

5TH SLCU NATIONAL MOOT COURT COMPETITION

IN THE HON'BLE SUPREME COURT OF INDIA

AT NEW DELHI

Writ Petition (Civil) No. \_\_\_\_\_ / 2014

(Filed under Article 32 of the Constitution of India, 1950)

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Swadeshi Suraksha Samiti

..... Petitioner

*versus*

Union of India & Others

..... Respondents

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Written Submissions on behalf of the Respondents,

SLCU027,

Counsel for the Respondents.

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**LIST OF ABBREVIATIONS**

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¶	Paragraph
AIR	All India Reporter
Art.	Article
EAC	Expert Appraisal Committee
EC	Environmental Clearance
EIA	Environmental Impact Assessment
EPA	Environment (Protection) Act, 1986
Factsheet	Statement of Facts, 5 <sup>th</sup> SLCU National Moot Court Competition Problem
FC	Forest Clearance
FCA	Forest (Conservation) Act, 1980
FRA	Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
Hon'ble	Honourable
Mining Project	Project by RUC to extract uranium from the ores of Swadeshi
MoEF	Ministry of Environment and Forest, Government of India
NGT	National Green Tribunal
NRRP	National Rehabilitation and Resettlement Policy, 2007
PESA	Panchayats (Extension to Scheduled Areas) Act, 1996
PIL	Public Interest Litigation
RUC	Rustam Uranium Corporation Private Limited
SC	Supreme Court
SCC	Supreme Court Cases
SPCB	State Pollution Control Board

sq. km.	square kilometre
SSS	Swadeshi Suraksha Samiti
ST	Schedule Tribes
TFD	Traditional Forest Dwellers
Tribal Communities	Indigenous tribal communities of 'Letria, 'Lortep' and 'Lanoitan' living in Swadeshi Forest
UCIL	Uranium Corporation of India Limited
viz.	namely

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**STATEMENT OF JURISDICTION**

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The Petitioner has approached the Hon'ble Supreme Court of India under Art. 32 of the Constitution of India, 1950. The Respondents reserve the right to contest the jurisdiction of this Hon'ble Court.



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## STATEMENT OF FACTS

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### **Presence of Uranium and Tribal Communities in Swadeshi Forest**

The country of India is home to many atomic resources, particularly Uranium. These ores are found in the Hithro mineralised zone of an area of 25 sq. km. in the State of Realkhand. Under the Panchayat (Extension of Scheduled Areas) Act, 1996, the Hithro zone was declared as a 'Scheduled Area'. The Hithro zone is located in the 'Reserve Forest' named Swadeshi which has an area of 125 sq. km. The Swadeshi forest is the home to indigenous tribal communities viz. 'Letria, 'Lortep' and 'Lanoitan' ("Tribal Communities") who are about 400 to 450 in number.

### **Electricity Crisis in India**

India, a developing country, has a predominantly industrial economy. However, in January 2012 a severe power crisis adversely affected several industries and they were forced to shut down. As a consequence, many workers were laid off and retrenched. These unemployed workers approached the Supreme Court contending that their right to livelihood was deprived. They sought for, *inter alia*, a remedy to the power crisis that caused this. In turn, the Supreme Court directed the Government to obtain a report from the Department of Atomic Energy on the alternative energy resources in the country and solutions to the electricity crisis.

### **Proposed Mining Project in Swadeshi and Protests**

In pursuance of the above directions, the Department of Atomic Energy recommended the extraction of Uranium from the ores of Swadeshi by the leaching process. Therefore, the Government leased 45 sq. km. of Swadeshi (inclusive of the Scheduled Area) to Uranium Corporation of India Limited ("UCIL") for fifty years. The UCIL subsequently sub-leased the process of extraction of minerals to Rustam Uranium Corporation Private Limited ("RUC"). The Tribal Communities vehemently agitated this as they feared they would be displaced from their homes and sacred lands and lose their livelihood. These protests were led by Swadeshi Suraksha Samiti ("SSS") which also highlighted the harmful effects of radiation due to uranium extraction.

### **Grant of Environmental Clearance**

The RUC applied for an Environmental Clearance for the extraction of uranium from the ores of Swadeshi ("Mining Project"). A public hearing was conducted on 17<sup>th</sup> August, 2013 where the Gram Panchayats living in and around the vicinity of the Swadeshi Forests were

consulted. No objections were raised by the Gram Panchayats. Subsequently, the Notification that provided for a Public Hearing on 19<sup>th</sup> August 2013 for the Tribal Communities of Swadeshi was cancelled on the ground that the lands, being part of the Reserved Forest, belonged to the Government. An Environmental Clearance ["EC"] subject to the grant of Forest Clearance ("FC") was granted to RUC a period of 30 years. This EC provided certain safeguards such as allowance for the Indigenous communities to access the forest for their livelihood rights as per customary practices, compensation to land losers as per National Rehabilitation and Resettlement Policy, 2007 ["NRRP"], compensatory afforestation, development of effective emergency response etc. Subsequently, RUC was also granted the FC.

The instant petition arises from SSS alleging that the rights of the Tribal Communities under the Constitution of India and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 ("FRA") are infringed by the Mining Project. It further alleges that the EC granted was not in accordance with law. Therefore, it filed a Writ Petition under Article 32 of the Constitution of India, on 14<sup>th</sup> July 2014 before the Supreme Court of India.

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**QUESTIONS PRESENTED**

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1. Whether the instant petition is maintainable?
2. Whether the rights of the Tribal Communities are violated by the Mining Project?
3. Whether the Forest Clearance is valid?
4. Whether the Environmental Clearance is valid?

