled Areas refer to officially notified areas marked by significant presence of tribal population, geographic compactness as well as social and economic underdevelopment.

18. They further explain that as a *Scheduled Area*, their village has special protections under national law and that a Gram Sabha⁵ resolution is a pre-condition for starting any development activity in their village. They allege that the relevant Gram Sabha did not consent to the construction of the ESR in their village, and that in fact they have passed several resolutions opposing it. According to them, tribal institutions were “*sidestepped*” during implementation of the Scheme.

19. The Requesters allege that no attempt has been made to ascertain that broad community support was achieved in non-compliance with OP 4.10. They explain that the Scheme “*has been forced upon the community despite their vehement opposition*” and “*a process of free, prior and informed consultation did not take place.*”

20. **Disclosure of Information.** The Requesters contend that “*the implementing authority never provided any documents to the community.*” They claim information about the Scheme was neither disclosed locally nor on the Bank’s website, which only has information on the Project as whole. They explain the community was only able to access some Project documents that were shared by members from another village. However, according to them, none of the documents were available in Hindi, Santhali or Ho languages.

21. **Retaliation.** The Requesters state they “*fear there may be reprisals [...] for complaining about the Scheme.*” They contend that community members were threatened with “*dire consequences*” when they tried to protest against the construction of the ESR on their land.

22. **Environmental impact and inadequate environmental assessment.** The Requesters claim the Project should have been assigned an environmental category A instead of category B, since it will have wide-ranging impact on the ecology, human health and safety, and the rights of indigenous peoples. They contend the Project did not conduct an “*adequate environmental assessment*” and that while an Environmental Assessment-Environmental Management Framework was done for the State of Jharkhand as a whole, it did not examine the potential adverse impact of subprojects. They consider the “*failure on the part of Bank management to monitor subprojects properly*” in non-compliance with OP 4.01.

23. The Requesters express concern that the Scheme will extract significant volumes of water from a nearby river and have an adverse impact on the hydrology of the area and the aquatic ecosystem. According to them, this will especially affect indigenous villages where local bodies of water are a key component of many cultural practices. They are also concerned about pollution from sludge generated from the water treatment process, which can be toxic, and claim that Project documents contain no information on sludge management.

⁵ *Gram Sabha* is a general assembly of all the people of a village, who have attained the age of 18 years, and are registered in the electoral roll relating to a village. A Gram Sabha resolution is a majority vote in favor of an issue.

24. **Next Steps.** The Requesters ask the Panel “*to conduct an immediate investigation to confirm the violations of Bank policy [...].*” They request that the World Bank: (i) suspend the construction of the Scheme until a comprehensive environmental and social assessment is undertaken; (ii) appoint an independent hydrology expert to look at the cumulative hydrological impact of this Scheme and other ones planned in surrounding areas; (iii) disclose all relevant documents including in Hindi, Ho and Santhali languages; (iv) provide due compensation and reparations for damage done to their cultural and martyrdom site; (v) request the government to take action against those responsible for irregular land acquisition of their community resources and; (vi) conduct an independent consultation with all the traditional heads and Gram Sabhas of affected villages to assess if piped water is desired.

Initial Due Diligence

25. 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:

26. The Request is not frivolous, absurd or anonymous, and was submitted by 130 Santhali and Ho tribal community members from a village in the state of Jharkhand, India, where the Project is located.

27. The Requesters provided evidence of previous correspondence with Bank Management and shared several e-mails with the Panel. On October 10, 2018, the Requesters sent an e-mail to Bank Management raising concerns about the Project. On October 15, 2018, Bank Management visited the community allegedly unannounced. On October 29, 2018, Bank Management explained they had forwarded the Requesters’ e-mail to the Project Management Unit for appropriate follow-up. Additional e-mails were exchanged between October and November 2018 and on November 29, 2018, the Requesters and Bank Management held a phone meeting to start planning another site visit by Management. Nevertheless, the Requesters state they consider Management’s response inadequate.

28. 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.

Registration of the Request

29. 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.*”⁶ With this notice, I am notifying you that I have, on December 18, 2018, registered this Request.

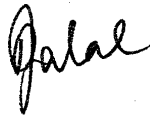
30. The Panel’s registration implies no judgment whatsoever concerning the merits of a Request for Inspection. As provided in paragraph 18 of the Resolution, and paragraphs 2

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

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 January 25, 2019) 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.

31. 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.*”⁷ This Request has been assigned IPN Request Number RQ 18/07.

Yours sincerely,



Imrana Jalal
Chair

Attachments

Mr. Jim Yong Kim, President
International Development Association

The Executive Directors and Alternates
International Development Association

⁷ Ibid.