Lower Penganga Project: Two decades after inception, the struggle continues...

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South Asia Network on Dams Rivers and People (SANDRP)
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Lower Penganga, an interstate Maharashtra-Telangana project, proposes to build a dam across River Penganga (a tributary of Godavari river) near Tadsaoli Village in Ghatanji Tehsil of Yavatmal District, Maharashtra to irrigate a massive 2,18,129 ha. It has failed to take off even after two decades of its inception. It is a Vidarbha Irrigation Development Corporation (VIDC) which has been in limelight for corruption and controversies due to over seven fold increase in project cost in just 10 years. In this project contractors with political backing were favored so much so that even the Environmental Impact Assessment of the project was carried out by one of the contractors! The project floated tenders for securing Forest Clearance! The construction was started illegally violating the environmental laws. It is set to submerge around 1000 ha of forest land and affect some 11,000 tribals dependent on it. There has been a decade long struggle of the affected people to protect their rights. Anti Corruption Bureau (ACB) was asked to probe into massive corruption in the project.

Project Profile

Height of the proposed Lower Painganga dam (which is misleadingly being presented as a “Barrage” to show that it is a low structure, when it is actually a large dam by national and international standards) is 35.63 m above riverbed. Gross storage at the FRL (Full Reservoir Level) of 261.5 mt is 1045.37 Million Cubic Meters (Mm³). While Gross Command Area (GCA) of the project is 2,18,129 ha area by lift and flow irrigation, the Irrigable Command Area (ICA) is 1,60,050 ha. The project is to irrigate 99723 ha of land in Yavatmal District by three Lift Irrigation Schemes (LIS) and Left Bank Canal (LBC). 41095 ha of land in Chandrapur District of Maharashtra is to be irrigated by Right Bank Canal (RBC) and 19,232 ha of land in Adilabad District of Telangana will be irrigated with LBC. Flow irrigation will irrigate 46% ICA while Lift Irrigation Schemes will irrigate 54% ICA. The project plans to generate 4 MW of power (details not available).

Total submergence is a whopping 14,657 ha from 95 villages from Yavatmal and Nanded District of Maharashtra, a known suicide belt of Vidarbha.¹ Population from total 46 villages will face displacement. Of which 32 will be fully affected and 14 partly affected. As per 2001 census, the affected population was found to be 36,809 which includes tribal population of 11,075 as in 2001.² This will have increased significantly in the last 14 years. The project will also submerge 980 ha of forest land which was earlier estimated at 1089 ha. Power requirement for the lift irrigation of the project is 132 MW.

The ever-changing project parameters

The project which received administrative approval in June 1997 for Rs 1402.43 Crore was revised several times. By 2008-09 its cost shot up over 7-fold to Rs 10,429.3 crore³ and is likely to be over Rs 15,000 crore now.⁴ Initial alignment of the proposed 260 km LBC through Ghatanji, Kelapur and Vani tehsils of Yavatmal was opposed by Western Coalfields Ltd (WCL) right at the beginning in 1997⁵ and again in 2002⁶ as Kelapur tehsil (which is now Zari Jamni tehsil) and Vani tehsil had deposits of limestone...
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and coal. Finally after 13 years of the first objection by WCL the canal alignment was changed in 2010 and irrigation in Chandrapur was proposed with a RBC. This reduced the proposed irrigated area by 1,04,749 Ha. Three Lift Irrigation Schemes (LIS) were proposed to compensate for the reduced irrigated area.\(^7\)

The initial alignment was also passing through Tipeshwar Wildlife Sanctuary which is located 17 km downstream of the dam site. This was revised in 2001 by proposing 13.5 km long tunnel which passes two km north of sanctuary. Project cost increased by Rs 1,471 Crore due to this revision.\(^8\)

In August 2009 four barrages between the proposed dam site and confluence of Penganga River with Wardha River were added to the project scope which increased the project cost by Rs 801.5 Crore. Rationale for adding these barrages however remains unclear from the documents like White Paper on Irrigation Projects brought by the Government of Maharashtra in 2012 or the Special Investigation Team (Chitale Committee) report, 2013. Further Rs 132 crore were added in the Lower Penganga Project (LPP) from the capital expense of Sahastrakund Dam proposed upstream of Lower Penganga at Mouje Kotha village in Himayatnagar Tehsil of Nanded District. Rationale of this addition also remains unclear as Sahastrakund is an independent project. Design of the Lower Penganga dam was revised with a decision that the dam wall should be built in cement rather than stone masonry. This increased the project cost by Rs 160.61 Crore.\(^9\)

Unfeasible Projects, says the CM!

