



International Environmental  
Law Research Centre

**NARMADA BACHAO ANDOLAN (PETITIONER)**  
**VS.**  
**UNION OF INDIA AND ORS. (RESPONDENTS)**

**Supreme Court of India, Record of Proceedings,  
I.A. NOS.18-22 in writ petition (civil) No.328 of 2002**

**CASE NO. 328 OF 2002**

**ORDER OF 17 APRIL 2006**

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*Narmada Bachao Andolan (Petitioner)*

vs.

*Union of India and Ors. (Respondents)*

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**CORAM:**

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE S.B. SINHA

## **ORDER**

These applications have been filed complaining about the relief and rehabilitation measures to be provided to the project affected families in terms of the Award made by the Narmada Water Disputes Tribunal and the judgements of this Court reported in 2000 (10) S.C.C.664, 2005 (4) S.C.C.32 and other orders passed by this Court from time to time. In terms of the Award and decisions of this Court, the further raising of the height of the Dam has to be only pari passu with the implementation of the relief and rehabilitation measures and on clearance by the Relief and Rehabilitation Sub-group. The Relief and Rehabilitation Sub-group is required to give clearance for further construction after consulting the Grievance Redressal Authority. When the judgement was pronounced by this Court in the year 2000, the height of the Dam was 90 meters. Subsequently, it has been increased from 90 meters to 95 meters, from 95 meters to 100 meters and from 100 meters to 110 meters. The challenge to the relief and rehabilitation measures that had been provided when the heights were earlier raised, led to the judgement reported in 2005 (4) S.C.C.32.

There is no manner of doubt that all relief and rehabilitation measures have to be provided to the oustees in letter and spirit of the Award and decisions of this Court. The State Governments have seriously disputed the applicant's assertion that the relief and rehabilitation measures have not been provided in terms of the Award and the judgements of this Court. According to the State of Madhya Pradesh, well before issue of notice to the oustees, the said measures had been provided for. Narmada Control Authority, on 8th March, 2006, accorded permission for raising the height of the Dam from 110 meters to 121.92 meters. The work of raising the height is in progress. An application has also been filed by the Union of India referring to the visit by a Group of Ministers to the site and brief note of the assessment of the said Group of Ministers has been placed on record. According to the said application, the matter requires examination. Prayer in that application is to permit the Central Government to establish a suitable mechanism to undertake a review of the measures taken so far by the State of Madhya Pradesh and ensure rehabilitation of all project affected families in the State of Madhya Pradesh to be completed within a period of about three months. The period of three months has been sought for in the application as according to the learned Additional Solicitor General, the villages as a result of the increase of the height of the Dam are expected to be submerged in water on the onslaught of monsoon towards the end of August, 2006. This application has been presented in court today. The State of Madhya Pradesh disputes the note prepared by the Group of Ministers.

We have also been informed that in the Review Committee, there was a sharp, rather equal division among the members. We have heard for some time the learned counsel appearing for either side. We have also appealed to them that the matter deserves to be examined in a fair and reasonable manner in a cool and calm atmosphere and not in the charged emotive atmosphere. We hope that they will be able to persuade the concerned stake holders about this requirement as creation of cool and calm atmosphere will facilitate the early disposal of the matter.

Having heard the learned counsel, we feel that before we consider in depth the prayer strenuously made today for stopping the on-going work, it is necessary to give opportunities to the State Governments and others to file

replies to all the applications having regard also to the fact that as of today, we have on record the permission granted on 8th March, 2006, and at the same time, the matter does not brook any delay lest it may become fait accompli. It has been made clear to the State Governments that if the relief and rehabilitation to the unfortunate oustees are not granted in letter and spirit, this Court will have no option but to stop the on-going construction. Under these circumstances, we direct that replies by all concerned shall be filed within a period of one week. Rejoinder affidavit thereto can be filed within one week thereafter. The matter shall be listed on 1st May, 2006.

We clarify that pendency of these matters would not preclude the Union of India to take permissible steps and initiative with a view to resolve the controversy in accordance with the judgements, above-referred. Mr. Gopal Subramaniam, learned Additional Solicitor General, states that a reference has been made by the Review Committee to the Prime Minister. We take this fact on record.

[ T.I. Rajput ] [ Vijay Lakshmi ]

A.R.-cum-P.S. Court Master

**For Petitioner(s)**

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Mr. Sumeet Sharma, Adv.

**For Respondent(s)**

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**For Gujarat:**

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**For Union of India:**

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