

SANDRP

Press Release - Conflict Of Interest

Project Promoter is chairing Environment Clearance Committee

Letter sent to Environment Minister: Test for UPA's Claims on Governance

For over two years now, Mr. P Abraham who is on the Board of several hydropower and dam companies has been chairing the Ministry of Environment and Forests' Expert Appraisal Committee on River Valley and Hydropower projects. The committee, set up under the EIA Notification 2006 and EPA 1986, screens proposals for dams and hydropower projects for clearances at various stages. The committee also takes decisions on several very crucial policies governing the clearances for these projects. There is clear conflict of interest here between Abraham's role as director of companies and as this most crucial regulatory position in the Ministry of Environment and Forests. Over the past two years, there has been at least six occasions when a project of the companies where Abraham is a director has come for clearance before the committee he chairs. This is a completely unacceptable situation and a number of social and environment groups have written to the New Union Environment Minister to remove Abraham from this position, before the next meeting of the committee he chairs happens (it is scheduled for June 15-16, 2009).

Among many other power and dam companies, Abraham is on the Board of Lanco Infratech, GVK Industries Ltd, JSW Energy Ltd, PTC Ltd, Nagarjun Construction and Maharashtra Power Generation Company. Some of the projects from such companies that came up before the EAC that Abraham chairs over the last two years include the 3000 MW Demwe Hydropower project (Arunachal Pradesh), the 76 MW Phata Byung HEP (Uttarakhand), the 76 MW Rambara HEP (Uttarakhand), the 170 MW Bogudiyar-Sirkari Bhyol HEP (Uttarakhand), the 200 MW Mapang Bogudiyar HEP (Uttarakhand) and the 260 MW Kuther HEP (Himachal Pradesh). Abraham has been abstaining from the meetings whenever these projects came up before the EAC, but this is clearly not sufficient.

Moreover, on June 11 Abraham was also appointed on a Ministry of Power Committee "to review slow pace of capacity addition and make recommendations to give much needed push for it", which again is in conflict with Abraham's regulatory role as EAC chairman.

The letter that was sent to the Union Environment Minister on June 12, 2009 suggested that besides immediate removal of Abraham from the chair of the EAC on River Valley and Hydropower projects, the Minister needs to review the decisions taken by the EAC in situations of conflict of interests, review the situation of all members of all the EAC committees and also to review the guidelines of appointment of members and chairs of these committees so that such stark misgovernance is not repeated in future and in stead truly independent members are appointed on such committees. These steps are immediately required, even as the minister reviews the larger policy and governance issues. The letter was sent well in time for the minister to postpone the meeting of June 15-16, pending other steps and was sent on behalf of South Asia Network on Dams, Rivers & People, Kalpavriksh Environmental Action Group, Affected Citizens of Teesta (Sikkim), All Idu Mishmi Students Union (Arunachal Pradesh), Peoples Movement for Subansiri-Brahmaputra Valley (Assam), Gopal Krishna, Waterwatch Alliance and

has since been endorsed by the National Alliance for Peoples Movements (NAPM). The letter is copied below.

These instances in fact signifies very serious misgovernance and the steps that the new Environment Minister takes in this regard will also test UPA government's claims about focus on good governance.

For more details please contact

Affected Citizens of Teesta (ACT) "cten lepcha" golden_hope@hotmail.com

All Idu Mishmi Students Union (AIMSU)

Peoples Movement for Subansiri-Brahmaputra Valley (PMSBV)

Gopal Krishna, Waterwatch Alliance, krishnagreen@gmail.com

Neeraj Vagholikar, Kalpavriksh Environmental Action Group vagho@gmail.com

Himanshu Thakkar, South Asia Network on Dams, Rivers & People ht.sandrp@gmail.com

Letter to Union Environment Minister:

(For urgent Attention) June 12, 2009

To
Shri Jairam Ramesh
Union Minister of State for Environment and Forests (Independent Charge),
New Delhi
Jairam54@gmail.com, mosef@nic.in

Subject: Conflict of Interest for EAC Chair for River Valley Projects

Respected Sir,

Let us take this opportunity to congratulate you for becoming the minister for this important ministry and wish you all the success in protecting the country's environment. We are writing this rather urgent letter, since the subject requires some urgent action from the ministry.

Mr. P. Abraham is the chairman of the Expert Appraisal Committee on River Valley and Hydropower projects, which plays a critical role in deciding the environmental and social viability of river valley projects and recommending whether to grant or reject clearance to such projects. But Mr. Abraham is also on the board of a number of power companies that are involved in the power sector in general and hydropower in particular, as we describe below. This is a clear conflict of interest and is unacceptable as per basic principles of governance. There have been many instances over the past two years when the projects from the companies on whose board he is have come for clearances before the EAC chaired by him.