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**SUMMARY OF PLEADINGS**

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1. The instant petition is not maintainable since the Petitioner has not exhausted all available local remedies before approaching this Hon'ble Court under Art. 32. The rule of exhaustion of local remedies is a self-imposed restraint created this Hon'ble Court and is not a violation of Art. 32. The Petitioner can approach the High Court under Art. 226 which would be able to ascertain local conditions and facts and ensure proper compliance with its orders or the National Green Tribunal which possesses the requisite expertise in these matters. In any case, in any case, no fundamental rights have been violated.
2. The Respondents submit that the Mining Project does not violate the right to shelter since the Petitioner has not established it and in any case, there is a comprehensive Rehabilitation package in this case. The right to wholesome environment, the right to health or the right to livelihood under Art. 21. Further, there is no violation of any religious right or the right to information. On the contrary, the Respondents submit that the Mining Project aids Art. 21 of the Tribal Communities and the public at large.
3. The Respondents submit that the Petitioner may not dispute the validity of the Forest Clearance since the State's rights over its mines and minerals is not restricted and it can exercise the power of eminent domain over it. Moreover, there is nothing to suggest that rights of the STs and TFDs have not been settled for the Petitioner to rely on Sec. 4(5) of FRA. Also, the consultation with the Gram Panchayat is sufficient and *finally*, the prior approval of the Central Government has been obtained. Therefore, the FC is valid.
4. It is submitted that the Environmental Clearance granted to RUC cannot be challenged by the Petitioner since the public consultation requirement under the EIA has been satisfied as hearing with the Gram Panchayat is sufficient. Moreover, the EC does not suffer from *Wednesbury* unreasonableness and finally, the Forest Clearance is valid.

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**PLEADINGS**

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**I. THE INSTANT WRIT PETITION IS NOT MAINTAINABLE**

1. It is submitted that the instant petition is not maintainable since: *first*, the Petitioner is required to exhaust local remedies before approaching this Hon'ble Court under Art. 32 [A]; *secondly*, a rule of exhaustion of local remedies is not a violation of Art. 32 [B]; *thirdly*, the Petitioner has two alternative remedies [C] and *finally*, in any case, no fundamental rights have been violated [D].

**A. The Petitioner is required to exhaust local remedies**

2. It is submitted that Art. 32 is not an absolute right and is subject to the self-imposed restraints evolved by the judiciary. It has been held that since Art. 32 confers "extraordinary" jurisdiction, the same must be used sparingly and in circumstances where no alternate efficacious remedy is available.<sup>1</sup> The reason for this is two-fold: *first*, to reduce the increasing pendency of cases<sup>2</sup> and *second*, to inspire faith in the hierarchy of Courts and the institution as a whole.<sup>3</sup> Therefore, the Petitioner is required to approach the High Court or the National Green Tribunal before approaching the Supreme Court.

**B. The rule of exhaustion of local remedies is not a violation of Art. 32**

3. The Petitioner may contend that the rule of exhaustion of local remedies is unconstitutional and violative of the guarantee in Art. 32(1). However, it is submitted that the right under Art. 32(1) is not so absolute that no rules of procedure apply to it. Art. 32(1) confers a right to move the SC by "appropriate proceedings". "Appropriate proceedings" interpreted to mean "procedure relating to form, conditions of lodgement of petitions, and compliance with a reasonable directions"<sup>4</sup>. Indeed, procedural factors such as *res judicata*,<sup>5</sup> delay in filing the petition and parallel proceedings<sup>6</sup> in another Court are considered before entertaining the appropriateness of a particular proceeding. It is submitted that the rule of exhaustion of local remedies is another such procedural guideline and does not violate the right under Art. 32.

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<sup>1</sup>Secretary, Govt. of India v. Alka Subhash Gadia, 1990 SCR, Supl. (3) 583; Avinash Chand Gupta v. State of Uttar Pradesh, (2004) 2 SCC 726; Union of India v. Paul Manickam, AIR 2003 SC 4622.

<sup>2</sup>PN Kumar v. Municipal Corp of Delhi, 1988 SCR (1) 732.

<sup>3</sup>Kanubhai Brahmabhatt v. State of Gujarat, AIR 1987 SC 1159.

<sup>4</sup>Prem Chand Garg v. Excise Commissioner, AIR 1963 SC 996.

<sup>5</sup>Daryao v. The State of Uttar Pradesh, AIR 1961 SC 1457.

<sup>6</sup>DURGA DAS BASU, SHORTER CONSTITUTION OF INDIA 396 (13th ed., 2001).

**C. The Petitioner has two alternative local remedies**

4. It is submitted that there are two alternative efficacious remedies that are available before the Petitioner in the instant case. *First*, to approach the High Court under Art. 226 and *second*, to approach the National Green Tribunal.

*a) The Petitioner may approach the High Court under Art. 226*

5. The power of High Court under Art. 226 is wider than the powers of this Court under Art. 32 of the Constitution.<sup>7</sup> Further, the reliefs prayed for can be granted by High Court. Indeed, this Court in *ICELO* held that in cases concerning environment, specifically, the High Courts would be in a better position to ascertain local conditions and facts and therefore, for proper monitoring, they must be preferred.<sup>8</sup> Further, in another case concerning the safety of development project,<sup>9</sup> this Hon'ble Court transferred the matter to the High Court of Uttaranchal as it was expedient. The issues in the instant case are similar and require knowledge and ability to assess local conditions. Therefore, it is submitted that remedy available under Art. 226 is not just an alternative but also, a preferable remedy.

*b) The Petitioner may approach the National Green Tribunal*

6. Alternatively, the Petitioner also has the option of approaching the National Green Tribunal. In the instant case, the Petitioner seeks to challenge the validity of the FC and EC passed by the MoEF under the FCA and EIA Notification, respectively. Under the NGT Act, any person aggrieved by an order made under the FCA<sup>10</sup> or EPA<sup>11</sup> may challenge the same under the appellate jurisdiction of the NGT.<sup>12</sup>
7. It is submitted that the NGT has been expressly established to deal with questions related to “*enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.*”<sup>13</sup> Therefore, any submission that the NGT cannot enforce rights or protect them adequately is erroneous.

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<sup>7</sup> PN Kumar v. Municipal Corp of Delhi, 1988 SCR (1) 732.

<sup>8</sup> Indian Council For Enviro-Legal Action v. Union of India, (1996)5 SCC 261.

<sup>9</sup> N .D. Jayal v. Union of India, (2004) 9 SCC 362.

<sup>10</sup> National Green Tribunal Act § 16(e) (2010).

<sup>11</sup> National Green Tribunal Act § 16(h) (2010).. The EIA Notification has been issued under the EPA. Therefore, it forms a part of the EPA.

<sup>12</sup> National Green Tribunal Act § 16 (2010).

<sup>13</sup> National Green Tribunal Act Preamble (2010).