Feasibility of the Lower Penganga Project (LPP) has been questioned by several agencies. Ministry of Environment & Forest (MoEF) rejected forest clearance to the proposal twice (first in 2003 and again in 2004) for diverting 1089.96 ha of forest for Lower Penganga dam pointing to the environmental cost which outweighed the benefits.

Ironically, Water availability for the project has been questioned by now - CM Devendra Phadnavis in 2012 when he was a BJP MLA from Nagpur. He had pointed out that in case of Lower Penganga the water discharge had been projected at double than actual\(^10\) and hence is a basically unviable scheme.

False water availability for Lower Penganga has been pointed out by whistle blower Vijay Pandhre too who served as Chief Engineer in State Level Advisory Committee known as Mendhegiri Committee. In his letter addressed to Chief Secretary of Water Resources Department dated 05 May 2012 he states that water availability certificates for Penganga Basin have been issued for almost 1.5 times the actual available quantity of water!

Special Investigation Team appointed to probe into the dam scam states “Canal alignment of Lower Penganga Project had to be changed to a great extent due to Tipeshwar Sanctuary and mineral deposits. The committee has studied the project maps in detail and options like irrigation through river instead of canal, encouraging water use for non-irrigation purposes, making provision for drinking water with regional water supply schemes need to be explored.”\(^11\)
As per SIT report, the performance of Lift Irrigation Schemes like Lower Penganag is terrible in Vidarbha (like the state). Out of 40 Lift Irrigation Schemes of Vidarbha Irrigation Development Corporation (VIDC) only two LIS of VIDC are currently operating! Guiding principles for the lift irrigation schemes laid down by SIT state that for reservoirs like Lower Penganga which have lifting head less than 50 m (32 m in this case) irrigation by LIS should not be accepted as a part of the command area of flow irrigation scheme.

EIA by the Project Contractor (Yes, really!) and Maharashtra govt asks them to speed up the process!

Environmental Clearance (EC) for Maharashtra portion of the project was granted by MoEF on 17 June 2007 based on Environmental Impact Assessment (EIA) of the dam site with surrounding area of 30 km radius carried out in 2005-06. This clearance was subject to Forest Clearance (FC) to be obtained from Ministry of Environment & Forest (MoEF). Validity of the EC was for five years from the date of issue (till 17 June 2012). VIDC has failed to obtain FC within the validity period and the EC should have automatically lapsed.

In a bizarre, unbelievable instance, EIA of the project has been carried out by one Madhucon Projects Ltd. of Hyderabad jointly with Bhagavathi Ana Labs Ltd. also from Hyderabad. And the same Madhucon is actually a partner in the dam work and a contract worth more than Rs 8.153cores was actually awarded to Madhucon!

The tender for this work not only included construction work but also obtaining EC and FC as a precondition to issuing the final work order!!

Letter of Intent issued on 14 July 2004 to ‘The Progressive-Madhucon (Joint Venture)’ by Executive Engineer of Lower Penganga Project Division states that the final work order will be issued after obtaining forest & environmental clearance to the project by GoI (Government of India). It also states “As per agreement, work of getting forest & environmental clearance from GoI is to be taken up in hand by you & to be completed within 12 months from the date of letter of intent. You have to expedite the same further and get the proposal cleared from MoEF, GoI as proposed in the tender.”

This posturing is so blatant that it is actually amusing!

Needless to say, obtaining EC & FC by such procedure stands in complete violation of environmental laws in letter and in spirit. So all in all we have the same company conducting EIA of the project which has been awarded with a contract of construction of the dam. Can there be a bigger conflict of interest? It is no wonder that the EIA produced is of poor quality with virtually no impact prediction and assessment.

Just a corrigendum to set a lapsed EC right?

