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AFFIDAVIT OF THE STATE OF MADHYA PRADESH

**Supreme Court of India, 6 July 2000
Writ petition (civil) No. 319 of 1994**

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1. Affidavit of the State of Madhya Pradesh, July 2000

Source: Affidavit on behalf of State of Madhya Pradesh in Response to Order Dated 9 May 2000 of Honourable Supreme Court, Writ Petition (Civil) No. 319 of 1994, Supreme Court of India, 6 July 2000.

I H.N. Tiwari, aged 61 years, son of late Ramadhin Tiwari, Director (TW), Narmada Valley Development Authority, Govt. of Madhya Pradesh, Bhopal (M.P.) do hereby solemnly affirm and state as under:-

1. That, I am the Director (TW), Narmada Valley Development Authority, Govt. of Madhya Pradesh and have been appointed officer-in-charge in the case as such I am competent to swear this Affidavit.

2. That, this Hon'ble Court vide Order dated 9.5.2000 was pleased to pass following order:-
All the three State Governments (Gujarat, Madhya Pradesh and Maharashtra) are also directed to file Affidavits on or before 1st of July 2000 disclosing the latest status of Resettlement and Rehabilitation work for the existing as well as prospective oustees, likely to be affected by raising the height of the Dam.

3. Pursuant to aforesaid order of this Hon'ble Court, the State of Madhya Pradesh submits that the present effective height of the dam is at EL 85 mtrs. and the next rising height at the interval of 5 mtrs would be 90 mtrs. Since construction of hump of the size of 3 mtrs. over the present height of 85 mtrs. has been allowed vide order dated 7.5.99 of this Hon'ble Court bringing the effective height of the dam to EL 88 mtrs., the State of Madhya Pradesh, in response to aforesaid order dated 9.5.2000 of this Hon'ble Court, is setting out following further progress in respect of R&R of the PAFs to be affected at EL 85 mtrs., EL 90 mtrs., and at EL 95 mtrs.

4. With a view to arrange resettlement of the PAFs to be affected at aforesaid levels, detailed instructions to the field officers of the submergence area including Commissioner Indore Division, Indore and Collectors and Director(Field) were issued vide letter No. DIR(TW)/WP(C)/154/VC/NVDA/MP dated 20.5.2000 in respect of all the following aspects of resettlement of the PAFs.

(i) The land area identified by the Collectors by reduction of the grazing land area of the villages for the allotment to those PAFs who are losing more than 25% of their holding of the SSP be got examined by team of officials comprising officers of the Agriculture Department, Revenue Department, Irrigation Department, PHE Department to find out as to what development process are required and to prepare estimate therefor. The development process is to be taken by the Collector through the agency under them so that the work may not be held up for want of procedural delay and lack of co-ordination as it is a time bound programme. Besides, Collectors were asked to initiate removal of encroachment as per rules from those cultivators other than scheduled caste, scheduled tribes and small & marginal farmers for making the land available to the PAFs of SSP out of the land reported to have been encroached. Apart from this, in regard to certain land areas identified from forest land, Collectors were directed to send the proposal for obtaining clearance from Govt. of India, Ministry of Environment & Forest as per rules. Similarly, the Collectors were also instructed to expedite fixation of price, as per provisions in the R&R Policy of M.P. State and as per rules invogue, in respect of the land proposed to be acquired by purchase from prospective sellers.

(ii) Processing of all pending land acquisition cases and passing of awards, specially in the case of 6 villages which has already been processed and which has reached to the stage of passing of awards.

(iii) All the PAFs to be affected at EL 90 M and the next rising height of 95 m. and those allocated for resettlement in Gujarat be taken to Gujarat for selection of land. Efforts in this regard should be made to get selected the land by the PAFs as per their choice where their brethren PAFs have been allotted land and house plots.

(iv) In regard to those PAFs who are affected at EL 90 M. and 95 M. and have consented for resettlement in M.P., they as per entitlement, should be allotted house plots at the relocation sites as well as arrange payments of compensation, grant-in-aid, transportation charges etc. taking the principle of resettlement of PAFs as a village unit as far as practicable. Those PAFs who are entitled for land to land package should be shown lands out of the lands which have been identified for allotment to the PAFs for selection of land by them. The development process like, tractorisation, bunding, ripping, development of drainage system etc. may be carried out only after the PAFs select the land, It was also instructed (to the field officers) that the PAFs be very clearly intimated that the land being shown to them would be allotted to them only after due development process is carried out and the

land is made irrigable. Notices containing offer of the land with such specific provisions be issued to the PAFs who are entitled for land to land package; Notices may also contain to indicate option by the PAFs either for allotment of land or payment of compensation in cash.