8. Moreover, the NGT is specially equipped to evaluate scientific claims apart from regular civil claims due to the presence of scientific experts on the bench. With due respect to this Hon'ble Court, it is therefore submitted that the NGT is better situated than the SC to evaluate concerns about the health and environmental consequences of the Mining Project.<sup>14</sup> In fact, the Supreme Court when faced with similar cases, in the past, has lamented the lack of separate, multi-faceted environmental courts equipped with both judicial and scientific inputs.<sup>15</sup> Thus, the Supreme Court *itself* has recognised the value of the NGT to deal with such cases.
9. Further, in various cases in the past, the SC has had to refer scientific questions to special committees and expert bodies, thus, delaying the resolution of dispute. It is submitted that an expeditious resolution of the dispute is in the best interests of both parties. While the petitioners would like to seek certainty with regard to their homes, livelihood and environment, the Respondents would like to seek certainty about their investment at the earliest. Mining being a capital intensive process, the Respondents submit that they will face enormous financial hardship if the case is not resolved quickly as they have to make interest payments on loans. The Act provides that the NGT shall endeavour to adjudicate upon the dispute within six months from the date of filing of application or appeal.<sup>16</sup> Therefore, for expeditious disposal of this case, NGT must be preferred.
10. Assuming *arguendo*, this petition is admitted by the Hon'ble Court, it will defeat the object of the NGT Act to create a specialized tribunal for environmental cases. The instant case will be used as a precedent to bypass the jurisdiction of the NGT to directly approach the Supreme Court. This should be avoided. In any case, the NGT Act reserves the right of the Petitioner to challenge an order passed by the NGT in the Supreme Court.<sup>17</sup> In light of the foregoing, the Respondents request the Hon'ble Court dismiss the petition.

**D. In any case, no fundamental rights are violated**

11. The jurisdiction under Art. 32 can be invoked only when Fundamental Rights are violated. It has been held that if a right, other than a fundamental right is claimed to be violated then such questions can be addressed only in the appropriate proceedings and not

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<sup>14</sup> SAIRAM BHAT, NATURAL RESOURCES CONSERVATION LAW 63 (2010).

<sup>15</sup> M.C. Mehta v. Union of India 1986 (2) SCC 176; Indian Council for Environmental-Legal Action v. Union of India, 1996 (3) SCC 212; A.P. Pollution Control Board v. M.V. Nayudu 1999 (2) SCC 718; A.P. Pollution Control Board v. M.V. Nayudu II 2001 (2) SCC 62.

<sup>16</sup> National Green Tribunal Act § 18(3) (2010).

<sup>17</sup> National Green Tribunal Act § 22 (2010).

on an application under Art. 32.<sup>18</sup> In the instant case, it is submitted no fundamental rights of the Petitioner or the Tribal Communities have been violated,<sup>19</sup> therefore, this petition must fail.

## **II. THE MINING PROJECT DOES NOT UNJUSTIFIABLY VIOLATE ANY RIGHT**

**12.** The Petitioners may contend that the Mining Project violates several fundamental rights. The Respondents submit that the Mining Project does not violate the right to shelter, the right to wholesome environment, the right to health or the right to livelihood under Art. 21. Further, there is no violation of any religious right or the right to information.

**13.** On the contrary, the Respondents submit that the Mining Project aids Art. 21 of the Tribal Communities and the public at large. It has been held that the right to life includes assurance of all facilities to develop, including electricity.<sup>20</sup> Indeed, this Hon'ble Court in *Sundarrajan* had described electricity to be "the heart and soul of modern life"<sup>21</sup> and approved of a nuclear plant. In the instant case, the purpose of the Mining Project is evident – alternative source of energy.<sup>22</sup> Thus, the Respondents submit that the Mining Project must be seen as facilitating the right to life under Art. 21 of the general public at large.

### **A. The Mining Project does not violate the right to shelter**

**14.** The Tribal communities occupy the Swadeshi Forests which has an area of 125 sq. km., of this only 45 sq. km. is leased out for the purposes of the Mining Project.<sup>23</sup> The Petitioner alleges that the Tribal Communities face eviction on account of the Mining Project and this violates their right to shelter. It is submitted that the right to shelter is not violated since, *first*, there is nothing on record to indicate displacement of the Tribal Communities [**a**]; *second*, in any case, displacement *per se* is not a violation of the right to shelter [**b**].

#### **a) The Petitioner has not shown that there is any displacement**

**15.** It is submitted that the Petitioner has approached the Court merely on the apprehension of displacement. There is nothing on record to suggest that the Tribal Communities are

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<sup>18</sup> Ramjilal v. Income Tax Officer, AIR 1951 SC 97.

<sup>19</sup> II, Pleadings, Written Submissions for the Respondent.

<sup>20</sup> Chameli Singh v. State of Uttar Pradesh, AIR 1996 SC 1051.

<sup>21</sup> G. Sundarrajan vs. Union of India, (2013) 6 SCC 620.

<sup>22</sup> Annexure B, Factsheet.

<sup>23</sup> ¶1, Factsheet.



displaced or under a real threat of displacement. This Court on multiple occasions has reiterated that although the strict rules of pleadings do not apply in a PIL, there should be “sufficient material in the petition on the basis of which Court may proceed”. Indeed, the litigant cannot expect the Court to engage in a fishing or roving enquiry;<sup>24</sup> based mainly on surmises.<sup>25</sup> Such details are especially necessary in issues relating to displacement and rehabilitation since this Court in the past has held that facts such as “how many persons had already vacated their houses and how many handed over the possession of their land”<sup>26</sup> are relevant. In the absence of any material to establish these relevant facts, it is submitted that this submission must be dismissed at the outset.

*b) Displacement per se is not a violation of the right to shelter*

- 16.** It has been held that that the displacement of tribals does not *per se* result in the violation of their fundamental rights.<sup>27</sup> Indeed, the Courts have drawn a distinction between forced eviction/land-acquisition and lack of rehabilitation.<sup>28</sup> The Tribal Communities may be displaced for the Mining Project; however, this alone is not sufficient to establish violation of Art. 21. Even ILO Convention No. 169 allows for involuntary displacement “in the interest of national economic development”.<sup>29</sup> In fact, it is submitted that there is a possibility for the Tribal Communities to lead a better life with more amenities at the sites of rehabilitation.<sup>30</sup>
- 17.** Further, it is submitted that the rehabilitation measures taken in this case are sufficient. The measures are on the basis of the NRRP or State Government Norms which provide for land, compensation, employment opportunities among other things.<sup>31</sup> The Petitioner may not challenge these measures as are guided only by “humanitarian considerations”.<sup>32</sup> Further, the phrases such as “as far as possible” must be interpreted to mean that the principle would be followed unless it becomes impossible.<sup>33</sup> Therefore, the restriction on the right to shelter, if any, is fair, just and reasonable.

