

Letter to TERI and Panel of Jury**NHPC does not deserve award for Environment Excellence**

On August 17, 2009, a number of persons and organisations sent a letter to TERI and chairperson and members of jury panel that decides the award, saying that NHPC does not deserve the TERI 2009 award for environment excellence that was given to NHPC by the President of India on June 5, 2009. Two main reasons were cited in the letter: in case of URI project, where NHPC claimed to have achieved excellence in environment management, an earlier independent evaluation showed that NHPC had not even completed works as required under statutory and prudent environment requirements. Moreover, NHPC has poor track record on environment issues. Some facts were also included in the letter only by way of illustration and not as exhaustive listing. The case made out in the petition was substantiated when on August 21, 2009, the Himachal Pradesh High Court asked NHPC to stop work on the Parbati II hydropower projects for violation of environment norms. We are giving here the contents of the letter in the interest of transparency and participation by others.

On June 5, 2009, India's President gave away the "TERI corporate award for Environment Excellence 2009" in category III (companies with annual turnover above Rs 1000 crores) to NHPC. *The Times of India* reported on June 9, 2009², "NHPC's case study titled *Post Construction Environmental and Social Impact Assessment Study of 480 MW Uri Power Station in Jammu and Kashmir* which was undertaken to ascertain effectiveness of various environmental and social safeguards implemented at the power station was evaluated by TERI research professionals for this award."

NHPC claimed on its website³, "For the very first time in Hydro Sector, the innovative Biotechnological Approach for rejuvenation of muck dumping sites has been applied by NHPC at URI Power Station where approximately 55 lakh cubic meters of excavated material was dumped. Apart from this an improved version of the fish ladder (pool type) was also provided across the URI Barrage. Several other such measures carried out by NHPC for safeguarding the environment at the URI Power Station, effectively fulfilled various parameters as programme commitment, scientific research & technological innovation, pollution prevention, environmental leadership, environmental benefits etc., set up by TERI, in order for NHPC to be conferred with this prestigious award."

After seeing the news report about this award, one of our colleagues has procured from NHPC under the RTI Act this study titled "Post Construction Environmental & Social Impact Assessment study of Uri Power Station", mentioned in the award, done by the NHPC. The study strangely is without any date of the publication. The study was received from NHPC on August 8, 2009.

² See:

http://www.teriin.org/index.php?option=com_terininnews&limit=10&limitstart=20, accessed on August 11, 2009

³ <http://www.nhpcindia.com/English/Scripts/PressRelease.aspx?VId=154>, accessed on August 11, 2009

We then looked at the case study of NHPC put up on the TERI website⁴. Very strangely, the TERI case study on NHPC had no dates as to when the claimed work was done. One of us also got in touch with Mr Pratik Ghosh, Associate Fellow & Area Convenor, TERI- BCSD (Business Council for Sustainable Development) India over email and then had a discussion with him over phone. One of us also discussed this issue with one of the Jury members on the panel of TERI for these awards⁵.

Some of us had also earlier looked at the evaluation of the performance of URI project⁶ by Swedish International Development Cooperation Agency (SIDA), since SIDA had provided some loan for the URI project, which was followed by correspondence with SIDA and the consultants of the study.

Looking at all this, a number of questions arise, which none of the above, including our conversation with the concerned TERI person could answer satisfactorily.

NHPC Performance in URI The 480 MW URI hydropower project was commissioned in 1997. It is mandatory that all the environment and social management plan activities are completed *before* the project is commissioned. These include the catchment area treatment, compensatory afforestation, muck disposal, resettlement and construction of an effective fish ladder of proper design, with provision of adequate downstream flows all round the year to ensure that the fish-ladder is able to function properly. This is also what the conditions of environment clearance for such projects and also prudent environment management demands. In fact the award is given to NHPC for doing

⁴ <http://www.teriin.org/awards/documents/casestudy/award09/env/NHPC.pdf>, accessed on August 11, 2009

⁵ http://www.teriin.org/awards/intro_panel.htm, accessed on August 11, 2009

⁶ Uri Hydro-Electric Project, India, Evaluation of the Swedish Support, Draft Final Report, November 2005, done by consultants called Scott Wilson.

all this in case of URI project in an exemplary way. However, neither the NHPC case study, nor the TERI case study claims that these tasks were completed before 1997, when the project was commissioned.