(v) All the relocation sites being developed and/or established for the PAFs to be affected at EL 90 mtrs. and next rising height at EL 95 mtrs. be fully developed at the earliest. All civic amenities as mandated in NWDT Award and R&R Policy of the State of M.P. should invariably be created at the relocation sites. Here it may be mentioned that for the PAFs to be resettled in M.P., there exists requirement of establishing of 92 sites. And out of these, 18 sites have been fully developed, development in 23 sites are under progress, 18 sites are such where location has been determined and land identified but development work has not started, and 33 sites are such where location and land for the development are to be decided by the Task Force constituted for this purpose. The details showing civic amenities as mandated by the NWDT Award and these amenities provided at each site are given in the Statements enclosed and marked as Annexure MP-01.

5. The aforesaid aspects of resettlement of the balance PAFs to be affected at aforesaid levels are under process. Village wise status of the R&R of the PAFs to be affected at aforesaid levels and also resettlement status of those PAFs who are required to be resettled in M.P. are given in the enclosed Statements and marked as Annexure - MP-02 and MP-03. Its summary is given below :-

S. No.	Elevation Level	Total No. of PAFs affected	Allocated for R&R		Present status of R&R			Balance PAFs to be resettled		
			In Gujarat	In M.P.	Alloted land & House plots in Gujarat	Paid compensation in lieu of land or otherwise, Dead etc. In M.P.	Total	In Gujarat	In M.P.	Total
1	2	3	4	5	6	7	8	9	10	11
1.	At El 85 mtrs.	1077	974 (976)	103 (101)	796** (798)	91	887	178	10	188
2.	At El 90 mtrs.	2776	1962* (2053)	814* (723)	1363** (1365)	379 (377)**	1742	599	435	1034
3.	At El 95 mtrs.	5357	3318* (3409)	2038* (1948)	1575* (1592)	483 (466)**	2058	1743	1556	3299

Note:-

* 91 PAFs who have changed their option from R&R in Gujarat to Madhya Pradesh have been deleted from the number of PAFs allocated for R&R in Gujarat and added in to the figures of Madhya Pradesh.

** 2 PAFs to be affected at EL 85 mtrs. & EL 90 mtrs. and similarly 15 PAFs to be affected at EL 95 mtrs. thus totaling 17 PAFs who were earlier shown to have been allotted land & houseplots in Gujarat have actually been allotted houseplots & paid compensation as per their entitlement in Madhya Pradesh.

() Figures in parentheses were reported earlier.

(i) R&R Status of PAFs to be affected at EL 85 mtrs

Out of 188 balance PAFs to be resettled, 178 PAFs have consented for resettlement in Gujarat and 10 PAFs who have changed their option for resettlement from Gujarat to M.P. are required to be resettled in Gujarat and Madhya Pradesh respectively. Out of 178 PAFs to be resettled in Gujarat, 133 PAFs are such who are resisting their shifting under the influence of anti dam activists. They have already been given offer of land by the Govt. of Gujarat. 19 PAFs out of 178 PAFs have selected land in Gujarat; their pattas are awaited from Govt. of Gujarat. And the balance 26 PAFs of villages Sakarja and Jhandana have consented for resettlement in Gujarat and accordingly they are being taken for selection of land in Gujarat. As regards 10 PAFs of village Dharamrai who have changed their earlier option for settlement from Gujarat to M.P. are required to be allotted land in Madhya Pradesh in lieu of land acquired from them. They are being shown the land area in M.P.

(ii) R&R Status of PAFs to be affected at EL 90 mtrs

(a) Out of the 2776 PAFs to be affected at EL 90 mtrs. 2053 PAFs had earlier consented for resettlement in Gujarat and 723 PAFs in M.P. but 91 PAFs have changed their option for resettlement from Gujarat to M.P. Thus the final allocation for resettlement in Gujarat and M.P. comes to 1962 PAFs and 814 PAFs respectively.