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<sup>24</sup>A. Hamsaveni v. State of Tamil Nadu, (1994) 6 SCC 51; Ashok Kumar Pandey v. State of West Bengal, AIR 2004 SC 280.

<sup>25</sup>Rajmahal Pahad Bachao Andolan v. Union Of India, (Uoi) 2005 (4) JCR 331 Jhr.

<sup>26</sup>Narmada Bachao Andolan v. State Of M.P., Civil Appeal No. 2082 of 2011.

<sup>27</sup>Narmada Bachao Andolan v. Union Of India, (2000) 10 SCC 664.

<sup>28</sup>State of Kerala v. Peoples Union for Civil Liberties, (2009) 8 SCC 46.

<sup>29</sup>ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169).

<sup>30</sup>Narmada Bachao Andolan v. State Of M.P., Civil Appeal No. 2082 of 2011

<sup>31</sup>National Resettlement and Rehabilitation Policy, 2007

<sup>32</sup>Amarjit Singh v. State of Punjab (2010) 10 SCC 43

<sup>33</sup>State of Madhya Pradesh v. Narmada Bachao Andolan, (2011) 7 SCC 639

**B. The Mining Project does not violate the right to wholesome environment**

18. It is submitted that the Mining Project does not violate the right to environment since Project is subject to stringent regulations and oversight by competent bodies that ensure change in environment, if any, is not harmful [a]. Further, the question of whether the Mining Project is dangerous is essentially a scientific one that is beyond the scope of judicial review [b]. In any case, the right to environment must be balanced with other interests [c] and such a balance is necessarily a question of policy that cannot be interfered with lightly [d].

a) The Mining Project is subject to stringent regulations and oversight by competent bodies

19. The Petitioner may submit that Mining Project causes radiation, generates radioactive waste and causes environmental degradation. However, at the outset, it is submitted the radioactivity content of Uranium that is available in India is very low<sup>34</sup> and thus, significantly reduces the risk of environmental degradation. Further, the operations take place with utmost care to eliminate and minimise hazards.<sup>35</sup> Moreover, all Mining operations by UCIL are subject to constant environmental and radiological surveillance by various independent bodies such as Bhabha Atomic Research Centre, Director General of Mines Safety, State Pollution Control Board, Atomic Energy Regulatory Board and International Commission on Radiological Protection which checks for compliance with all regulations and safety standards.<sup>36</sup>

20. Moreover, it has been held that a mere change in environment does not *per se* violate Art. 21, especially when ameliorative steps are taken to preserve and improve it.<sup>37</sup> Conditions such as afforestation in an equivalent area, development of emergency response system and non-obstruction of water course are provided as safeguards in the EC.<sup>38</sup> In any case, care for the environment is a continuing process and ameliorative measures can be taken as required.<sup>39</sup> Therefore, it is submitted that Art. 21 has not been violated.

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<sup>34</sup> 'Myths - Unfounded apprehensions' available at <http://www.ucil.gov.in/web/myths.html> (last visited Jan. 25, 2006)

<sup>35</sup> *Id.*

<sup>36</sup> See Atomic Energy (Radiation Protection) Rules (2004); Atomic Energy (Safe Disposal of Radioactive Wastes) Rules (1987); AERB Safety Guide to AERB Management of Radioactive Waste Code (2007).

<sup>37</sup> Narmada Bachao Andolan v. Union of India, AIR 2000 SC 3751.

<sup>38</sup> Annexure C, Factsheet.

<sup>39</sup> Narmada Bachao Andolan v. Union of India, AIR 2000 SC 3751.

*b) Scientific questions are beyond the scope of judicial review*

**21.** The issue of environmental safety of the mine is one that requires scientific expertise.

This Court does not possess the requisite expertise to adjudicate on intricate scientific questions or conflicting expert opinions.<sup>40</sup> Consequently, there is a long-standing tradition of this Court not interfering with the decisions to experts.<sup>41</sup> In *Tehri Bandh Virodhi Sangarsh Samiti*, it was held that the role of the Court is only to investigate whether the Government was alive to the inherent dangers of a project and whether the Government had applied its mind to the safety of a project.<sup>42</sup> In this case, the safety aspects of the Mining Project have been considered by experts and the Respondents at the EIA Stage. Therefore, it is submitted that it is beyond the scope of judicial review to re-open such questions merely on the apprehension of environmental degradation.

*c) A proper balance must be struck between environment and development*

**22.** In the instant case, a major electricity crisis resulted in the closure of many industries and about eighty industries laying-off their employees.<sup>43</sup> Thus, there was a compelling need to resolve this electricity crisis for development and in the interests of livelihood of these employees. Indeed, it was this Hon'ble Court had directed the Union Government in *All India Labour Forum v Union of India*,<sup>44</sup> that gave directions for exploring alternative energy sources to resolve the power crisis. On previous occasions too, this Court has recognised the critical role of energy for economic growth and development.<sup>45</sup> Therefore, it is submitted that Mining Project which aims to generate energy is in the interest of development.

**23.** Further, it has been accepted that no development is possible without some adverse effect on the ecology and environment.<sup>46</sup> A proper balance must be struck between the protection of environment and the development process.<sup>47</sup> Therefore, even if the Mining

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<sup>40</sup> *Tehri Bandh Virodhi Sangarsh Samiti v. State of Uttar Pradesh*, (1992) Supp (1) SCC 44.

<sup>41</sup> *University of Mysore v. C. D. Govinda Rao* AIR 1965 SC 491; *Central Areca Nut & Cocoa Marketing & Processing Coop. Ltd. v. State of Karnataka* (1997) 8 SCC 31; *Avishek Goenka v. Union of India* (2012) 5 SCC 275; *Woon Tankan and Seven Others v. Asian Rare Earth Sdn. Ehd.* CLJ (1992) 2 207 (Malaysia)

<sup>42</sup> *Tehri Bandh Virodhi Sangarsh Samiti v. State of Uttar Pradesh*, (1992) Supp (1) SCC 44.

<sup>43</sup> Annexure A, Factsheet.

