

## How government agencies fast-tracked Lavasa

By Rifat Mumtaz

Lavasa, the picturesque planned hill station being developed by Hindustan Construction Company (HCC) near Pune, is facing charges of illegal land acquisition and environmental violations and construction has been stayed pending an inquiry. This article says that the focus should be not on the misdemeanours of the corporation but on the collusions and oversights of government



The bureaucracy moves at snail's pace in India. But look at the speed with which the Lavasa project, currently under scrutiny from the Environment Ministry and construction stayed pending scrutiny of irregularities in sanctions granted to the project, was sanctioned. Clearance was granted within months of its application of purpose, indeed even before the application was submitted to the concerned departments and ministries!

Thousands of scheduled caste and scheduled tribe families in this Mulshi-Maval region have languished for decades without caste certificates to support their legal entitlements to the land, or access to basic services. The ignorance of these poor families -- nomadic tribes (Dhangar) and tribal communities (Koli, Katkar, Thakar and Marathas) residing in small community hamlets -- worked in favour of Hindustan Construction Company (HCC) and the state of Maharashtra.

Had it not been for the voices of a few concerned citizens of Pune city, who recognised the long-term implications of such a massive infrastructure project, the socio-environmental consequences of the project would never have come to light.

### **Brand 'Lavasa'**

Lavasa Corporation was originally registered as Pearly Blue Lake Resort Private Limited Company, in 2000. The project was a business hotel to be developed on the banks of Warasgaon lake in Mose valley, Mulshi block, Pune district. The company changed its name to Lake City Corporation Pvt Ltd on December 12, 2000. Later, in June 2004, it changed it again to Lavasa Corporation Limited (International Securities

Identification Number INE172G01016).

The hill station project is being driven by a consortium of companies led by Hindustan Construction Company (HCC), which holds 65% of the stake in Lavasa through its real estate subsidiary HCC Realty. Other investors include the L M Thapar Group and Venkateshwara Hatcheries, besides several minority shareholders with 35% equity.

### **The project in a nutshell**

Lavasa is a sprawling private real estate project, 65 km from the city of Pune in Maharashtra, nestled amidst 18 hills and 975 metres above sea level.

The project was approved under Section 20 (3) of the MRTP on July 15, 2000. Accordingly, the Maharashtra Urban Development Department declared 18 villages in Mulshi and Velhe block -- a total of 25,000 acres of land -- part of the project. Since then, the inhabitants of around 20 villages have faced eviction, land alienation, harassment by project officials, cheating by the land mafia and company agents, denial of community access to freshwater bodies, river, temples and common roads. And the destruction of their natural habitat and forests.

The people of these villages comprise poor marginal farmers who depend heavily on traditional farming techniques, livestock rearing, collection of non-timber forest produce, fishing, daily wage labour, and collection of natural resources. Though they have been living in the area for generations, it was only in 1964 that poor landless and socio-economically backward families were allotted excess ceiling lands under the Maharashtra Agricultural Lands (***Ceiling*** on Holdings) Act, 1961. They made these lands cultivable and survived on them without any support from the government.

In 1974, construction of Warasgaon dam began, and of the scores of families displaced only a few were given compensatory land in Daund taluka (125 km from Pune). Many were left in the affected area to fend for themselves, without adequate compensation or rehabilitation.

Thirty years on, the Lavasa township project has brought back painful memories.

The completion target for the Lavasa project is 2022. It is being planned in four phases. The overall size of the project is said to be almost one-fourth the size of Mumbai city.

### **Role of the state government**

The Maharashtra state government has supported the project wholeheartedly, be it in granting permission for land acquisition by denotifying ceiling lands, transferring lands

belonging to the Maharashtra Krishna Valley Development Corporation reserved for public purposes, granting of environmental clearance, no-objection certificates and forest clearance. Above all, obtaining a no-objection from the zilla parishad for changes in local infrastructure, etc.