(b) _ Out of the balance 435 PAFs to be resettled in M.P., 228 PAFs are required to be allotted land in lieu of land acquired from them, 20 PAFs are adult sons of the PAFs (losing more than 25% of the holding) and have no land recorded in their names in the Revenue record; they as per stipulations in NWDT Award and R&R Policy of M.P. are required to be allotted house plots and payment of grant-in-aid and financial assistance etc. Similarly, 132 PAFs are such who are not losing their homesteads though losing land less than 25% are entitled for payment of compensation only. Remaining 30 PAFs are entitled for house plots and compensation whereas 18 PAFs are entitled for house plots only. These PAFs belong to only those 6 villages, namely, Dehar, Jangarwa, Kothada, Sondul, Bhavati, Bijasen where Awards in land acquisition cases have not been passed for which all out efforts are being made; these land acquisition cases have reached to final stage of passing of awards. Once the Awards in these villages are passed they will be allotted house plots and compensation will be paid. Similarly, payment of rehabilitation grant and other financial assistance for purchase of productive assets (so that the PAFs may be established on some self employment avocation/non agricultural pursuits as provided in para 9.1 and 9.2 of the R&R Policy of M.P.), will also be released as soon as the PAFs shift to the site and start construction of their houses. It is feared that if aforesaid grants are paid to the oustees before they shift, they may possibly squander the grant and State Govt. may be required to pay again to establish them on some self employment venture. However, it is now being thought to make payment of these grants to the PAFs and keep it in the joint account in the Bank in the name of PAFs and the concerned Rehabilitation officer so as to release the grants as soon as the PAFs start construction of house at the relocation sites.

(c) For the PAFs to be resettled in M.P. there exists requirement of development of 10 relocation sites, namely, Dharamrai, Kikarwas, Chandankhedi, Bhavati-I & Bhavati-II, Bijasen, Nisarpur, Sondul, Dehar and Jangarwa. Out of these, first five have been fully developed-but, except at Chandankhedi where few PAFs have started construction of their houses, PAFs of other Relocation Sites are yet to shift and start construction of their houses. Here it may be mentioned that as per provision in R&R Policy of M.P. the PAFs are paid replacement cost of the house as compensation and those PAFs receiving less than, Rs.20,000 as compensation are paid the difference as subsidy, and PAFs are required to construct their houses from the compensation so paid to them.

Other three sites, namely Bijasen, Nisarpur (for village Kothada along with other villages) and Sondul are under development; only few civic amenities are to be provided. As regards, the remaining two sites, namely, Dehar and Jangarwa, construction of civic amenities at former will start soon after the formalities in respect of invited tenders are complete, and the land for latter is procured.

Details of civic amenities provided against as mandated in the NWDT Award at these sites alongwith other sites and the site plans as approved by the Town & Country Planning are enclosed and marked as Annexure-MP-01 & MP-04 respectively.

(d) As regards balance 599 PAFs to be resettled in Gujarat, 114 PAFs have selected land in Gujarat though their 'Pattas' are awaited from Govt. of Gujarat, and 163 PAFs are resisting their shifting under the influence of anti-dam activists though they have been given notices containing offer of the land & houseplots by Govt. of Gujarat. Remaining 322 PAFs who were earlier resisting have been persuaded and arrangement for selection of land in Gujarat has already been initiated,

(iii) R&R status of PAFs to be affected at EL 95 mtrs

(a) Taking into account those 91 PAFs who have changed their option for R&R from Gujarat to M.P., out of the 5357 PAFs to be affected at EL95 mlrs., 3318 PAFs are to be resettled in Gujarat and 2039 PAFs in Madhya Pradesh.

(b) Out of the balance 1556 PAFs to be resettled in Madhya Pradesh, the entitlement of the various categories of the PAFs in accordance with stipulations in NWDT Award & R&R Policy of Madhya Pradesh, is as below:-

Sl. No.	Entitlement	No. of PAFs
1	Entitled for culturable land, compensation and House plot	755
2	Entitled for house plot only being Adult sons and neither losing land & house plots nor recorded in their name in Revenue Record.	399
3	Entitled for compensation for land only as losing less than 25% of holding and homestead not affected.	268
4	Entitled for compensation for homestead and House plots as belonging to Landless Agricultural labourers and other Land less labourers.	134
	Total	1556

(c) The PAFs those losing more than 25% of their holding and are required to be allotted culturable land were given notices containing offer of the land from some of the parcels of the land identified by the Collectors by reduction of grazing land area of the villages from 5 to 2% and also other lands identified and as mentioned in the Affidavit submitted in the Supreme Court on 11.4.2000. This notice also contained specific intimation to the PAFs that the land in question will be brought under due development process and will be made irrigable and if selected by the PAFs then only the development process will be taken up and thereafter the land would be allotted. It also contained a request to the PAFs to indicate their preference either for allotment of land or payment of compensation in cash in lieu of land to land package in accordance with the provisions in para 5.1 of R&R Policy of Madhya Pradesh. But the PAFs after seeing the land have indicated that the land shown to them is hilly, stony and some parcels of the land have been encroached upon and as such they have ! rejected all the land shown to them. A copy of the notices given to the PAFs and proceedings regarding rejection of the land are enclosed herewith as Annexure MP-05 and MP-06. Under the situation the PAFs are being shown other parcels of land out of the already identified land.