<sup>44</sup> Annexure A, Factsheet.

<sup>45</sup> *G. Sundarajan vs. Union of India*, (2013) 6 SCC 620; *Banwasi Sewa Ashram v. State of Uttar Pradesh*, AIR 1987 SC 374.

<sup>46</sup> *T.N. Godavarman Thirumalpad (through K.M. Chinnappa) v. Union of India*, 2002 (10) SCC 606.

<sup>47</sup> *Indian Council for Enviro- Legal Action vs. Union of India and Ors.* (1995) 6 SCC 281; *Rambhau Patil v. Maharashtra State Road Development Corporation* 2002(1) Bom CR 76; *People United for better Living in Calcutta v. State of West Bengal*, AIR 1993 Cal. 215; *SHYAM DIVAN & ARMIN ROSENCRANZ, ENVIRONMENTAL*

Project has the potential to cause harm, “the larger public interest of the community should give way”<sup>48</sup> This approach was taken in *Narmada Bachao Andolan*<sup>49</sup> and *Sundarrajan*<sup>50</sup> and it is submitted that such an approach must be adopted herein also.

d) Balancing competing interests is a policy decision that cannot be lightly interfered with

24. The task of striking the aforesaid delicate balance between maintaining environment and solving other problems in public interest is for the Government,<sup>51</sup> and not the Court.<sup>52</sup> Such a delicate balance is a matter of policy and must be lightly interfered with. Further, it has been reiterated multiple times by this Hon'ble Court that it is beyond the scope of judicial review to examine the wisdom behind a policy.<sup>53</sup> The Court does not test the correctness of a policy or strike it down merely because there are alternatives that are in the Court's opinion may be fairer or wiser.<sup>54</sup> The Court may interfere only if there is illegality or *mala fides*<sup>55</sup> and not merely because it is wanting in public interest.<sup>56</sup> Therefore, the Court may not strike down the policy decision of the Government to carry on the Mining Project unless there is some illegality or *mala fide* in it.

**C. The Mining Project does not violate the right to health**

25. The Respondents submit that the right to health is not violated in the instant case since: *first*, the Mining Project has not violated any safety regulations or standards [a]; *secondly*, there is no scientific consensus on the harmful effects of radiation, [b] and *finally*, a balancing approach has to be adopted and here, the benefits outweigh potential risks [c]

a) The Mining Project has not violated any safety regulations or standards

26. The Mining Project is under strict supervision by various authorities to ensure that all safety features are complied with. In previous cases, where projects were under challenge

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LAW AND POLICY IN INDIA 157-158 (2<sup>nd</sup> ed. 2002).

<sup>48</sup> G. Sundarrajan vs. Union of India, (2013) 6 SCC 620

<sup>49</sup> Narmada Bachao Andolan v. Union of India, AIR 2000 SC 3751.

<sup>50</sup> G. Sundarrajan vs. Union of India, (2013) 6 SCC 620

<sup>51</sup> Dahanu Taluka Environment Protection Group v. Bombay Suburban Electricity Supply Company, (1991) 2 SCC 538; Rural Litigation Entitlement Kendra v. State of Uttar Pradesh, AIR 1985 SC 652

<sup>52</sup> Dahanu Taluka Environment Protection Group v. Bombay Suburban Electricity Supply Company, (1991) 2 SCC 538; Sachidananda Pandey v. State of West Bengal, AIR 1987 SC 1109.

<sup>53</sup> BALCO Employees Union v. Union of India (2002) 2 SCC 333; Netai Bag v. State of West Bengal (2000) 8 SCC 262; G. Sundarrajan vs. Union of India, (2013) 6 SCC 620.

<sup>54</sup> Villianur Iyarkkai Padukappu Maiyam v. Union of India & Ors. [2009] INSC 1077; Premium Granites vs. State of T.N., (1994) 2 SCC 691

<sup>55</sup> BALCO Employees Union v. Union of India (2002) 2 SCC 333.

<sup>56</sup> Kasturi Lal Lakshmi Reddy v. State of Jammu & Kashmir, AIR 1980 SC 1992.

for allegedly harming human health, the Courts have merely considered if the scientific safeguards have been complied with.<sup>57</sup> The yardstick for permissible level is determined by the appropriate authorities, and there is no scope for judicial intervention unless these permissible limits are crossed.<sup>58</sup> This rule is applicable even in cases concerning radiation.<sup>59</sup> At most, the Courts issue directions to ensure that safety regulations are complied with and periodic checks are conducted.<sup>60</sup> However, in the absence of any evidence to demonstrate the permissible levels of pollution or radiation are crossed, as in the instant case, the judiciary cannot intervene.

*b) There is no scientific consensus on the harmful effects of radiation*

**27.** There is no direct evidence to establish cause-effect between radiation exposure from Uranium mining and adverse health effects on humans. In absence of consensus of scientific opinion in this regard, it is submitted that this Court must not step in and side with one view. This is tantamount to the judiciary examining the correctness of scientific opinion, which is impermissible.<sup>61</sup> Admittedly, the precautionary principle has been adopted in India, however, it is has limited application in the field of environment.<sup>62</sup> It is not open to the judiciary to adopt this principle in the field of public health, since no such international instrument has been signed or ratified by India.

*c) In the balancing approach, the benefits outweigh potential risks*

**28.** Finally, it has been held that sometimes the ill-effects of technology have to be tolerated as the cost of their advantages.<sup>63</sup> Since the Petitioner is unable to demonstrate any tangible harm to human health, this balancing approach is the right one. Further, the substantial benefits of the Mining Project outweigh the apprehension of minor health problems, it is submitted that there is no violation of right to health.

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<sup>57</sup> Majra Singh v. Indian Oil Corporation, AIR 1999 J&K 81; Reliance Infocom Ltd. v. Chemanchery Grama Panchayat, AIR 2007 Ker 33.

<sup>58</sup> Mathew Lukose v. Kerala State Pollution Control Board, (1990) 2 KLT 686.

<sup>59</sup> Dr. Shivarao Shantaram Wagle v. Union Of India, AIR 1988 SC 952; Reliance Infocom Ltd. v. Chemanchery Grama Panchayat, AIR 2007 Ker 33; M.K. Sharma v. Bharat Electronics Ltd., (1987) 3 SCC 231.

