

Rapid Notes for a critique of OREGS

1. Though the OREGS was notified in the Orissa Gazette dated 16 Dec. 2006 (<http://orissagov.nic.in/govtpress/pdf/2006/1775.pdf>), the nodal agency of the State for NREGA i.e. Department of Panchayati Raj still continues to display on its website (<http://orissagov.nic.in/panchayat/default.asp>) the Draft copy of OREGS which is vastly different both in form and content from the notified one. By this the Department keeps on spreading the confusion as if the draft OREGS has not yet been finalized and notified. One may construe such a mismatch to be an inadvertent slip by the concerned personnel entrusted with updating of the website. But it is not so. The ground reality is such that no officer right from Orissa Secretariat down to the Block level, the cutting edge of NREGA administration knows for sure whether the OREGS has been notified at all.

2. Foul intentions behind the guarded secrecy maintained at the top about the fact of notification of OREGS can't be ruled out. The Commissioner-cum-Secretary Sri G.Dhal, under whose aegis the OREGS notification was made is no more working with the Panchayati Raj Department, and since his departure the matters relating to NREGA are being practically looked after by Sri Saswat Mishra, Additional Secretary-cum-Director Special Projects. Sri Mishra in his new capacity had issued an administrative circular in the month of November, 2006 [No. 21702/ RE 51/05 (B) PR Dated 16.11.2006] to all Collectors and PD DRDAs of NREGA districts of the State, in which he has emphasized the implementation of certain measures, which are found not only contravening the letter and spirit of the Act, but also flouting the provisions made in the OREGS, notified about a month later.

a) For instance, the Para 1 of the said circular says that the wage and material ratio should be maintained at 60:40 at only district level, which means that this norm may be ignored at GP or Block level. But the Para 9 of Schedule 1 of the Act clearly says, **“The cost of material component of projects including the wages of the skilled and semi-skilled workers taken up under the Scheme shall not exceed forty per cent of the total project costs”**, which means that the ratio of 60:40 ought to be maintained in case of each project. Further the Para 17 of OREGS also says in same vein, **“The ratio of wage costs to material costs should be no less than the minimum norm of 60:40 stipulated in the Act. This ratio should be worked out at the Gram Panchayat, Block and District levels but parity should be maintained at district level by the District Programme Coordinator”**. Under the circumstances, observance of Sri Mishra's instruction would mean violation of both NREG Act and OREGS. If Sri Mishra wants to continue with his own fad on wage-material ratio, how can he allow a vent to OREGS, which speaks of just the opposite?

b) The next instance of Sri Mishra's act of flouting the Act is the Para-2 of his said circular, which gives top priority to construction of cement-concrete roads in the villages as NREGA work, whereas both the Act (vide Para 1 of Schedule 1 of the Act) and OREGS (vide Para 14) accord the least priority to such works.

c) Sri Mishra's circular says at Para-4 that piece-rate wage will be calculated on the basis of the out-turn of the wage earner and the amount so arrived at must be reflected in the muster roll along with his out-turn quantity. But the Para-8 of Schedule 1 of the Act says, **“The schedule of rates of wages for unskilled labourers shall be so fixed that a person working for seven hours would normally earn a wage equal to the wage rate”**. Again, the Para 21(3) of OREGS says, **“Where wages are paid on a piece-rate basis, the work must be of such a nature that each labourer's work can be individually measured and the work norms must be such that any person working at a normal pace for seven hours earns no less than the minimum wage...”**.

d) Further, the said circular at Para 5(e) says, “The line Departments will have to take up their works departmentally as per existing State Government rules and relevant provisions of NREGA. The VLL system of Panchayati Raj Department shall not be applicable to line departments”. Such an instruction is utterly confusing, since existing State Govt rules and provisions of NREGA are fundamentally different from each other. For instance, State Govt. rules provide for engagement of machines and contactors, while the latter prohibit both. The intention of the circular is clear i.e. the general works to be implemented by the line departments shall remain outside the control of Panchayati Raj institutions, and as such goes against the Section 13.(1) of the Act which says, “**The Panchayats at district, intermediate and village levels shall be the principal authorities for planning and implementation of the Schemes made under this Act**”.

Thus, the secret behind withholding the dissemination of the notified OREGS among the officials and public is to show to the Centre that the State Govt has complied with the mandate of making a Scheme on one hand, and to continue to implement the NREGA works in the conventional, bureaucratic manner to benefit the vested interests of officialdom on the other.

3) Some critical omissions and commissions of OREGS:

The architects of OREGS seem to have made an earnest endeavor to frame it in accordance with the mandate of NREG Act. Still it is afflicted with certain significant omissions and commissions, which need to be sorted out by way of an amendment notification by the Department of Panchayati Raj in order to bring OREGS into correspondence with the thrusts and underpinnings of the Act and Operational Guidelines recommended by the Central Government.