Validity of the EC that was granted in June 2007 based on EIA carried out in 2005-06 was originally for a period of five years. It was extended to 10 years vide a corrigendum issued by MoEF on 27 September 2013 i.e. more than year after the original EC lapsed! The said corrigendum only corrects the validity period maintaining the all other terms and conditions of EC granted in 2007 as ‘unchanged’. This is
entirely unacceptable. The MoEF does not have the power to simply issue a corrigendum to extend EC date as the EIA Notification 2006 does not allow any “regularization” like this. The project has to undergo fresh scoping if EC has lapsed.

**For now, the EIA that has been carried out almost a decade back is still valid** for a project which is yet to take off due to procedural irregularities!

The EIA report winds up impact prediction in mere six pages for a project which will submerge more than 15,000 ha of land with nearly 1000 ha of forest, which will displace more than 35,000 people with as many as 11,000 tribal people and affect more than 75,000 people in all. There are four other river valley projects located in the catchment area of the project viz. Upper Penganga, Aunavati, Bembla & proposed Sahastrakund dam. The project refuses to even acknowledge that there will be cumulative impacts of these projects along with the Lower Penganga Project.

Yavatmal has been consistently hit by hailstorms for last two years. In April 2014 crops and orchards spread over 90,000 hectares were destroyed by hailstorms. Such extreme weather events which have been attributed to climate change will only exaggerate the impacts of such large scale projects in terms of floods, changing river course etc. A decade old, shoddy impact assessment by an agency involving conflict of interest is not acceptable for a massive project like this in such a climatically vulnerable region.

![Figure 1: Dans in Penganga Basin (Photo: SANDRP)](image-url)
What about the Forest that tigers call home?

Tipeshwar Wildlife Sanctuary is located 17.5 km downstream of the dam site. Of total 29 faunal species found in the forest some are endangered which include Tiger, Panther, Jackal, South Bear, Pangolin, Four Horned Antelope, etc. Left Bank Canal with a tunnel of 13.5 km passes merely two km north of the Tipeshwar sanctuary. This crucial fact however finds no mention in the report. Constructing a tunnel of 13.5 km will involve considerable blasting, tunneling, mining and muck creation activities. There is no assessment of impacts on the Tipeshwar Sanctuary of river stretch flowing through the sanctuary which will go dry if Penganga is dammed at the proposed site in Ghatanji tehsil.

Wildlife experts from Pandharkawda tehsil of Yavatmal District told SANDRP that Tipeshwar Sanctuary harbours a population of 10 to 12 tigers. Villagers in the vicinity of the Tipeshwar sanctuary routinely experience cattle kills. The experts also say that the project area may be in use as a tiger corridor between Penganga Sanctuary and Tipeshwar Sanctuary. The project authority has been justifying the submergence of 980 ha of forest saying that afforestation in 1,120 ha will be taken up to compensate the loss of forest. Can 1,120 ha of tree plantation scattered at different locations really be a compensation for loss of rich forest? Here it is again emphasized that the project authority has not even furnished the detailed compensatory afforestation plan.

Oft rejected Forest Clearance

Before granting EC to the Lower Penganga project in 2007 forest clearance to the project was rejected twice (first in May 2003 and again in July 2004) by the Forest Advisory Committee (FAC) of MoEF. In May 2015 Telangana Government has been asked by MoEF to obtain clearance from the Standing Committee of National Board for Wildlife (NBWL) for the Telangana portion of the same project.
Environmental clearance which was granted in June 2007 was subject to obtaining forest clearance within the five years validity period of EC for diversion of 988 ha (which was originally 1089.06 Ha) of forest land which would be submerged. After multiple rejections VIDC could secure forest clearance in January 2014 (a decade after first rejection) when total 32 proposals seeking diversion of over 2,000 ha of forest land were hastily cleared by MoEF in just six months inviting criticism from environmentalists for the high speed & inappropriate clearances. The entire process of obtaining FC for the project is plagued with several irregularities.

Proposal for diversion of 1089.06 ha forest land was first considered by Forest Advisory Committee (FAC) in April 2003. Total land requirement of the project then was almost 19000 ha which involved more than 2 lakh trees and displacement of 7,102 families comprising of 35,388 people. The committee rejected the proposal stating that “Environment cost and social cost of the project far outweighs the benefits accruable from the execution of this project.”

