

Centre 'completely against' mining in Niyamgiri

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New Delhi : The central government Wednesday told the Supreme Court that it would not blink and grant permission to Orissa Mining Corporation (OMC) to mine Niyamgiri hills to source bauxite for the Vedanta Aluminium refinery.

In a pointed query from the forest bench of Justice Aftab Alam, Justice K.S. Radhakrishnan and Justice Ranjan Gogoi "Are you completely opposed to mining or under certain conditions you will allow mining?", Solicitor General Mohan Parasaran told the court: "We are completely against the mining operations."

Leaving nothing to doubt, Parasaran said OMC had violated the conditions of stage one clearance, so they could not be granted stage two clearance.

Parasaran said the court by its Aug 8, 2008, order had only granted the clearance for the stage one of the project and the automatic clearance for the stage two did not flow and it could not be reduced to a mere formality.

The solicitor general said the court by its order had itself said that the Ministry of Environment and Forest would decide clearing the stage two of the project in "accordance with law."

In the face of stiff resistance by the central government on granting environmental clearance to the stage two of the project, Justice Aftab Alam asked whether tribals, who would be affected by such a clearance, have been made aware that they would be getting schools, hospital and other infrastructural facilities in lieu.

Justice Alam said it would be a different situation if tribals said that they did not want modern facilities, including schools, hospitals and other facilities, and wanted to continue with their existing way of life.

As Parasaran focused on the rights of the tribals under the Forest Rights Act, Justice Gogoi asked: "How much of this (schools, hospitals and other facilities) is actually on the ground? We have to find out how many of these schools and hospitals are actually in existence".

Contesting the stand of senior counsel C.A. Sundaram that the project-displaced people would be settled, the solicitor general took the court through the provisions of the Forest Rights Act and contended that "habitation" under the statute did not merely mean the place of living but included a larger spectrum of their customary, religious and social practices, which extended even beyond the boundaries of their villages.

Sundaram appeared for Sterlite India Ltd. and Vedanta Aluminium.

To buttress his point, Parasaran told the court that if there was any ambiguity in the interpretation of the clauses of the Forest Rights Act, the same had to be read in the favour of social welfare objects of the legislation involving the protection of the Scheduled Tribes and other traditional forest dwellers and forest conservation.

There could be no "dichotomy between these twin objectives".

Senior counsel Sanjay Parikh appearing for the Dongria Kondh tribe that would be affected by the implementation of the project started his arguments which would continue.