

*Continued from previous page*

#### **Is regulation the answer? What is wrong with the Andhra ordinance?**

While the sins of the sector are certainly worth bemoaning, the Andhra ordinance is a sledgehammer. The main problem is that it requires every MFI to register in every district and it has not been specified how long it will take to get registered. Given the way the bureaucracy works it could take at least three months. During that period you cannot lend which is okay. But you also can't recover your existing loans. Most MFIs recover weekly. That means in three months 12 instalments are gone and once the women in SHGs are 12 instalments behind they never catch up.

So this will lead to a large number of cases of involuntary defaults. And then there is a clause that says if you use coercive methods you will go to jail for three years. Now, there are five or 10 per cent of borrowers who can use that to intimidate collection staff. With ₹10,000 crores outstanding I estimate ₹3,000 to 4,000 crores will be lost. So we are looking at mass defaults.

#### **The ordinance will destroy microfinance?**

It will wipe out many MFIs. Secondly, 80 per cent of MFIs are financed by banks so it will hit them also. You can forget about financial inclusion. Who is going to come and lend to a sector which has such systemic problems? As it is, RBI requires 15 per cent capital adequacy – which means that if you lend ₹1,000 crores you have to have ₹150 crores in capital. Till now this was coming from various private sources. But why would anyone come into a sector which has political risk, reputation risk and governance issues?

#### **What else in the ordinance bothers you?**

At a conceptual level there is this presumption that only the government is the guardian of the poor. SHGs with the government are recognised and all others are delegitimised. It says if those SHGs are being lent to or any member borrows you have to take a no-objection certificate from the government. I see this as a violation of the rights of citizens.

Andhra Pradesh is a highly monetised economy. It has the highest amount of institutional borrowing per farmer household in the country. It also has the highest amount of moneylender borrowing. In other words, there is high density of banking, SHGs and MFIs. It has reduced the total amount of money moneylenders are lending but not their market share. MFIs have ₹10,000 crores outstanding. Now if you beat up MFIs and make them vanish who will benefit? The moneylender.

Given that moneylenders typically charge 36 per cent, it is a gift of at least ₹2,500 crore to the moneylenders. Why would the government want to do this? Well, Rosaiah (the Andhra Pradesh Chief Minister) belongs to the moneylender class. I'm not saying he is doing it for his caste but we are all captive of our networks. There will be a sharing of the booty.

#### **So what is the way out? What about the Union microfinance bill?**

The microfinance bill is flawed. It only addresses NGOs. The problem is that for providers the legal

form of the sector has not been specified. Microfinance is being done by societies, Section 25 companies, cooperatives, trusts, NBFCs, banks. The regulatory framework for each of these forms is a different law.

NBFCs are governed under the RBI Act, banks under the Banking Regulation Act etc. Trusts are virtually ungovernable because they are supposed to enjoy high levels of autonomy. Societies are supposed to be charitable so how they can do this kind of financial activity we don't understand. The microfinance bill will legitimise this chaos.

In addition to different laws you have different regulators. There is RBI to take care of depositors' interests. SEBI looks after shareholders' interests. You have a regulator for insurance and so on.

We have to put an end to these verticals. What is needed is a single comprehensive legislative framework which recognises that the worlds of finance and microfinance are totally different.

The problem is about 'micro'. It is not just in relation to micro-credit. The problem will be the same tomorrow with micro savings or insurance. The moment the ticket size is small, the transaction costs go up and therefore the way you regulate will have to be different.

We need a horizontal. It can be below ₹50,000 or below ₹1 lakh. Anything that happens below that level should be regulated by a single unified financial regulator. Any transaction whether it is insurance, savings, housing etc. In South Africa they have such a regulator. Anybody who wants to operate below the level of 10,000 rands, be it a moneylender or a bank has to register. The lollypop is that usury laws will not apply to them.

It's not the complete answer. But at least it is one of the things. A unified regulator should also cover consumers' interests, consumer education and have the ability to adjudicate on pricing issues. Look at the telecom sector in India. The regulator adjudicates on pricing and the downward sloping curve set in faster than it had envisioned.

#### **Are more MFIs going in for IPOs?**

Spandana and Share and possibly Bandhan will have to go in the next six months. An IPO becomes inevitable once you have reached ₹400 to ₹500 crores of capital size. You can't seek money through debt because you will raise ₹40 to 50 crores, which is the amount you will need every other month. If what you need to raise is ₹200 crores, there is no institution around that will give you that much and so you have to go to the stock market.

#### **How will the Unique Identity Number (UID), Aadhar, impact microfinance?**

It is one of the three pieces of technology which can cut costs. You need a UID but you also need a no-frills bank account. And then you need a large number of transaction outlets, business correspondents' outlets. When all these three come together, then you are in a transaction heaven. These three would enable microfinance transactions to be done using bank accounts. Secondly, it will create history in the bank. A sensible bank will say, 'take the loan from us'. So it will make a lot of people bankable. Thirdly, you can look at all financial products and not just a single product.

# Lafarge EIA rev

## NEAA agrees mining firm's clearance was flawed

**Manshi Asher**  
Shimla

**I**N a landmark move the National Environment Appellate Authority (NEAA) on 30th August revoked the environment clearance granted to the French multinational, Lafarge, for its ₹900 crore greenfield cement project in Himachal Pradesh by the Union Ministry of Environment and Forests (MoEF).