(d) As regards payment of compensation to the PAFs for the land acquired from them and the submerging home steads, the same has not been paid to only those PAFs belonging to these villages where Awards in land acquisition cases has not been passed or the cases have not been processed. Out of 70 villages to be affected at EL 95 mtrs. one village is such where only Govt. land is being submerged and no land acquisition case is required to be processed. Awards have been passed in 44 villages and process of land acquisition in 20 villages is at various stages. In the remaining five villages, the Narmada Bachao Andolan, the petitioner, is not allowing to conduct survey for the demarcation of submergence area and identification of PAFs to be affected at EL 132.86 mtrs. (436 feet). And therefore, process of land acquisition cases in such villages is still to be initiated. Here it may be mentioned that the Narmada Bachao Andolan is not allowing to conduct surveys in such 30 villages and therefore the processing of land acquisition cases in these villages is stand still. The issue pertaining to such survey in village Kadmal was raised by the petitioner during tour of the Chairman, Grievance Redressal Authority, (GRA), MP on 14.6.2000 but despite instructions of the Chairman, GRA M.P. the survey work was not allowed to be conducted. Reports of Director(Field) and other field officers in this regard are enclosed as Annexure MP-07 & MP-8.

(e) For the PAFs to be affected at EL 95 mtrs., the State of MP is required to develop 25 relocation sites. Out of these 25 relocation sites 6 sites are fully developed and creation of civic amenities are under progress in 7 sites. Where formalities regarding acceptance of tenders, possession of acquired land are in progress in 5 sites and identification of land for other 6 sites by the Task Force has been initiated. In the remaining one site, namely, Kadmal, the anti dam activists are not allowing to take up development of this site. As and when the house sites are developed and established the PAFs are being allotted house plots.

(f) As regards 1743 PAFs remaining to be resettled in Gujarat, 137 PAFs have selected land in Gujarat though the 'Patta' is awaited. 163 PAFs are under influence of anti dam activist and are not agreed to shift from the submergence area. Process to get selected land in Gujarat by the remaining 1443 PAPs has already been initiated. Here it may be mentioned that 249 PAFs of villages of Alirajpur tehsil namely, Kukdia, Roligaon, Mahalgaon and Kakrana to be affected at various levels, were taken to Gujarat for selection of land. And, similarly, the 18 PAFs of villages of Barwani tehsil to be affected at EL 90 and 95 mtrs. and 25 PAFs of villages of Kukshi tehsil, namely, Rekti, Retwa and Kadmal to be affected at 95 mtrs. were taken to Gujarat for selection 'of land but the officials of Govt. of Gujarat refused showing of land as well as allotment of land to these PAFs:-

(g) The PAFs are not being affected at the present height of the dam i.e. 85 mtrs. and with humps at 90 mtrs. Here it may be mentioned that the PAFs have desired to be resettled alongwith their brethren PAFs who have already been allotted house plot and land in Gujarat. Thus such refusal is not inconsonance with the decision taken by the NCA and its R&R Sub-group in its various meetings that 'PAFs will be resettled as a community/village unit as far as possible taking physical constraints into consideration'. The Govt. of Gujarat has confirmed before the Hon'ble Supreme Court that adequate culturable land is available for allotment to PAFs to be affected at EL 455 feet and 138.68 mtrs. and, that (ii) the relocation site established for, have additional capacity to absorb additional PAFs to be affected at higher elevation beyond 90 mtrs. But despite this congenial atmosphere existing such a refusal by Govt. of Gujarat is against their own stand and assurances. Here it may also be mentioned that in the submergence area there exists strong forces of anti-dam activists and pursuation efforts to get the PAFs to agree for resettlement either in Gujarat or in M.P. is a difficult task. Despite this atmosphere, the State of M.P. is getting to agree many PAFs for the resettlement but the aforesaid process of R&R of Gujarat is not only thwarting the pursuation efforts but consequently giving chance to anti dam activists to say that the efforts of M.P. are a farce and ridiculous. This state of affairs has been brought to the notice of NCA and a copy of the correspondance in this regard is enclosed herewith and marked as Annexure MP-09.

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