The scope of the project and overall design remained unchanged with no efforts taken for reducing the environmental and social cost. Instead, showing a complete disregard for Government of India’s environmental law framework VIDC invited tenders for consultancy for obtaining FC in financial year of 2000-2001. As stated earlier the contract was awarded to ‘The Progressive-Madhucon (Joint Venture)’ in July 2004 that included the task of obtaining EC for the project. The letter of Intent issued to Madhucon (JV) states that work of obtaining FC has to be completed within 12 months from the date of letter of Intent.

Nimn Penganga Dharan Virodhi Sangharsh Samiti which is a local group of people opposing the project sent a submission to the FAC about the tender floated. FAC took a very serious note of this when the project was tabled for forest clearance in July 2004. The proposal was rejected and Government of Maharashtra was asked to provide an explanation about award of consultancy contract for obtaining FC.

After these two consecutive rejections the proposal was again submitted to FAC in June 2007 and this time surprisingly and inconsistent with its previous stand, the proposal was approved and the project was granted with in-principle clearance. Minutes of the meeting of 19 June 2007 which approved the project do not give any details about the rationale for approval after two rejections. All it states is “After detailed discussions the FAC recommended the proposal for approval.”

This ‘in-principle’ consent was subject to approval of the resettlement & rehabilitation plan of the project for affected families by the ministry of Tribal Affairs, Government of India and clearance from the central water commission.

It is important to note that the project was yet to receive clearance from Central Water Commission (CWC) till October 2014. CWC had granted ‘in principle’ consent for preparation of Detailed Project Report (DPR) on 31 October 2011 which was valid for three years. This consent was granted with a stipulation that if investment clearance was not accorded to the project by planning commission within validity period, the ‘in principle’ consent will lapse. In May 2014 CWC had advised Government of Maharashtra to update the DPR as per suggestions of CWC due to major change in scope as compared to Preliminary Report cleared in year 2011. Final approval from CWC was pending till Nov 18, 2014 as
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The PIB Press release of that date also said: “Clearance from MoEF and MoTA (Andhra Portion) is yet to be obtained by project authorities.”

Another important condition for in-principle consent was “the entire reservoir created due to submergence shall be notified as Reserved Forest under section 4/ Protected Forest under section 29, of the Indian Forest Act 1927 by the State Government immediately.” This condition was later diluted by lobbying at ‘higher levels’. As per RTI query, In September 2013 the-then Minister of Environment & Forest Hon. Jayanti Natarajan was requested to relax the condition by then Minister of Agriculture Shri. Sharad Pawar.

Submergence Area of Lower Penganga Dam (Photo: SANDRP)

The in-principle clearance stated that all other conditions laid down shall be complied with before transfer of forest land. This includes completing settlement of rights under Forest Rights Act, 2006 (FRA) which was demanded by MoEF (FC Division) issuing a letter to Chief Secretaries of all the states on 03 August 2009. Two important evidences asked among others were “A letter from each of the concerned Gram Sabhas indicating that all formalities under FRA have been carried out and that they have given their consent to the proposed diversion and the compensatory or ameliorative measures if any after having understood the purpose and details of the project.” and “A letter from the State Government certifying that discussion and decisions on such proposals had taken place only when there was a quorum of minimum 50% of members of the Gram Sabha Present.”
The project will submerge land from total 95 villages and displace population from 46 villages will be affected. Out of these 46 villages 42 villages fall under Scheduled Areas and are Tribal Villages. These villages are covered by the provisions of “Panchayat Extension to Schedule Areas Act” and “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”. All the 95 villages have been opposing the project since the year 2000. **85 villages have passed resolutions against the project in November 2000. Nimn Penganga Dharan Virodhi Sangharsh Samiti - a people’s movement has played a role of catalyst in raising the protest to the project.** Opposition and protest to the project by the local people is evident at every step of the process of settlement of FRA.

Even after two years of said notification the project authority was unable to obtain consent from the concerned gram sabhas and thus procedure of settlement of FRA was incomplete. Despite such protest the administrative push has been so strong that the legal framework seems to have been twisted for this purpose. In April 2011 letter was sent from Collector of Yavatmal District to Chief Executive of Zilla Parishad Yawatmal stating that “Gram sewak from the concerned Gram Sabhas should be ‘directed’ to pass resolutions stating that there are no forest rights of any tribal communities or Traditional Forest Dwellers on forest land to be diverted for Lower Penganga project which need to be settled as per Forest Rights Act 2006 Clause 3(1), (3).”