### **Facilitating corporate land grab**

The Maharashtra government notification dated November 26, 1996 relating to the Maharashtra Regional and Town Planning (MRTP) Act 1966 that proposed the development of hilly areas throughout the state as hill-stations and resorts is at the root of issues related to land acquisition for hill station development. The notification was introduced to circumvent regional plans so as to make it easy for land sharks to claim the valleys. It has been contentious on the grounds that the regulations have been framed for the benefit of moneyed companies and the commercial exploitation of scenic places.

1. Clause 17 of the notification deprives the collector of discretionary powers to be exercised for the benefit of tribals.
2. The notification also impinges on the provisions of the Maharashtra Agricultural Land Acts 1961, The Maharashtra Land Revenue 1968, which relates to the transfer of land from tribals to non-tribals.
3. The other acts contravened are the Maharashtra Land Revenue (disposal of government land) Rules 1971, the Indian Forest Act, 1927 and the Forest Conservation Acts, 1980.
4. The notification also allows disposal of up to 2,000 hectares (20 sq km) of agricultural land against 21 hectares earlier imposed under the provisions of the Maharashtra Agricultural Land Acts, 1961.

### **Land notified for Lavasa**

In 2000, the Maharashtra government declared around 12,500 hectares of land for development of a hill station. Initially, the proposal was for a small lake city project; this later spread to revenue villages in Mulshi and Velhe blocks, including Daswe, Mugaon, Lavharde, Vegre, Bhode, Pathershet, Bombatmal, Palase, Admal, Padalghar, Wadavali, Sakhari, Bhoini, Koloshi, Ugavali, Dhamanhol and Gadale, in Mulshi block, and Mose Budruk, Shiv Budruk and Varasgaon in Velhe block. The land acquisition was carried out by three different departments -- the irrigation department (Maharashtra Krishna Valley Development Corporation [MKVDC]), forest department,

and revenue department. It involved the acquisition of 2,500 acres of plantation land in two blocks, for which permission was granted by the forest department. It is worth mentioning here that on November 13, 1999, the Director, Town Planning, Pune, gave a report clearly stating that the land was forest land. The irrigation department allocated 141.15 hectares of land on lease to the company at a royalty of as little as Rs 275,250 per annum.

Though Lavasa claims it has not constructed on forest land, it cannot deny that roads have been built or pass through forest land for which hundreds of trees have been cut. One wonders how the local forest department allowed this without forest clearance from the central Ministry of Environment and Forests (MoEF). The forest officer of Khanapur, Haveli block, gave permission under the Maharashtra State Tree Felling Rules (Amendment) 1964 to cut trees and shrubs in the project area.

The MKVDC land allotted to the Lavasa project was reserved for public purposes. Interestingly, the same land had been claimed a number of times by people affected by the Warasgaon dam project; their claims were denied on grounds that the land was supposed to be used for public purposes. The company acquired the land on the basis of a 99 to 999-year lease.

### **Private land transactions**

Over the past one-and-a-half decade, every land sale and purchase in Pune district has revealed the involvement of the land mafia. There are rumours about Lavasa too. From Daswe, where the company has built its first-phase dream town, to Mugaon village, which is being developed in the second phase, there is talk of forcible acquisition and purchase of land, forged signatures, misuse of power-of-attorney, community land disputes, devasthan land disputes, and joint ownership disputes.

Since 1996-97, when the land deals were initiated, companies like Pearly Blue Lake Resort and Aqua Land Pvt Ltd were also involved in the purchase of land. The company is supposed to have looped in several real estate agents to buy land for as little as Rs 500-Rs 5,000 per acre. Land agents from the villages and from Pune city, made small initial payments to the landholders, with promises of huge sums later. Most of the lands acquired from the Dhangar, Koli and Maratha communities are ceiling and inami (gifted) land distributed by the state government to the landless in the 1970s.

Locals recall that the district revenue officer and agents used to come together and discuss ceiling and inami lands in various villages. This caused a lot of apprehension, with people hurriedly collecting their land records. Some paid close to Rs 10,000 to the local talathi for copies of their land entitlements (7/12).