<sup>60</sup> Reliance Infocom Ltd. v. Chemanchery Grama Panchayat, AIR 2007 Ker 33; G. Sundarrajan vs. Union of India, (2013) 6 SCC 620.

<sup>61</sup> ¶21, Written Submissions of the Respondent.

<sup>62</sup> Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647.

<sup>63</sup> Reliance Infocom Ltd. v. Chemanchery Grama Panchayat, AIR 2007 Ker 33.

**D. The Mining Project does not violate the right to livelihood**

29. It is submit that the right to livelihood is not restricted since they are merely displaced, but still enjoy access to the lands and forests of Swadeshi [a]. In any event, the restriction is justified [b].

*a. There is no deprivation of the right to livelihood*

30. The Tribal Communities engage in activities such as gathering fruits and flowers, apiculture etc. for their livelihood. It is submitted that this right is not infringed since the EC mandates that RUC permit the Tribal Communities to continue with these activities according to their customary practices. In the instant case, the Tribal Communities still have access to these lands and forests for their livelihood and this is unconnected with their displacement. Indeed, in *Chameli*<sup>64</sup>, this Court held that a land acquisition for a public purpose does not violate the right to livelihood. Thus, it is submitted that the Petitioner may not argue that the mere displacement from their traditional lands is sufficient to establish deprivation of livelihood.

31. On the contrary, the opportunities for livelihood for the Tribal Communities are enhanced since the NRRP, 2007 and the EC give preference for employment in the project to those who are affected. Further, the NRRP, 2007 also provides for their vocational training which increases their overall employability.

*a) In any event, the deprivation of the right to livelihood is justified*

32. It is submitted that the right to livelihood is not absolute and is sometimes has to yield to compelling public interest.<sup>65</sup> In the instant case, the Mining Project was undertaken to remedy the severe electricity crisis that resulted in the closure of many industries. In fact, it was this very Court called for the power crisis to be addressed expeditiously in the interest of the livelihood of the industrial workers who faced forced layoffs and retrenchment. Indeed, in *Banwasi Sewa Ashram*<sup>66</sup>, this Court on similar facts agreed with the executive's decision to prioritise the industrial growth of the country and demand for energy over the right of adivasis to collect forest produce. Further, that effect of closure

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<sup>64</sup>Constitution of India Art. 19(6) (1950); *Chameli Singh v. State of Uttar Pradesh*, AIR 1996 SC 1051.

<sup>65</sup>*Chameli Singh v. State of Uttar Pradesh*, AIR 1996 SC 1051; *Banwasi Sewa Ashram v. State of Uttar Pradesh*, AIR 1987 SC 374.

<sup>66</sup>*Banwasi Sewa Ashram v. State of Uttar Pradesh*, AIR 1987 SC 374.

of the Mining Project on livelihood of those who work therein is also a relevant factor to be considered.<sup>67</sup>

**E. The Mining Project does not violate any religious rights**

**33.** It is submitted that the Tribal Communities have not established how their religious rights are violated [a] and in any event, a restriction on their religious rights is justified [b].

*a) The Tribal Communities have not established any violation of religious rights*

**34.** It is submitted that the Petitioner has not established the exact manner by which the Mining Project allegedly violates their freedom of religion. Cases which have required the Court to interfere on ground on violation of Art. 25 by developmental projects have stated the specific religious practice, such as worship of a particular deity<sup>68</sup> or conduct of a ceremony<sup>69</sup> that is infringed. Furthermore, the freedom of religion is not absolute<sup>70</sup> and extends to only those religious practices *that are* essential or integral<sup>71</sup>. In this case, the Petitioners have only made vague assertions that the land and rocks are considered sacred have failed to show any actual invasion into their beliefs or essential practices by the Mining Project. Therefore, it is submitted that no religious rights have been violated.

*b) In any event, the restriction on the religious rights is justified.*

**35.** The right guaranteed under Art. 25 is not absolute<sup>72</sup> and can be restricted on, *inter alia*, other provisions in Part III of the Constitution<sup>73</sup>. The right to development has been read into Article 21<sup>74</sup>. Moreover, even in cases of encroachment of religious rights, it is legitimate for the State to step in to balance competing interests taking into account the Directive Principles and social welfare as a whole<sup>75</sup>. In this case, the Mining Project was undertaken to utilise the resources of its country and to meet its requirements. It was most

<sup>67</sup>Goa Foundation v. Union of India, (2014) 6 SCC 590.

<sup>68</sup>Orissa Mining Corporation v. Ministry of Environment and Forests, (2013) 6 SCC 476.

<sup>69</sup>Chewang Pintso Bhutia v. State of Sikkim, W.P.(C) No. 22/2012.

<sup>70</sup>Commissioner H.R.E v. L.T. Swamiar, AIR 1954 SC 282; Sardar Syedna Taher Saifuddin v. State Of Bombay, AIR 1962 SC 853; Acharya Maharajshri Narendera Prasadji Anand Prasadji Maharaj and Others v. State of Gujarat & Others, AIR 1974 SC 2098; Church Of God (Full Gospel) v. K.K.R. Majestic Colony Welfare, AIR 2000 SC 2773.

<sup>71</sup>Commissioner Of Police v. Acharya J. Avadhuta and Anr., AIR 2004 SC 2984; Church Of God (Full Gospel) v. K.K.R. Majestic Colony Welfare, AIR 2000 SC 2773; Mohammed Fasi v. Superintendent Of Police, (1985) ILLJ 463 Ker.; Venkataramana Devaru v. State of Mysore, AIR 1958 SC 255.

<sup>72</sup>A.S. Narayana Deeshitalyu v. State of Andhra Pradesh, AIR 1996 SC 1765.

<sup>73</sup>Church Of God (Full Gospel) v. K.K.R. Majestic Colony Welfare, AIR 2000 SC 2773

<sup>74</sup>Samatha v. State of Andhra Pradesh, Civil Appeal 4601-02 of 1997.

<sup>75</sup>Acharya Maharajshri Narendera Prasadji Anand Prasadji Maharaj v. State of Gujarat, AIR 1974 SC 2098.

feasible method to resolve the acute power crisis in the country.<sup>76</sup> Therefore, it must be interpreted to be in pursuance of the right to development, exercise of eminent domain and in any case, an instance of the State balancing competing interests. Hence, it is submitted that any restriction of the right to religion is justified.