‘Ordering’ gram sabhas to grant their consent under FRA which has been formed to ‘protect’ their rights is illegal and a fallacy in itself. It is depriving them to have their own say.

This pressure however did not work and in December 2011 MoEF pointed out that in the Compliance Report for the project submitted by Government of Maharashtra FRA compliance was found incomplete. And so was the compliance for approval of R&R plan from MoTA and clearance from CWC.

On 18 May 2012 another letter was issued, this time by Tahsildar of Ghatanji tehsil (where the dam site is located) to Block Development Officer stating that sarpanch of 19 specified villages of Ghatanji should be directed to ‘immediately’ pass resolutions granting consent of gram sabhas for Lower Penganga project and send a copy to Talathi.

The opposition was so strong that once again the collectors of Yavatmal, Chandrapur and Nanded failed to submit resolutions of concerned gram sabhas held with quorum of 50% of the members. MoEF in reply to the compliance report submitted by GoM on 8 December 2012 again stated that the said resolutions did not bear the signatures and details of villagers present in the said meetings.

Forest Clearance was finally granted against the compliance report submitted by GoM on 15 February 2013. This however is not without a story involving illegalities, fraud and worse. Villagers of Ghatanji Tehsil state that the final reports which are submitted have been falsely ‘fabricated’. **According to these villagers Gram sabha resolutions submitted as final evidence did not actually bear consent as it was never discussed in the said gram sabhas. The minutes of the gram sabhas and the resolutions have been fiddled with later and edited to show that the consent has been granted to the project.** After the villagers learned that the minutes have been fiddled with, they immediately passed further resolutions stating that they oppose the decision of granting consent and would like to retain their right on the forest. When asked about why did they not clearly mention that they were cheated upon Shri. Pralhad
Gawande of Nimn Penganga Dharan Virodhi Sangharsh Samiti replied that “the gram sewaks who passed on this resolution were apologetic and confessed that they had to succumb to the pressure from Collector office. They pleaded the villagers not to mention the real reason as they would lose their jobs and will be punished.” Letters from Collector’s office ‘ordering’ gram sewaks make this story rather believable. SANDRP tried to contact multiple forest officials to understand the process followed while settling the FRA but the officials could not be reached even after multiple attempts.

This series of events reveals serious flaws in the environmental governance of India. Twisting of the laws which have been formed to protect the fundamental rights of vulnerable groups and the environment shows complete disregard towards people, democracy and Constitution. There should be an independent inquiry into this and all those responsible should be punished. The work on the project will clearly need to stop in the meanwhile and the forest clearance given with fraudulent paperwork should be suspended.

Violations

In August 2000 Executive Engineer of Yavatmal Irrigation Department (YID) approached Office of Divisional Conservator of Forest (DCF) for their opinion about starting construction of the Lower Penganga Dam. DCF in his reply has clearly stated that “According to the Forest (Conservation) Act 1980 and Guiding Principles Central Government has published a manual on 25.10.1992 which states that if the project involves private land along with forest land no work should be started without prior permission of the Central Government. Thus no work related to Lower Penganga Project can commence.”

When FC to the project was declined by FAC in April 2003 (which was communicated to the project authority in May 2003) PCCF Nagpur via letter dated 25.06.2003 had informed Executive Engineer of YID that no work should be carried out on the non-forest area of the project site.

Ignoring these notices by the Forest Department YID floated tenders for construction of LBC along with tunnel, earth works on Right Bank, bridge etc. in August 2009. Many of these tenders were awarded with 4.96% higher rate, some with even 10.75% higher rate. High Court of Bombay (Nagpur Bench) on 19 September 2009 ordered a stay on project as there was a petition against the project filed by Nimn Penganga Dharan Virodhi Sangharsh Samiti. Violating even the court order construction work of the dam started in December 2011!!