Agents and brokers are said to have played an important role in the land grab. In many instances, they bought 2 acres of land and registered about 10-17 acres. There are cases where the 2007 land records show ownership in the name of a local family, but records dated around the same time show a change in title name. In Mugaon village alone, 67 tribal families claim they lost 330 acres of land and did not receive any compensation. After being forcibly evicted, they realised that they no longer owned the land because the new land records did not show their names!

According to a letter written by the district collector, Pune, dated 4/7/2001, it is suggested that adivasi land cannot be acquired or transferred without consent from the competent authority. Likewise, forest land that has been affected by development projects like dams cannot be acquired without permission from the competent authority. Type-2 land or government land such as adivasi land, watani land, tenancy land, devasthan land, sites reserved for rehabilitation etc also cannot be acquired without permission from the competent authority. Most of these types of land would have been acquired for the Lavasa project with permission from the district collector, who is the competent authority under the MRTP Act, 1966. Lavasa Corporation has also been given approximately 1,042 acres of government land at a nominal price.

According to local residents, the agent who did most of the land deals, especially tribal lands in the villages of Dhamanhol and Mugaon, promised people jobs in the company and construction of a temple and other facilities in the village if people parted with their lands. In the few cases where villagers filed complaints against Lavasa Corporation, the government conducted an inquiry. Some cases were resolved, but others in Dhaman Ohal, Gadle, Sakhari and Mugaon carry on.

<b>Sr No</b>	<b>Name of village</b>	<b>Number of cases transferred</b>	<b>Number of complaints filed</b>
1	Daswe	138	2
2	Bhohini	62	3
3	Ugwali	13	-
4	Kolshi	16	-
5	Dhaman Ohal	132	4
6	Gadle	63	2
7	Sakhari	104	3
8	Padalgad	41	2
9	Aadmal	28	2
10	Debalmal	5	1

11	Mugaon	97	16
12	Palshi	44	-
13	Patharset	38	1
14	Wadawali	75	-
15	Ghod	6	-
	<b>Total</b>	<b>862</b>	<b>36</b>

**Source: Excerpts from district collector's report, 2007-2008, prepared on the abovementioned complaints against the company's land acquisition**

The role of the talathi and tehsildar is extremely important in all these cases of land transfer. Most people whose lands have been transferred to the company's name have been struggling to access current land records. Filing appeals with the authorities has so far been unsatisfactory.

### **Ceiling land transfer to the company**

According to the Maharashtra Agricultural Lands (**Ceiling** on Holdings) Act, 1961, Article 27, ceiling land should be distributed among the landless, poor and socially deprived. However, the revenue department (letter dated 5/3/2005), Pune, believes otherwise. The district collector argued in favour of the company, allotting it excess ceiling lands amounting to 373 hectares. In 1976, in the villages of Mauje Gadale, Dhamanohol, Mugaon and Wadiwale, a total of 372 hectares was found in excess of the ceiling but was not taken under possession, under the Land Ceiling Act, Section 21 (4). In 2005, the then district collector suggested that if the land were given to the company instead, the government would benefit.

Moreover, land measuring 609 hectares that had been given to landless farmers for agriculture under the Maharashtra Land Ceiling Act (especially those belonging to katkari tribe families) was taken back and transferred to Lavasa.

### **Water resource privatisation**

According to a letter written by the district collector, Pune, (dated 4/7/2001), the company is barred from claiming any rights over and disturbance to water resources such as streams, ponds, dams, freshwater sources, natural springs, etc. Nor can the company claim rights to civic amenities like traditional riparian rights, public roads, lanes, roadways, etc. However, Lavasa Corporation is allowed to build eight weirs (walls that control the flow of water) in the backwaters of Warasgaon dam for commercial use -- water sports, water villas, tanks, and water parks.

The company's plans include the building of 10 captive mini dams which will definitely affect local riparian rights. After Lavasa built the Daswe check dam, villagers and their cattle have been denied access to water. Heavy security has been put in place by the company to safeguard its territory. In Mugaon village, the katkari hamlet has been suffering due to lack of fresh water. The company denies them access to the reservoir, the catchment of which will supply water to the project, saying that they should either relocate or face the consequences. The waterbody that is supposed to be a community resource has become the company's private resource, strengthening its power to harass poor villagers and force them to live without basic resources.

