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**GRIEVANCES REDRESSAL AUTHORITY, M.P.
(NARMADA COMPLEX PROJECTS)**
'B' Wing, 2nd Floor, Narmada Bhawan, 59, Arera Hills, Bhopal, 462011

CASE NO. __ OF 2005

ORDER

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Ravindra Sharma
Chairman

Date 15.6.05

The Status Report in compliance of the Order of Hon'ble Court of M.P. passed on 18.5.2005 in Writ Petition No. 3022/2005

This Status Report in compliance of the order of Hon'ble High Court of M.P passed on 18.05.2005 in Writ Petition No. 3022/2005.

It would be relevant to provide some basic facts/ details about the Indira Sagar Project prior to giving factual position in respect of the points raised in the impugned order of the Hon'ble High Court.

Project – an Introduction

Indira Sagar Project is the most important project of the Narmada Complex and is the mother dam for all the downstream Projects, including the Sardar Sarovar dam, which is an interstatal Project. The Indira Sagar Project (hereinafter referred to as ISP) is located approximately 65 kms. away from Khandwa and 200 kms. from Bhopal. The foundation stone of the project was laid on 23rd October 1984 by the then Prime Minister Late Indira Gandhi and actual work on the project started in the month of November 1987.

Due to budgetary constraints the work on the project could pick up only in 1992 and lingered on a slow pace till 16th May 2000 when a Memorandum of Understanding was signed between Government of M.P. and National Hydro Power Corporation and a new joint venture namely Narmada Hydro Power Corporation came into existence with an equity share of 49% of GOMP and 51% of NHDC. The MoU covers the construction of the Dam and Power House (inclusive of Rehabilitation and Resettlement work) but excluding the construction of the canals which is the responsibility of the Govt. of M.P.

The total land coming under submergence in ISP is 91,348 hectares out of which 40,332 is forest land, 44,345 private land and 6,671 government land. Villages affected by the Project are 249 out of which some will be fully submerged and some partially affected. The project affected families are 30,739 with a population of 80,572. The Project would irrigate 1,22,757 hectares of land and would generate 1000 MW of power. 76 villages of Khandwa and 488 villages of Khargone district will receive irrigation benefits with an area of 18,979 hectares and 1,03,778 hectares respectively. The Project cost (on 1994 price) is estimated to be Rs. 3496.79 crores. The reservoir area is 913.48 sq. kms.

The crest level of the dam is 243.13 metres with gates height of 17 metres thus achieving the slated height of 262.13 metres. 20 gates have been installed and the reservoir would be likely to achieve the Full Reservoir Level towards the end of the forthcoming monsoon.

The Hon'ble High Court has directed the Grievance Redressal Authority to verify, examine and give a report in regard to R&R position of 91 villages given in the State Government Notification dated 31.12.2004 in regard to the following matters:

- (a) Whether the villagers (oustees) of the 91 villages have been provided reliefs as per the guidelines of the NWDTA, that is land for land, ie. 2 hectares of land for every oustee whose land in excess of 75% of the holdings has submerged and house-sites.
- (b) Whether compensation has been disbursed.
- (c) Whether there are any shortfalls in the R&R work.

The Honorable High Court has also directed to give the particulars of extent of compliance and point out whether the non-compliance, if any, is on account of non-cooperation of the oustees themselves.

In the context of the aforementioned order passed in the Writ Petition No. 3022/2005, this Authority had discussions from time to time, with the petitioners and so also with the respondents, Narmada Hydro-Development Corporation Limited and the Narmada Valley Development Authority, represented by their Senior Officials. An extensive but random field visit was also undertaken by this Authority, covering approximately 40 villages out of 91, notified by the State Government in its notification of 31st December 2004 in the State Gazette. We, also had discussions with the villagers, listened to their points of view, suggestions and the relief that they pray to have from the Hon'ble High Court.

Dealing with the directions of the Hon'ble High Court made in the impugned order, the point-wise position has been elaborated in the following paragraphs.

There has been a dispute between the petitioners and the respondents regarding the applicability of the Narmada Waters Disputes Tribunal Award to Indira Sagar Project. We, however feel that this should not be a disputed position as the MOU signed between the State Government and the Narmada Hydro-Electric Development Corporation dated 16.05.2000 also contains clause VI(a) underlining the applicability of the Narmada Water Disputes Tribunal Award and the Notification of the Ministry of Water Resources, Government of India dated 3rd June 1987 also confirms this position (Page 112-114 of the Petition)

(a) Provision of land for land as incorporated in the State Government's policy is reproduced below: -

A close examination of the provisions reveals that it is not binding on the State Government to provide land for land. It only emphasizes that the State Government shall as far as possible allot land for land to the extent mentioned in the provision. The Respondents in the said petition have clarified that they have a Land Bank of 1000 hectares for meeting such demand.

Prior to raising this issue before the Honble High Court we have noticed that no application has been made to the Grievances Redressal Authority in respect of the Indira Sagar Project and the position is perhaps similar so far as the Project authorities are concerned. It is pertinent to mention that the R&R policy of the State Government is of the year 1992 and is widely circulated in the submergence area and is widely known also. Raising this issue at this belated stage of the Project and land acquisition leaves one to draw one's own conclusion. However this does not prevent the oustees to make such a request and the State Government is expected to accommodate their request as far as possible. We, however feel that the oustees wish to have compensation generally and would like to purchase cultivable land at a place of their choice.

(b) Disbursement of Compensation

We have noticed large-scale disbursement of compensation is in progress. However the procedure adopted for disbursement leaves a certain time gap between the issuance of the cheques in respect of compensation determined and its actual receipt by the oustees. The Narmada Hydro-Electric Development Corporation authorities issue cheques to the Bank concerned for crediting the compensation amount in the account of an oustee and the latter withdraws this amount as per his/her convenience. It is noticed that sometimes the gap between the issuance of the cheques and actual receipt of the amount by the Project affected Person is approximately fifteen days and in some cases, even more.