Lafarge is considered the world's largest cement producer. The cancellation of its environment clearance comes close on the heels of the company being embroiled in yet another controversy in Meghalaya over land and forest issues. Twenty-one local tribes and the Shella Action Committee, an NGO, had approached the Supreme Court alleging the French company had obtained environment clearance by falsely declaring forested areas as wasteland. The company was accused of displacing local tribals by using dubious means.

On 9 April, the Supreme Court had ordered Lafarge to meet additional conditions for mining, including a deposit of ₹55 crore towards Net Present Value (NPV) of the forest land to be used for welfare projects for tribals.

Importantly, the judgment in the Himachal case came after a member of the NEAA visited the Lafarge Cement and Limestone Mines' proposed project site on 23 June to assess the feasibility of the environment clearance granted to it on 8 June last year. This was the first visit of its kind by the NEAA to the state of Himachal Pradesh. There is little doubt amongst locals that it played a crucial role in the final decision.

"The dispossession, impoverishment and trauma attached to displacement have neither been captured by the Environment Impact Assessment (EIA) nor appreciated by the Expert Appraisal Committee (EAC) or the state government," stated the judgment describing the local economy that threatens to be destroyed by the project. Perhaps the MoEF's Appraisal Committee would have been inclined to a similar opinion had they interacted with the local people and looked at the landscape from the actual mining site.

"After we raised objections about the project with the environment ministry, the EAC made a site visit in May 2009. But local people were not informed. The committee did not meet us or get to the mining site saying it was inaccessible by road," says Pratap Singh Thakur who belongs to Bagshyad, one of the affected villages and a petitioner in the NEAA case.

Ritwick Dutta, counsel for Pratap Singh Thakur,



## INDIA

# EIA revoked, villagers relieved

MANSHI ASHER



Women at Bagshyad public hearing

MANSHI ASHER



JC Kala listening to grievances of community members at Bagshyad

argued that "the very purpose of the MoEF committee's site visit was defeated." Based on this argument, Appellate Authority member JC Kala visited the project site in June to carry out a detailed assessment by interacting with the affected people.

Kala visited Shokrori, located opposite the proposed plant site, Thalli, which is adjacent to the plant site, Bagshyad and Kanda at the mining site and had discussions with the villagers. More than 200 people had gathered at Thalli and another 400 at Bagshyad. They strongly opposed the project.

They pointed out that Lafarge's project would have irreversible and adverse impact on local environment, forest diversity and thereby their livelihoods. However, the EIA submitted by Lafarge glossed over such implications. Supporting its EIA report Lafarge has been arguing that very little agricultural land would be acquired for the project and that there was no livelihood dependence on the steep grassy slopes proposed to be mined. This claim itself indicates that nei-

ther the company nor the EIA consultants had done their homework.

The proposed mining area of 800 hectares located beyond Alsindi, near village Shaungi and above village Talhain, across Pheridhar, Alyas and Bagshyad comprises of grassy slopes and oak forests. At least seven villages depend on these forests and grasslands for fodder, fuel wood and grass. Those with smaller land holdings, like the Dalits, depend on collection of non timber forest produce like wild pomegranate and mushroom from these forests for their main source of cash income.

"They are planning to mine my backyard. Yet they claim I will not be affected because they are not taking my 'private' land," says Pratap Singh.

The other critical inadequacy is the impact of pollution due to limestone mining and the cement plant. Both have been grossly underplayed by the company's EIA report. For instance, village Shokrori with its 350 families is just across the cement plant

site. Agriculture is thriving here. Yet the village has not even been mentioned as affected in the EIA report. All the villages around the cement plant and mining site earn a good income by selling peas, cauliflower, cabbage, cucumber etc. They cater not only to the local market but to markets in Delhi and Mumbai. Horticulture is practiced by almost every household. They have orchards and plantations of apple, pomegranate, walnut, plum, apricots and pears.

Far from mentioning these facts, the EIA report says that 49 per cent of people in the area are jobless, implying that the project will bring employment to locals. This, despite the fact that both the EIA and MoU signed with the state government clearly state that the employment generated in the construction phase will be only 2,000 to 2,500 and it will be for a period of only five years. The permanent jobs generated will be 200 in number mostly for skilled persons!

"People are aware of the experience of local populations affected by the ACC and Jaypee cement plants elsewhere in the state. So we were able to see through all these tall claims," observes Meera, a resident of the area and member of a community organisation, Paryavaran Evam Gram Vikas Samiti.

While local sentiment against the project had been building up since September 2006 when the Himachal Cabinet first approved of it, the movement became more intense after a local Dev Sansad referred to as *Jada* was organised. The local *devta* (diety) Deo Badeyogi through the *Gur* (oracle) declared that the plant should not be allowed to come up in the area. This further strengthened the resolve of the village communities to protest against the project. A joint action committee of representatives of the affected panchayats and nine local community organisations called Jai Shri Deo Badeyogi Sangharsh Evam Paryavaran Sanrakhsan Samiti was then formed.

Despite this organised resistance driven by cultural beliefs, there were local political representatives whose support the company managed to garner. In fact, after the NEAA judgement came out, Lafarge hired a private public relations firm to release a press statement on behalf of these supporters in favour of the project.

The district administration too has attracted local wrath. Despite repeated petitioning and appeals by the people, it turned a blind eye to the concerns related to the project and went ahead with the land acquisition process, they say. "Even during the NEAA site visit officials of the administration were discouraging Shri Kala from visiting the actual affected site," says KG Thakur, a member of the Samiti.

The NEAA judgment has proved to be a vindication for the people's point of view. It managed to capture local sentiment and recognize the deep dependence of the affected communities on their natural resources. It was also the outcome of a first hand hearing – a rare occurrence in our systems for redressal.

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