**F. The Mining Project does not violate the right to information**

**36.** The Respondents submit that the right to information of the Tribal Communities has not been violated since *first*, the provisions in the EIA Notification that mandate dissemination of information have been complied with. *In any case*, the Petitioner and the Tribal Communities enjoy a statutory right to information.

**37.** *First*, the EIA Notification contains various provisions mandating the dissemination of information itself so that the locally affected persons and concerned sections of civil society may peruse the EIA.<sup>77</sup> Moreover, the SPCB has to advertise the draft EIA in a major National Daily and a Regional Daily thirty days before the public hearing.<sup>78</sup> The advertisement shall also contain information on where the public can access the draft EIA and Summary report before the hearing.<sup>79</sup> Lastly, “*every person present at the venue shall be granted the opportunity to seek information or clarifications on the project from the Applicant.*”<sup>80</sup>

**38.** It is submitted that all the aforementioned procedures were adhered to by the respective authorities in the instant case. A notice of the public hearing was given for the public hearing with the Gram Panchayats and the public hearing was held on 17<sup>th</sup> August, 2013. It is submitted that this public hearing is sufficient to satisfy the requirement of public consultation under the EIA. Thus, all statutory prescriptions for publicity and dissemination of the EIA were followed and adequate opportunity was provided to the public to access information. In such a context, it is erroneous to contend that the public participation was affected due to lacunae in flow of information.

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<sup>76</sup>Annexure B, Factsheet.

<sup>77</sup> Environment Impact Assessment Notification ¶ 2.3 & 2.4, Appendix IV (2006).

<sup>78</sup> Environment Impact Assessment Notification ¶ 3.1, Appendix IV (2006).

<sup>79</sup> Environment Impact Assessment Notification ¶ 3.2, Appendix IV (2006).

<sup>80</sup> Environment Impact Assessment Notification ¶ 6.4, Appendix IV (2006).



39. *In any case*, the State has also conferred a statutory right to information for the citizens.<sup>81</sup>

In fact, the application fee for STs and TFDs has been waived by the Government as well. Thus, there are two distinct ways in which the right to information has been safeguarded.

### III. THE FOREST CLEARANCE IS VALID

40. The Respondents submit that the Petitioner may not dispute the validity of the Forest Clearance since *first*, the State's rights over its mines and minerals is not restricted [A]; *secondly*, there is nothing to suggest that rights of the STs and TFDs have not been settled [B]; *thirdly*, the consultation with the Gram Panchayat is sufficient [C] and *finally*, the prior approval of the Central Government has been obtained [D].

#### A. The State's rights over its mines and minerals is not restricted

41. It is submitted that the FRA and PESA do not interfere with the right of the State to mine uranium. The Atomic Energy Act, 1962 vests the State with the uranium resources within the territory of India and confers the Central Government with *eminent domain* powers for its mining and extraction.<sup>82</sup> This view has been reiterated by the Supreme Court in *Amritlal Nathubhai Shah v. Union Government of India*<sup>83</sup> where it held that the State is "*the owner of minerals within its territory, and the minerals vest in it.*"

42. It is submitted that the rights of the TFDs under the FRA do not interfere with the aforesaid power of the State. This is because the FRA is "*in addition to and not in derogation of*" other laws in force.<sup>84</sup> Since there is no law to the contrary, "laws in force" includes the Atomic Energy Act. In fact, the SC has affirmed that the Forest Rights Act has not "*interfered with the right of the State over mines or minerals lying underneath the forest land, which stand vested in the State.*"<sup>85</sup> Thus, the right of the State to mine remains undisturbed.

43. The PESA stipulates that prior approval of the Gram Sabha must be sought in the case of prospecting license for *minor minerals* and auction thereof.<sup>86</sup> Since uranium is *not* a

<sup>81</sup> Right to Information Act (2005).

<sup>82</sup> The cumulative effect of the Act is to grant complete powers over uranium mining, extraction but, specifically, Sec. 3 and 10 vest the Central Government with rights to compulsorily acquire and mine any land that contains uranium.

<sup>83</sup> *Amritlal Nathubhai Shah v. Union Government of India*, AIR 1976 SC 2591.

<sup>84</sup> Panchayats (Extension to Scheduled Areas) Act § 13 (1996).

<sup>85</sup> *Orissa Mining Corporation v. Ministry of Environment and Forests*, (2013) 6 SCC 476.

<sup>86</sup> Panchayats (Extension to Scheduled Areas) Act § 4(k) & 4(l) (1996).

minor mineral, the approval of the Gram Sabha is not necessary. Therefore, the State has an unconditional right to mine uranium from the reserve forest of Swadeshi.

44. *In any case*, the *eminent domain* powers conferred by the Atomic Energy Act, means that the lands belonging to TFD can be compulsorily acquired after just compensation.<sup>87</sup>

**B. Nothing to suggest that the rights of TFDs have not been settled**

45. Sec. 4(5) of FRA stipulates that no TFD be evicted from his lands until the completion of settlement of his rights under the Act.<sup>88</sup> It serves the important purpose of preventing anyone from evicting the TFD without due compensation. The Respondents submit that there is *no evidence on record* to suggest that the settlement of rights has not been completed. Further, the displaced Tribal Communities are being compensated according to the NRRP, 2007.<sup>89</sup> The Respondents submit that due compensation is being provided to evicted TFDs.

46. *In any case*, the Gram Sabha, which is tasked with the settlement of rights,<sup>90</sup> may be directed to settle the rights of the Tribal Communities so that the land may be acquired for uranium mining. In *Orissa Mining v MoEF*,<sup>91</sup> this Hon'ble Court directed the Gram Sabha to complete the settlement process within three months. The Respondents submit that the Court may adopt the precedent in the instant case.

**C. The consultation with the Gram Panchayat is sufficient**

47. Since the mining project is located in the Scheduled Area of Hithro, the governing law of PESA must be complied with. Sec. 4(i) of PESA states that the Gram Sabha or Panchayat should be consulted before acquisition of land in a Scheduled Area. In the instant case, the Respondents have consulted with the Gram Panchayats living in and around the Reserve Forest in a public hearing conducted on 17<sup>th</sup> August, 2013.<sup>92</sup>
48. The Petitioner may rely on the MoEF letter dated 3<sup>rd</sup> August, 2009<sup>93</sup> which stipulates that *inter alia* the consent of Gram Sabha must be obtained for the FC. It is submitted that the MoEF letter relied upon by the Petitioner is *ultra vires* the FRA. As mentioned earlier, the

<sup>87</sup> Supra, ¶ 41, Written Submissions.