Protesting activists approached Government officials like Collector, PCCF to stop the work. Ignoring the notice from Collector of Yavatmal about violating the court orders, excavation work for dam wall was started in March 2013!! Cases were filed against 1000 villagers who tried to oppose the work of the dam. According to the villagers who were arrested starting construction of the dam without getting the clearances and despite of the protest was a gesture on project proponent’s part that the ‘dam will come up no matter what’. By July 2013 total 15 tenders were floated and work orders worth Rs. 2988 Cr were issued while the project could secure Forest Clearance only in January 2014. Till December 2013 Rs. 264.74 Cr were spent on this project.
Corruption and irregularities of the tendering process were exposed during the irrigation scam in 2012. Lower Penganga Project (LPP) was one of the projects that came to limelight because of the unjustified increase in the project cost. The Wadnere Committee and Comptroller and Auditor General of India (CAG) report of 2012 on irrigation projects highlighted the fact that **undue benefit was given to contractors in the garb of mobilisation advance**. The Wadnere Committee also mentioned that the

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**Figure 3:** Construction started illegally at the dam site in 2012 (Photo: Nimn Penganga Dharan Virodhi Sangharsh Samiti)

**Figure 4:** Another photo of illegal construction at the dam site in 2012 (Photo: Nimn Penganga Dharan Virodhi Sangharsh Samiti)
approval for these advances came from Ajit Pawar and the ex-officio chairman of VIDC between 2007 and 2009.\textsuperscript{35} Few names of contractors like SMS Infrastructure Limited linked to BJP MP Ajay Sancheti, NCP MLCs Bajoria and Satish Chavan, Pune-based contractor Avinash Bhonsle and Shaktikumar Sancheti that surfaced in irrigation scam were common to LPP too. Sancheti reportedly, bagged contracts worth Rs 3,210 crore.\textsuperscript{36}

Finally in March 2015 BJP-led Maharashtra Government ordered Anti-Corruption Bureau (ACB) probe into various irregularities in execution Lower Penganga irrigation project along with of Jigaon Project and Gosikhurd national project in Vidarbha region.\textsuperscript{37}

**What is at stake?**

Tribal belt of Yavatmal district is primarily inhabited by Kolam-Primitive Tribal Group (PTG). Of the 47 scheduled tribes notified in Maharashtra Madia and Kolam belong to the Primitive Tribes Group as categorized by Planning Commission of India. These are also referred to as vanishing tribes as the total population of individual tribes is in the range of few hundred to few thousand. The primary mode of securing livelihood for these tribes is hunting and food gathering. These two communities are characterized by very low level of literacy especially in women, high infant mortality (110 deaths per thousand live birth), a declining or stagnant population (25,000 Madia and 54,000 Kolam), poverty and existence and use of pre-agriculture stage of technology.\textsuperscript{38}

Survival of these vulnerable tribes or primitive tribes is threatened and they cannot survive without their forests. Ensuring survival of primitive tribes essentially needs survival of forests.\textsuperscript{39} Kolam families have been collecting mahua flowers since generations, but due to restrictions by the forest department, they were forced to stop the practice.\textsuperscript{40} The community has been struggling with land grabbing by non tribals which is made easier with unorganized land records.\textsuperscript{41} Apathy on part of State Government has been a reason for growing unrest in the community. State administration has done little to ensure providing food grains, shelter and potable water to Kolam tribals. The tribe has been pushed to the wall and could take up agitation to protect their right to life.\textsuperscript{42}
All set to displace population of 11,000 tribals, the project will only worsen the situation of this primitive community. 42 of the 46 affected villages are scheduled tribal villages which are protected under PESA. This act which has been brought to force to empower the tribal communities and to protect their rights has however been of little help. As the local people and activists from Nimn Penganga Dharan Virodhi Sangharsh Samiti inform these villages have passed resolutions against the project as early as 2002. However approval of the resettlement & rehabilitation plan of the project for affected families by the Ministry of Tribal Affairs which was a condition for obtaining the final Forest Clearance has been obtained by submitting manipulated Gram Sabha Resolutions which has been the case of FRA settlement also. This has ultimately resulted in depriving the primitive communities like Kolam of their constitutional rights. Their fabric of life is set to be destroyed because of the project. This will be the most serious consequence of the project. “The dam submergence can cause habitat fragmentation like fragmentation caused by Koyna Dam. This fragmentation can affect the very way of life of tribal e.g. marriages.” says Ajay Dolke from Srujan, an NGO from Pandharkawda, Yavatmal which works for livelihood of tribal communities in Vidarbha.