A) As is well known, the VLL (Village Level Leader) has been assigned with important powers and functions in the matter of execution of NREGA works in the State of Orissa, though the Act nowhere talks of such a functionary to play the role that it plays today. To trace the complex route through which such an extra-legal person made its entry into the NREGA framework in our State, one should refer back to the first circular issued by the then Commissioner-cum-Secretary Panchayati Raj Sri S.N.Tripathy (No. No. 1765/RE 5/05/ PR., Dated, Bhubaneswar, the 25/2/06), the subject of which was ‘**Execution of works under NREGA through Village Labour Leader (VLL)**’. In the first Para itself he says, “Now that, the National Rural Employment Guarantee Act, 2005 has become operational w.e.f. 2.2.2006 and the State Government **has not notified the final Orissa Rural Employment Guarantee Scheme (OREGS)**, the Annual Action Plan or Perspective Plan for SGRY/NFFWP being implemented during the current year shall be deemed to be the Action Plan for the Scheme as provided U/S - 4 of this Act. Since the projects are to be executed with the intention of providing guaranteed employment to registered job seekers within the legal time frame, the Government hereby reiterate that **the procedure of execution of these projects will continue through the VLL** with necessary modifications .. “. Thus it is clear that since the OREGS had not come into force then, the provision of VLL was envisaged to continue in the context of NREGA works too just as it prevailed during SGRY/NFFWP days. But once the OREGS is notified, there exists no need to continue the old system, since NREGA as such doesn’t provide for such a functionary to be appointed at all. In fact, the chapter on definition i.e. Section 2 of OREGS also has not taken any cognizance of the character called VLL. But strangely enough, all of a sudden, and without any rhyme or reason, the OREGS in its Section 17(2) brings in the word ‘VLL’ in an altogether different connection. There it is mentioned, “Wages of skilled labourers and semiskilled and **village level leaders (VLL)** should be included in the ‘material costs’.” Strictly speaking, a legal document like OREGS shouldn’t have made a casual mention of the word ‘VLL’ in the manner it does, if the said word was not defined in the Section 2. This injunction is all the more

significant in view of the fact that the character called 'VLL' is now loaded with a lot of meaning and also surrounded with a lot of controversies.

It is suggested therefore to delete the word 'VLL' from Section 17(2) of OREGS to maintain its sanctity vis-à-vis parent Act.

B) Needless to reiterate here, 'Social Audit' is an important instrument in the hands of Palli Sabha/Gram Sabha to ensure transparency and accountability in the process of execution of NREGA works (vide Section 17 of the Act). A State Scheme made under the Act should have provided for a detail mechanism of how a Social Audit is to be conducted. But strangely enough, the OREGS, as if it bears an ingrained abhorrence for the word 'social audit' mentions reluctantly twice in course of Section 4. However, the Operational Guidelines brought out by the Central Government, which should serve as a model to the State Schemes devotes a full Chapter (Chapter 11) to the subject on social audit, explaining its critical significance for the whole Act and mapping out a concrete, step-by-step mechanism of how to hold it in a most effective manner. For all its lip-service paid to the Operational Guidelines [vide Section 2(d) of OREGS], the OREGS has conspicuously failed to do justice to the imperative of social audit as warranted under the Act and Guidelines.

It is therefore suggested that OREGS should incorporate by way of amendment detail provisions on the procedure of social audit as mentioned in the Chapter 11 of Operational Guidelines.

C) A State Scheme worth the name ought to provide for a fool-proof grievance redressal machinery at different levels to ensure an effective, time-bound and transparent manner of implementation of NREG Act. Accordingly, the **Section 19 of the Act** enjoins upon the State Government to put in place appropriate mechanism at Block and District levels for the purpose. But going through the OREGS one feels utterly disappointed in this respect. **At Section 5(a)(vi) of OREGS**, it is casually mentioned that one of the obligations of the Programme Officer at Block level is to 'respond to complaints'. The important questions such as 'whose complaint', 'how to register a complaint', 'time limit within which to dispose of a complaint' and moreover 'what a complainant shall do if his complaint is not timely or properly disposed of' etc. are simply left untreated. Again at **Section 29(3) of OREGS**, it is mentioned, "The District Programme Coordinators will maintain a complaint register according to the proforma given in Form B-11. They should also install a complaint box at a conspicuous place in their office and personally open it at once a week. The complaints received in such boxes should be entered into the complaint register & disposed of within 15 days of receipt". From a careful reading this provision it is clear that there is no provision of an acknowledgement receipt to be given to the complainant, since he is supposed to put his complaint in the box kept for the purpose. Secondly, what is the meaning of the DPC opening the complaint box personally, when the very nature of the complaint might be nuanced against his office? Thirdly, what is the remedy available to a complainant, if the DPC fails to address to his complaint timely or properly?

It is therefore imperative that the OREGS should by way of amendment incorporate detail procedure for registration and disposal of complaints and grievances of the members of public at different levels, such as Block, District and State along with the provision for an ombudsman system at district level in line with the suggestions put forth under Section 10.8 of Operational Guidelines.

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