In the few years since the Daswe check dam was constructed, there has been no water downstream during summer, whereas, because of the dam, Lavasa does not suffer. This means that the natural flow and storage of water in the valley has been greatly affected by massive construction and infrastructural changes.

### **Transfer of Maharashtra Krishna Valley Development Corporation land**

In the lease agreement dated August 28, 2002, the Khadakvasla Irrigation Division allotted 141.15 hectares of land belonging to the Maharashtra Krishna Valley Development Corporation, on lease for 30 years from September 2, 2002, to the Lake City Corporation. A PIL against this move is ongoing in the Bombay High Court since November 15, 2006. According to the PIL, there are several irregularities in the way the government has dealt with Lavasa Corporation. According to the rules, excess land under the Maharashtra Krishna Valley Development Corporation can only be used and transferred for a 'public purpose', not for private use. The PIL challenges the transfer of MKVDC land to Lavasa Corporation, alleging political favouritism.

It is worth noting that the land that MKVDC transferred to Lake City Corporation belonged to villagers displaced during construction of Warasgaon dam in the 1970s. Since then, the villagers have made several appeals with the irrigation department to hand the remaining unutilised land back to the families. The department paid no heed to the requests; instead, the land was given to the company within three days of signing the MoU.

The company has also got permission from the Khadakvasla Irrigation Division to use water from Warasgaon and Temghar dams. The Khadakvasla reservoir, on the Mose river, was built to meet the water requirements of Pune city. It has a capacity of around 11.5 TMC, almost equalling Pune's annual needs.

Pune is a fast-growing city, and the problem of water scarcity is a real one. Allowing huge amounts of water to be used by Lavasa Corporation, not only for drinking purposes but for water sports, hotels etc, will worsen the water crisis. No impact

assessment has been carried out.

### **Environmental violations**

According to Lavasa's environment impact assessment (EIA) report, prepared by NEERI, 50% of the area is covered by vegetation, 23.39% by forests. Construction of the huge lake town, and a population of 200,000 during peak time, will undeniably impact the area's flora and fauna. The report states that 43% of flora in the study area consists of medicinal plants. It does not feature any impact mitigation or preservation plan.

Mulshi and Velha valley, where the project is coming up, experiences some of the heaviest rainfall in the world. The area is lush with tropical vegetation and it is imperative that, considering the fragility of the Western Ghats, it be left undisturbed. Construction activity is drastically altering the natural landscape, opening the valley and entire ghats region up to environment degradation. This will have an impact on rainfall patterns in the long run.

A document by the Maharashtra government, dated April 12, 2004, permits Lavasa a 'stone-crushing' unit under the 'orange' category of small-scale industries, for which the hills have been cut. Another letter from the revenue collector, dated July 15, 2003, allows the company to quarry for Daswe. These permissions from the governing authorities, with no strict compliance norms and no studies on the impact of these activities on the fragile biodiversity of the hills, will cause enormous damage to the Sahyadri hills. The continuous crushing, quarrying and ferrying of raw materials in the project area has already had an impact on the local environment.

The recent show cause notice issued by the central Ministry of Environment and Forests (MoEF) to the company clearly shows that the company has flouted the environmental laws. The project was supposed to take environment clearance from the MoEF, under the Environment Impact Assessment Notification of 1994. But it never approached the ministry. Rather, the project took environmental clearance from the environment department of the state government which is not competent to do so.

Parts of the project are at an altitude of over 1,000 metres; roads pass through forest areas; about 10 dams are to be constructed; the project is for more than 1,000 persons; and investments cross Rs 50 crore. All these factors call for environmental clearance under the 1994 notification. The company sought environmental clearance in 2004 when the aforesaid notification was binding on any project. Instead, environmental clearance was granted by the environment department of Maharashtra, and within record time of around two months, on 18-3-2004, vide letter No Env/Cle/765/CR.105/TC. In the letter, the environment department does not mention

that clearance has been issued under EIA Notification 1994. It can also be construed from this letter that the department did not issue the specific environment clearance prescribed under EIA Notification 1994 but a general clearance letter identical to a routine NOC issued by the department.