PESA demands that if the affected gram sabhas are against the project the project can be executed only as a ‘last demonstrable resort’. Lower Penganga Project is clearly far from the last demonstrable resort. The project has been an unfeasible one since the beginning and project authorities had to literally push the project at various stages using political influence. Motives behind undue cost escalations stand well exposed during the dam scam in 2012.

**Opposition by the affected people**

People from the villages that will be submerged have been hearing about the project since 1997. “It has been a long journey from not knowing anything about the EC & FC procedures, PESA to going and meeting Prime Minister, attending the EAC meetings” tells Shri Pralhad Gawande from Datodi Village in Arni Tehsil of Yavatmal. Alarmed about losing all they have people started to find out more details of the
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They formed a committee named ‘Nimn Penganga Dharan Virodhi Sangharsh Samiti’ which has been on the forefront of the protest. Tools like RTI were not in place at the time and gathering information about the project was a daunting task. “After learning that the project will irrigate more land through lift irrigation than flow irrigation our obvious question was why then such big submergence?” Why not lift water from flowing river?” says Adv. Balaji Yerawar from Arni village in Ghatanji Tehsil of Yavatmal.

They were a witness to irrigation projects like Bembla & Gosikhurd which have been a failure in terms of irrigation because of incomplete and inferior quality of canal networks.

Bembla project which belongs to the same district has been mired in controversies over the award of tenders at exorbitant rates, inordinate delays leading to escalation in costs & the size of contracts and the government’s alleged apathy towards rehabilitation of the people affected by the project.

Cost escalation in Bembla project was Rs 1.15 crore per day since its inception in 1992 and still requires Rs 400 crore for canal work. Gosikhurd currently has water stored up to 237 metres, but it cannot be delivered to farmers because the canals are incomplete and inferior.

“We visited the Bembla project to see its impacts. We also took people from villages from submergence area. All of us were convinced about the ill effects of the project.” says Adv. Yerawar.

They also were seeing how the project is being pushed by the political leaders despite being rejected. They could also see the tremendous environmental and social cost of submerging 1000 ha of forest and displacing 11,000 tribals. They passed gram sabha resolutions opposing the project in 2002. They also opposed the project during public hearing and staged a walkout. Over 2,500 letters opposing the project were submitted to the Maharashtra Pollution Control Board (MPCB).

“All the chaos at the public hearing is well recorded in the video CD. EAC has not even bothered to see it.” says Pralhad Gawande from Arni village.

Highlighting the environmental cost and the gray areas of feasibility the Samiti approached Chairman of National Commission of Scheduled Tribes in 2002, Chief Minister of the Maharashtra in May 2010, December 2010 and again in December 2012. Villagers however had to watch the project advance steadily if only illegally. Their voice was silenced and their rights were denied by way of treachery. Their skepticism about the real motives behind the project and the real benefits proved right when corruption and irregularities of the project were exposed in dam scam in 2012. Transactions of the land coming under submergence have been banned by the State Government for more than a decade now as they have been notified in Gazette for Land Acquisition. Preliminary Notification as per Section 11(I) of Maharashtra Project Affected Persons Rehabilitation Act 1999 was published in Official Gazette in June
2000. Further, as per Section 11(3) of the said Act, Commissioner of Yavatmal notified the villages in the submergence area. These notifications lapsed as the land acquisition couldn’t start without requisite clearances. Hence in October 2011 notification as per Section 11 of the Land Acquisition Rehabilitation & Resettlement Bill 2011 was once again published. Consent of the Gram Sabhas which was a mandatory condition for these notifications was however not obtained. “We are not able to enter even our wife and children’s names on the 7/12 extracts for last 17 years.” says Gawande from Arni.

Figure 7: Representatives of Nimn Penganga Dharan Virodhi Sangharsh Samiti met the then Hon. Prime Minister Manmohan Singh, along with CPIM leaders on 16 April 2008 (Photo: Nimn Penganga Dharan Virodhi Sangharsh Samiti)

Figure 8: Protest against the project (Photo: Nimn Penganga Dharan Virodhi Sangharsh Samiti)
In all four Public Interest Litigations (PILs) were filed by Nimn Penganga Dharan Virodhi Sangharsh Samiti opposing the dam. The earliest petition was filed in 2001 in Aurangabad Bench of Bombay High Court for stoppage of the dam. Another petition filed in 2002 at the same bench against procedural irregularities involved in land acquisition stands disposed. Yet another one filed in 2013 again in Aurangabad Bench against corruption in land acquisition is ongoing. And the petition filed in Nagpur Bench of Bombay High Court in 2010 challenging the grant of EC & FC to the project which was transferred to National Green Tribunal (NGT) in February 2013 has been lost by the Samiti. The judgment was given by NGT on 10th March 2014 in favour of the dam. The judgment on several fronts appears to have brushed aside too many facts which point out to the procedural irregularities. The NGT judgment is most unfortunate.