Even though he has been in this position for over two years, the ministry has allowed such a situation of conflict of interest to continue, despite knowledge of the situation since information on his direct association with the power companies is publicly available. Mr. Abraham has been continuing to work in this conflict of interest by excusing himself whenever a project of companies where he is on board comes to the committee for clearance (as is apparent from the minutes of the meetings of the EAC uploaded on the MoEF website). But this is clearly not

sufficient. The EAC also sets up policies that could turn out to be beneficial to the developers and he is taking environmental decisions related to companies which are potential competitors. His role on the board of these companies could provide them undue insights into the working of the committee and thus provide them an undue advantage during the decision-making process. He can also be significantly influential for other members of the committee, thus even in his absence, the decisions can be influenced, directly or indirectly. Thus we do not think this is an acceptable situation.

As we said above, he has been in this position since April 2007. However, the first meeting that he will chair under your minister ship will be on June 15-16, 2009, early next week. Hence we are urging you to take steps to ensure that this unacceptable situation does not continue under you.

We request you to:

- Remove Mr. P. Abraham from the chairmanship of the EAC for RV and hydro projects. The EAC meeting scheduled on June 15-16 in the meantime can be postponed.
- Review the situation for other members of all the committees to ensure that there are no other such instances of conflict of interest.
- Take this opportunity to also review the criteria of members of EAC to ensure that such conflict of interest does not occur in future and instead, independent persons are on the committees.
- Review the decisions of the committees where such conflict of interest prevailed even though such members may have abstained during such decisions.

Abraham on Lanco Infratech Board. See: <http://markets.ft.com/ft/tearsheets/businessProfile.asp?s=5935488>

P Abraham is on Board of Directors of Lanco Infratech, which is also involved in Hydro business. On 16 Jan 2008, the EAC recommended EC to Phata Byung HEP by Lanco Infrastructure. (Chair remained absent, but that is not good enough). The minutes noted for this item, "Dr. Bhattacharya chaired the meeting in the absence of the Chairman." On 16-17 Oct 2008, the EAC considered Rambara H. E. Project (76 MW) by M/s Lanco Hydro Energy Pvt. Ltd for Adequacy of TOR. The Minutes, interestingly said just for this last listed item on agenda of that item (except the customary any other items with permission of chair), "Dr A. K. Bhattacharya chaired the session as Chairman had to leave for some urgent work".

Abraham on GVK Board (See: http://www.gvk.com/i/Board%20of%20Directors_revised.pdf)

P Abraham is on Board of Directors of GVK Industries Limited, their project Bogudiyar-Sirkari Bhyol HEP 170 MW and Mapang Bogudiyar HEP 200 MW, both in Uttarakhand, came up for clearance before the EAC on May 14-15, 2009.

Abraham on JSW Energy Limited Board (See: <http://www.sebi.gov.in/dp/jswdraft.pdf>)

He is on JSW Energy Board, as on Jan 2006 and also currently, as per <http://jswel.net/>, the website of the company. On 20-21 Feb 2008 meeting, the EAC considered the Kuther HEP in Himachal Pradesh for TOR by M/s JSW Energy Ltd. For this item no 2.6, the minutes said, "Dr. B P Das chaired the meeting in the absence of the chairman." Abraham on other relevant boards He is Chairman of Maharashtra Power Generation Company. He is on board of Nagarjun Construction company, involved in dam building.

Mr. P. Abraham, is also (complete list including those mentioned above):

I) Director:

- a) LANCO
- b) GVK Power & Infrastructure Co. Ltd.
- c) Maharashtra State Power Generation Co.
- d) Futura Polyester Ltd.
- e) PTC Ltd. (Which is co promoter of the 3000 MW Demwe HEP, which came up before the EAC on 200208)
- f) Flex Industries Ltd.
- g) JSW Energy Ltd.
- h) Vijay Electricals Ltd.
- i) Nagarjuna Construction Co. Ltd.
- j) Himalayan Green Energy Pvt. Ltd.
- k) Green Infrastructure Pvt. Ltd.

II) Member, Audit Committee

- a) GVK Power and Infrastructure Co. Ltd.
- b) JSW Energy Ltd.
- c) Vijay Electricals Ltd.

III) Chairman

- a) Investor Grievances Committee of PTC

Abraham on MoP committee to push Power projects Now, just on June 11, 2009, Union Power Minister set up a committee "to review slow pace of capacity addition and make recommendations to give much needed push for it"(FE 120609). The Committee Chaired by Power Minister Shinde includes P. Abraham. This we also see as clear conflict of interest with Abraham's regulatory role in EAC.

We hope you will take urgent and appropriate action. We will look forward to hearing from you.

Thanking you,

Yours Sincerely,

Himanshu Thakkar South Asia Network on Dams, Rivers & People, 86-D, AD block, Shalimar Bagh, Delhi 110088, ht.sandrp@gmail.com, <http://www.sandrp.in/>, Ph: 27484655/ 9968242798

On Behalf of:

South Asia Network on Dams, Rivers & People (SANDRP)

Kalpavriksh Environmental Action Group, "Neeraj Vaghlikar" nvagho@gmail.com

Affected Citizens of Teesta (ACT) "cten lepcha" golden_hope@hotmail.com

All Idu Mishmi Students Union (AIMSU)

Peoples Movement for Subansiri-Brahmaputra Valley (PMSBV)

Gopal Krishna, Waterwatch Alliance, krishnagreen@gmail.com