On September 4, 2005, the central MoEF wrote to the government of Maharashtra saying that construction at Lavasa was being carried out without the mandatory environmental clearance required under the Environment Impact Assessment Notification of 1994. Notwithstanding these instructions, various authorities in the Government of Maharashtra shut their eyes and took no action on the matter. The company is in violation of the Environment Protection Act, 1986.

Incidentally, environment clearance was issued for development of a 2,000-hectare township hill station. However, the company is developing more than 25,000 hectares -- a clear violation of conditions imposed by the environmental clearance letter.

### **Lavasa, a fast-track project**

During 2002-03, 31 no-objection certificates (NOCs) were granted to Lake City Corporation (later changed to Lavasa Corporation) by various departments such as the MKVDC, Konkan Irrigation Department, Maharashtra Tourism Development Corporation and Maharashtra Pollution Control Board. These were for construction of mini-dams and impounding of water for commercial use, tree felling, quarrying, stone crushing and purchasing land for industrial use.

Some of the MoUs and clearances granted to Lake City/Lavasa Corporation in 2002-03 from various departments of the Maharashtra government are:

- May 30, 2002: NOC (No BO/TB/RO (HQ) Pune-163/444) for development, from the Maharashtra Pollution Control Board
- June 5, 2002: MoU between Lake City Corporation and Maharashtra Tourism Development Corporation
- July 4, 2002: Maharashtra Krishna Valley Development Corporation's (MKVDC) NOC (No TPD/ADM2/RBR/2543) to construct DTR
- July 16, 2002: MKVDC's permission (No KID/ADM/4891/2002) to construct dams and store water
- August 9, 2002: Irrigation department, Konkan region, NOC (No 89.01/(18/2002)/U-5/3074) to construct dams and store water
- September 23, 2002: 30-year lease agreement between MKVDC and Lake City Corporation for construction of mini-dams in the submergence area of Warasgaon dam and impounding of water for commercial use

- December 11, 2002: Permission (No DI/Land Permission/255/2002 C-17386) from the industries department to buy land for industrial purposes
- December 13, 2002: NOC from the environment department (No ENV (NOC) 2000/765/CR.105/TC.1) for development
- January 2, 2003: Forest department's tree-felling permission (No B/M/907/2002-03) for DTR/RFO, Khanapur
- January 10, 2003: Tree-felling permission from the forest department (No 576/2002-03) for DTR/RFO, Paud
- March 12, 2003: Land-use certificate (No DDTP-Pune/Final RP Pune/Zone Cert/822) from the town planning department
- April 10, 2003: MKVDC permission (No PB-4/KID/91/203) to carry out preliminary works
- July 15, 2003: Quarrying permission (No Mining/SR/391/2003) from the revenue collector for Daswe
- December 20, 2003: Irrigation department (Konkan region) agreement to construct dams and store water
- March 18, 2004: Environmental clearance (No ENV/cle/765/CR-105/TC.1) for project

So, who is responsible for the controversy that surrounds Lavasa? The state knowingly ignored all attempts to assess the project before clearing it. It is the responsibility of the state and its agencies to make corporations abide by the rules of the land. In this case, Lavasa flouted several regulations, thanks to state support given in the form of various clearances. Over the past five years, attempts by environmentalists, social activists and villagers to raise the issue at all levels of government have failed. It's time the state government made its position clear. As Plato rightly said: "The community suffers nothing very terrible if its cobblers are bad and become degenerate and pretentious; but if the guardians of its laws and constitution, who alone have the opportunity to bring it good government and prosperity, become a mere sham, then clearly it is completely ruined."

***To read the stand of the Lavasa developers, read this interaction with Ajit Gulabchand, Chairman and Managing Director, Hindustan Construction Company, at***

***<http://www.indianexpress.com/news/the-environment-ministry-does-not-have-measurable-standards.-so-how-do-you-know-what-and-whom-to-deal-with/735248/>***

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