If all the required environment and social activities were not completed by project commissioning date, than these would clearly be a violation of the norms. A company cannot either claim an award or can be given an award if the company has completed any of these after the commissioning date.

In fact, the SIDA evaluation for this project mentioned above, shows that a number of these, including catchment area treatment, resettlement and fish ladder with proper design and provision of adequate flow all round the year were not done before 1997 and in most cases not even till October 2005 when that review was conducted. For example, the SIDA review says the some of the compensation issues remained unresolved till Oct 2005; that shockingly, the resettlement "has led to a loss of livelihood and reduced standard of living." About the fish pass, the SIDA review says that most of the time, the conditions in the river are not conducive for fish pass to be useful, the design has not taken into account the approach factor and that adequate downstream flows have not been provided.

It is clear that most of the claimed environment tasks, based on which NHPC has been given this award, were not completed before the project commissioning and many not even till October 2005. Thus even if one were to look at NHPC's performance at URI alone, NHPC does not deserve this award.

NHPC track record However, there is another very important reason why NHPC does not deserve this award. NHPC is not known for excellence in environment management, with many known cases of violations, protests, litigations, official reports and so on for many projects. For example, NHPC's performance in case in implementing environment safeguards in case of Parbati II project and Chamera II project in Himachal Pradesh was so bad that the Himachal Pradesh state government wrote to the Union Ministry of Environment and Forests, saying that till NHPC improves this performance, its application for environment clearance for the Parbati III and Chamera III projects respectively should not be considered.

Regarding NHPC performance in case of the 510 MW Teesta V project in Sikkim, here are a few extracts from the 2007 affidavit filed by the Sikkim Chief Secretary before the Central Empowered Committee (in Shiba Sunwar Vs Government of Sikkim, an intervention in the Godavarman case): The preliminary submission made by Chief Secretary, Sikkim (Respondent No. 1) is as under and NHPC is the Respondent No. 3 referred to in the affidavit, while MoEF is Respondent No. 2:

"(I) That the respondent no. 3 and their contractor companies such as J.P.I.L. and Gammon India Ltd. Etc have deliberately damaged the forest, Flora and fauna

causing thereby huge forest and environmental impacts by way of encroaching upon non-diverted forest land, dumping of excavated on non-diverted forest land, dumping of excavated muck on non diverted forest land, river banks, river reserve, Road Reserve etc.

(II) It is further to be stated that the respondent no. 3 herein and their contractor companies did not adhere/comply with the notices, warning and show-cause issued by the authority of this respondent. It is further to be submitted that despite the repeated instruction, warning and notices of the authority of this respondent, the respondent no. 3 herein and their contractor companies completely failed and deliberately neglected to adhere to the notices....."

There are many other examples and evidences that show the poor track record of NHPC on environment, social and related issues. When TERI decided to consider an award to such an organisation, it should have carefully looked at this track record. When concerned TERI person was asked about it, he said that they did ask the company if there are outstanding litigations or conflicts. However, taking the claim of the company at face value is clearly not something that any credible organisation would consider sufficient. It is clear from the Track record of NHPC described above that going by that performance, NHPC does not deserve and award for environmental excellence. The instances given above are only for illustration, this is not an exhaustive list of such instances.

By giving an award for environmental excellence to such an organisation, TERI has provided NHPC a certificate of merit that it does not deserve and which NHPC has already liberally used in the advertisements during recent IPO that closed on August 12, 2009 and will continue to greenwash its activities in future. TERI has indirectly put on test its own reputation as also the reputations of the award, of the jury members and that of those who participated in the award function.

In view of the above, NHPC should not have been given the award for environment excellence. We would appeal you all to review the decision to give this award to NHPC and convey to all concerned accordingly.

Response so far Justice J S Verma, former Chief Justice of Supreme Court of India and chairperson of the Jury has written to us on August 25, 2009 that the matter is under consideration. Mr Ravi Agarwal, one of the jury members and Mr RK Narang of TERI have acknowledged receipt of the letter.

Endorsements The letter to TERI and the jury has been endorsed by Shri Prashant Bhushan, Senior Supreme Court Lawyer, Souparna Lahiri, National Forum of Forest People & Forest Workers, Shripad Dharmadhikary, Manthan Adhyayan Kendra, Soumitra Ghosh, NESPOL, Rahul Saxena, Himalay Niti Abhiyan, Vimal Bhai, Matu Jan Sangathan, Gopal Krishna, Waterwatch Alliance and Himanshu Thakkar, SANDRP.