NGT, in its judgment dated 10th March 2014 called the case “without much substance” and said that the applicants have raised general objections while they do not possess any background or knowledge about environmental law or impact assessment of irrigation projects of this scale. We can only see for ourselves the amount of data put together by the people over a decade and more.

The court has preferred not to judge the “policy decision” stating that “whether to have an infrastructure project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy making process and the Courts are ill equipped to adjudicate on a policy decision so undertaken.” The court has brushed aside the procedural irregularities in the EC & FC process. Court has also chosen to ignore inadequacies in the EIA studies (like absence of seismic studies).
Current Status

The project is currently last on the government’s priority list as less than 50% work has been complete. First priority has been given to the projects completed to the extent of 75% and second priority has been given to the projects with 50% completed works. SANDRP talked to the Executive Engineer of the Yavatmal Irrigation Division to understand current status of the project. The mammoth project which has already been revised several times is undergoing one more revision. “Flood occurrence study which was conducted in 1996 has become invalid by now and is being studied once again. This will bring some changes to the number of gates of the dam. The study will be complete by October 2015 and we plan to start the construction of the dam in January 2016. By then the cost of the project could go upto Rs 15000 Cr” informs the EE Mr. Chate. Once the construction begins VIDC will submit the overall plan for construction to the State Finance Corporation which will then decide on funding to be provided from state. After that the proposal will be sent to the central government to obtain funds under Accelerated Irrigation Benefits Programme. When asked about what is YID’s stand on the opposition to the dam he states “There is not a single irrigation project which has not been opposed. There are two distinct categories. Affected & the beneficiaries. It cannot happen that the affected farmers will give away their land willingly.”

In conclusion

Even as it was the current Chief Minister Mr. Fadnavis himself who declared the project unfeasible when he was in opposition, the Government headed by him seems to be more determined than ever to execute the project. It is clear that if the project comes up it will be at a massive impact on the Kolam tribe and other communities and unacceptable and unassessed environmental and socio-economic cost. Possibility of the Lower Penganga Project turning into another graveyard like the Gosikhurd project which has been sitting incomplete for more than 30 years without yielding any irrigation benefits is very real. While Government has decided to bulldoze the project anyway struggle of the affected community continues. Nimn Penganga Dharan Virodhi Sangharsh Samiti has been gearing up to file a fresh petition challenging the irregularities in Forest Clearance and violation of FRA and PESA. They need salutes and all the encouragement for the long struggle. Let us hope that this time Court decides to take a serious note of the shortcomings and orders a punitive action to the defaulters and cancel this unviable project.

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1 Maharashtra Gazette Notification published on 20th October 2011 gives list of these villages
2 As per Press Information Bureau project affects 8136 families involving 36809 population, which includes 2448 ST families with 8419 population. [http://pib.nic.in/newsite/PrintRelease.aspx?relid=106845](http://pib.nic.in/newsite/PrintRelease.aspx?relid=106845)
3 Short Note by Yavatmal Irrigation Division
4 As told by the Irrigation Official of Yavatmal Irrigation Division
5 Reference No. : WCL/C-1(E)/II/ dated 24/02/1997
6 //SS/2202// dated 02/02/2002
7 Short Note by Yavatmal Irrigation Division
8 White Paper [https://wrd.maharashtra.gov.in/portal/portal/mwrd/15mwrdEmployees/7KnowledgeCenter/7Publications/7whitepaper](https://wrd.maharashtra.gov.in/portal/portal/mwrd/15mwrdEmployees/7KnowledgeCenter/7Publications/7whitepaper)
9 White Paper
10 [http://www.downtoearth.org.in/content/reservoir-corruption](http://www.downtoearth.org.in/content/reservoir-corruption)
11 P. 417 of SIT report