<sup>88</sup> Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act § 4(5) (2006).

<sup>89</sup> Annexure C, Factsheet.

<sup>90</sup> Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act § 6 (2006).

<sup>91</sup> *Orissa Mining Corporation v. Ministry of Environment and Forests*, (2013) 6 SCC 476.

<sup>92</sup> ¶7, Factsheet.

<sup>93</sup> MoEF Circular [F. No. 11-9/1998-FC (Pt)] vide letter dated August 3rd, 2009.

FRA does not stipulate that the consent of the Gram Sabha must be obtained for all developmental projects. In fact, Proviso (ii) to Sec. 3(2), which is the only provision that refers to the consent of the Gram Sabha, is only limited to specified Government facilities listed in Sec. 3(2). Therefore, it is submitted that the consultation requirement has been met by the Respondents.

**D. Prior Approval of Central Government has been obtained**

49. The FCA stipulates that any diversion of Reserve Forest land should be sanctioned by the prior approval of the Central Government.<sup>94</sup> The Central Government has delegated this duty to the MoEF. In the instant case, RUC has applied to the MoEF seeking forest clearance and the same has been granted in accordance with the law i.e. after consultation with the Gram Panchayat. As the procedure under the FCA i.e. prior approval of Central Government has been sought and the Gram Panchayat has been consulted, the FC may not be challenged that it is violative of the FRA.
50. The Petitioner may raise the contention that the procedure under FCA is subject to FRA. However in the context of mining, the FRA is *silent* on the issue of diversion of forest land for non-forest purpose.<sup>95</sup> Further, the FRA is not in derogation of any other law in force.<sup>96</sup> Therefore, the procedure stipulated under the FCA is not modified by the FRA. In the instant case, prior approval for mining has been obtained as per the FCA by RUC. Therefore, the FC is valid.

**IV. THE ENVIRONMENTAL CLEARANCE IS VALID**

51. It is submitted that the Environmental Clearance granted to RUC cannot be challenged by the Petitioner since *first*, the public consultation requirement under the EIA has been satisfied [A]; *second*, the EC does not suffer from *Wednesbury unreasonableness* [B]; and *finally*, the Forest Clearance is valid [C].

**A. The public consultation requirement under the EIA has been complied with**

52. It is submitted for the requirement of public consultation has been satisfied in the instant case. The EIA Notification specifies that a public hearing must be conducted for the

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<sup>94</sup>Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act § 2 (2006).

<sup>95</sup> Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act Proviso (ii) to §3 (2006). Consent of the Gram Sabha only in case of listed facilities managed by Government. It does not contemplate the consent of Gram Sabha for other projects such as mining.

<sup>96</sup>Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act § 13 (2006).

purpose of ascertaining concerns of all local affected persons.<sup>97</sup> In the instant case, the public hearing was conducted with the Gram Panchayats<sup>98</sup> - the elected representatives of the Gram Sabhas, and the concerns of all local affected persons were thereby ascertained. Since the project and locally affected persons are located in a Scheduled Area of Hithro, the PESA is applicable.<sup>99</sup> Sec. 4(i) of the PESA recognises the Gram Panchayat as a competent authority for consultation in matters of land acquisition and rehabilitation.<sup>100</sup> Therefore, the public hearing with the Gram Panchayats is sufficient for the purpose of public hearing under EIA.

53. In any case, the local affected persons are entitled to make written submissions.<sup>101</sup> Therefore, their non-inclusion in the public hearing does not vitiate public consultation process. Hence, the EIA was proper and the EC is valid.

**B. The EC does not suffer from *Wednesbury* unreasonableness**

54. The Petitioner may submit that the EC suffers from *Wednesbury* unreasonableness on account of *cancellation of a mandatory public hearing* by the SPCB and *non-consideration of all relevant objections* by the EAC. An administrative decision is struck by *Wednesbury* unreasonableness if it has, *inter alia*, “ignored a very relevant material which it should have taken into consideration.”<sup>102</sup> However, the Respondents submit that the SPCB did conduct a public hearing on 19<sup>th</sup> August, 2013,<sup>103</sup> which satisfies the requirement of a mandatory public hearing under the EIA Notification, 2006.<sup>104</sup> Moreover, there is nothing to suggest that the EAC “ignored a very relevant material which it should have taken into consideration” during the appraisal process. In fact, there were no objections to be considered since the Gram Panchayats did not raise any during the public hearing.<sup>105</sup> Therefore, the decisions made by the SPCB and EAC were sound and in accordance with law. The EC is not struck by *Wednesbury* unreasonableness.

<sup>97</sup> Environment Impact Assessment Notification (2006).

<sup>98</sup> ¶7, Factsheet.

<sup>99</sup> Panchayats (Extension to Scheduled Areas) Act (1996).

<sup>100</sup> Panchayats (Extension to Scheduled Areas) Act § 4(i) (1996).

<sup>101</sup> Environment Impact Assessment Notification ¶ 6.4, Appendix IV (2006).

<sup>102</sup> Rameshwar Prasad v. Union of India (1994) 3 SCC 1.

<sup>103</sup> ¶7, Factsheet.

<sup>104</sup> ¶¶52-53, Written Submissions of the Respondent.

<sup>105</sup> ¶7, Factsheet.

**C. The Forest Clearance is valid**

55. The Petitioner may submit that the EC is conditional on the grant of Forest Clearance and its validity thereof. The Respondents submit that since the FC is valid,<sup>106</sup> and hence the EC cannot be challenged on that ground.

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<sup>106</sup> III, Written Submissions of the Respondents.

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**PRAYER**

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Wherefore in light of the issues raised, arguments advanced and authorities cited, it is humbly prayed that this Hon'ble Court may be pleased to hold, adjudge and declare that;

1. The instant Writ Petition is not maintainable; or
2. The Mining Project does not infringes on any fundamental right of the Tribal Communities; and
3. The Forest Clearance granted to RUC is valid; and
4. The Environmental Clearance granted to RUC is valid;

and pass any other order it may deem fit in the interest of justice, equity and good conscience.

All of which is humbly prayed,

SLCU027,

Counsel for the Respondent.