The delay in payment is also attributable to the fact that at one stage the project authorities had run out of funds as the ceiling fixed for R&R works had already been achieved. As a result the compensation disbursement got delayed by about a month or so till the issue was resolved and an additional amount of Rs. 150 crores was released by the State Government to make payment to the oustees. This delay was further compounded by the Circular of the Income Tax Department directing the project oustees to deduct tax, at source, relating to the payment of compensation made to an oustee in respect of house site and Abadi Plots, where the total amount exceeded Rupees One Lakh by way of compensation. Since these instructions were issued in the month of October/November 2004, it has given rise to resentment and anguish amongst the PAFs.

Though the Narmada Hydroelectric Development Corporation, in the information provided to us (Annexure I and II) has indicated that payments have been sanctioned/made our filed visits provided a slightly different picture. In quite a few number of villages out of the said 91 villages the payments have been made in the last week of May and the first week of June 2005 and the process is still on. They have also made large-scale representation to us in this regard. The contention of the oustees is that they are still in the process of receiving the compensation and the monsoon is hardly a fortnight away and it would be real hardship for them to dismantle their dwellings and shift to another place of their choice. They further contend that the construction of a new house on the new site would be possible only after monsoon. The contentions of the PAFs have some force as the delayed payments leave very little time for them to shift when monsoon is so close and they place reliance on rulings given by the Hon'ble Supreme Court in WPC 1290/ 1990 B.D. Sharma vs. Union of India, WPC 319 of 1994 Narmada Bachao Andolan V/s Union of India, WPC 328 of 2002, Narmada Bachao Andolan and the Union of India and others and also the observation made by the Hon'ble High Court of M.P. in WP 3436 of 2001, Jai Singh and others V/s the State of M.P and others.

Overall assessment and aspects requiring consideration

As mentioned earlier, in this report, we noticed with a few exception out of the 91 villages, the oustees have not yet physically moved out and only a few have dismantled their dwellings. In such a situation, the State Government and so, also the Narmada Hydro-electric Development Corporation is expected to pay adequate attention to the safety of life and property of the villagers coming under submergence. There is no doubt that the State is facing power shortage and consequentially would like to avail of the power generated at Indira Sagar Project. It is in this context that the two sides of people's safety and power generation have to be balanced. Annexure IV indicates the power generation last year and the target of generation decided by Narmada Hydro-Electric Development Corporation in the year 2005-06.

At the reservoir height of 245 meters, which was achieved last year, the power generation started with probably six turbines in place. Now all the eight turbines of 125 MW each have been installed and are operational. If the Full Reservoir Level of 262.13 meters, with the closure of the gates is not achieved, there would be power shortfall in the power generation. We had a discussion with Shri V.K.Jain, Executive Director Technical and Shri R.P. Pathak, Chief Engineer (Power Engineering), Narmada Hydroelectric Corporation who gave us to understand that the existing level of 243 meters of reservoir (short by 2 meters due to summer depletion) is being brought down to 238 meters for clearing the mud clogging at the canal gates. This would evidently take quite some time and require plenty of rainfall before the crest level of 245 meters is achieved, which was the level before last year's monsoon. Last year it was noticed that at the reservoir level of 245 meters the afflux and back water level was at 252 meters affecting a few villages out of the 91 villages, getting affected between 245 and 262.13 meters.

During our visit to the affected villages another revealing situation came to our notice that the survey levels have not been properly taken and a few more villages (other than 91 villages) may also get affected at the Full Reservoir Level. Also in some villages where partial acquisition of houses has been done, the resurvey may necessitate acquisition of remaining houses as well since water spread may result in island formation, with no access to the outside world. This exercise may take some time as the process of land acquisition will have to be followed. It has also come to our notice that the Back Water Level effects have not been worked out properly and in absence of this some areas may get affected during the monsoon depending on its severity.

In the background of this scenario, we had discussions with the officials of the Narmada Hydroelectric Development Corporation, names mentioned earlier, and also with Shri J.P. Sharma, General Manager (R&R) Narmada Hydroelectric Development Corporation. With the last year's experience regarding submergence it would be in

the fitness of things that the gates are so operated that above 245 meters, the height should be raised by one meter and the back water effect should be noticed and after every metre this exercise should be repeated and at any point of time when it is noticed that the villages, not vacated so far are likely to be affected the further height of the dam should be restricted by gate operation. This would in the given situation ensure safety of the villages and would allow the power generation also to a substantial extent. The Narmada Hydroelectric Development Corporation authorities also appeared to be agreeable to this suggestion particularly in the view of the fact that this would be the first year when reservoir will go above the crest level and this kind of gate operation will also ensure the safety of the banks of the dam and will cause least jeopardy to the villagers. It is, also hoped that the villagers who have been paid their entire compensation and those willing to move out should not be dissuaded from doing so.

The Hon'ble High Court had also, hoped in its impugned order that the respondents in the Petition would desist from resorting to coercive measures during the pendency of the petition. On the Petitioner's request, this Authority also drew attention of the concerned officials through a letter to ensure compliance of the Hon'ble High Court's Order. (Annexure V)

In the end we submit that in the background of this report the Hon'ble High Court may like to hear the parties concerned.

Signed and submitted on this 15th day of June 2005.

S.P. Dangwal
Member
Grievances Redressal Authority
(Indira Sagar and Omkareshwar Projects)

Ravindra Sharma
Chairman
Grievances Redressal Authority
(Indira Sagar and Omkareshwar Projects)

Tel : 0755-2555398, Fax : 0755-2677537

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