



International Environmental  
Law Research Centre

# CONSTITUTION OF THE NARMADA CONTROL AUTHORITY

**Ministry of Irrigation Notification, 10 September 1980 (as amended)**

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S.O. 770(E)- Whereas the Central Government had constituted by a notification of the Government of India in the Ministry of Irrigation and Power S.O. No. 4054, dated 6 October 1969, issued under Section 4 of the Inter-State Water Dispute Act, 1956 (33 of 1956), the Narmada Water Disputes Tribunal to adjudicate upon the water dispute regarding the inter-State river Narmada and the river valley thereof;

And whereas the said Tribunal investigated the matters referred to it and forwarded to the Central Government under sub section (2) of section 5 of the said Act, a report setting out the facts as found by it and giving its decision on the matters referred to it;

And whereas upon consideration of the said decision the Central Government and the Governments of the States of Gujarat, Madhya Pradesh, Maharashtra and Rajasthan made references to the said Tribunal under sub-section (3) of section 5 of the said Act and the Tribunal, on such references, forwarded to the Central Government under that sub-section a further report;

And whereas the decision of the said Tribunal as modified by the explanation and guidance given in its further report was published in the Official Gazette by the Central Government as required by the section 6 of the said Act, vide notification of the Government of India in the Ministry of Agriculture & Irrigation (Department of Irrigation) No. S.O. 792(E) dated the 12 December 1979, whereupon the decision became final and binding on the partners to the dispute;

And whereas the decision of the said Tribunal provides for the setting up of the machinery, namely, Narmada Control Authority and a Review Committee for implementing its decisions and directions;

Now, therefore, in exercise of the powers conferred by Section 6-A of the said Act, the Central Government hereby frames the scheme, inter alia constituting the Narmada Control Authority (hereinafter referred as the Authority) and the Review Committee to give effect to the decision of the Narmada Water Dispute Tribunal, namely:

1(1) This scheme may be called the Narmada Water (Amendment) Scheme, 1990.

1(2) It shall come into force on the date of its publication in the Official Gazette.

## **I. NARMADA CONTROL AUTHORITY**

## **2. STATUS AND CONSTITUTION OF THE AUTHORITY**

(1) The Narmada Control Authority shall be a body corporate having perpetual succession and a common seal and shall sue and be sued.

(2)(a) The Authority shall consist of the following members namely:

- i) Secretary to the Government of India Ministry of Water Resources (Chairman)
- ii) Secretary to the Government of India, Ministry of Energy, Department of Power (Member)
- iii) Secretary to the Government of India, Ministry of Environment & Forests (Member)
- iv) Secretary to the Government of India, Ministry of social Justice and Empowerment (Member)
- iv(a) Secretary to the Government of India, Ministry of Tribal Affairs (Member)
- v) Chief Secretary to the Government of Gujarat (Member)
- vi) Chief Secretary to the Government of Madhya Pradesh (Member)
- vii) Chief Secretary to the Government of Maharashtra (Member)
- viii) Chief Secretary to the Government of Rajasthan (Member)

- ix) to xi) Three persons not below the rank of Chief Engineer to be appointed to by the Central Government as independent members one of whom shall be designated as the executive member of the Authority (Member)
- xi(a) One person not below the rank of a Joint Secretary to the Government of India or an Additional Secretary in a State Government having experience in the fields of Environment & Rehabilitation of displaced persons, to be appointed by the Central Governments as independent member (Member)
- xii) to xv) Four persons of the rank of Engineer-in-Chief, Chief Engineer in charge of the Irrigation Department or the Power Department or the State Electricity Board, one each to be appointed by the State Governments of Gujarat, Madhya Pradesh, Maharashtra and Rajasthan (Member).

(b) The executive member will be in-charge of the administrative work of the Authority under the general supervision and control of the Chairman. The Central Government, or as the case may be, the State Government shall have the power to remove or suspend any of the members appointed under clauses (ix) to (xv) if in its opinion he is not suitable to continue as a member.

(c) [omitted]

(d) The Secretaries to the Government of India or the Chief Secretaries to the State Governments when unable to attend the meetings of the Authority may send their representative not below the rank of Joint Secretary in the Government of India or as the case may be a Secretary in the State.

(3) Each independent member shall be a full time member and be appointed for a term not exceeding five years. The members appointed by the State Governments shall be part-time members. The appointing authority for independent member or that for part time member, as the case may be, shall determine the terms and conditions of appointment in each case.

(4) On any vacancy occurring in the offices of the three independent members, the Central Government shall appoint a person to such vacant office and on any vacancy occurring in the office of the four members other than the independent members, the State Government by whom the member whose office falls vacant was appointed shall appoint a person to the vacant office.

Provided that in case of illness or absence for any cause whatever of a member, the Central Government or State Government by whom he was appointed, as the case may be, may appoint a person as an acting member during such illness or absence and such acting member shall, while so acting, have all the powers and perform all the duties & be entitled to the indemnities of the member, in whose stead he so acts.

(5) [omitted]

### **3. SECRETARY OF THE AUTHORITY**

The Authority shall employ a secretary, who shall be an engineer. He shall not be a member of the Authority.

### **4. QUORUM AND VOTING**

The quorum to constitute a meeting of the Authority (other than routine business) shall be 8 members. Of these at least one member each from any 3 of the 4 participating States shall be present. No decision affecting a State's interest shall, however, be taken without the presence of at least one member of that State Government being present in the meeting. The quorum for transaction of routine business shall be five members. Every question, except a routine business, brought before any meeting of the Authority shall be decided by a majority of members present and voting at the meeting before which the matter is brought. The Authority shall not prescribe as routine any business in which decisions are to be taken on any matter affecting the interest of more than one State. In the absence of the chairman, the member elected at the meeting shall preside over the meeting. In the case of equality of votes the chairman or member presiding over the meeting shall have a second or casting vote. Save as aforesaid the members shall have equal powers.

## **5. DISPOSAL OF BUSINESS BY THE AUTHORITY**

(1) Subject to the provisions of sub-paragraph (2), the Authority may dispose of any matter before it either by circulation or by holding a meeting. However, it will be open to any member of the Authority to require that a matter shall not be disposed of by circulation but at a meeting.

(2) On the following matters, the Authority shall record its decision by a Resolution at a meeting in which the Chairman and all the members from the party States are present.

- i) Framing of Rules of Business;
- ii) Delegation of functions to a member or Secretary or any official of the Authority;
- iii) Categorising any part of the business of the Authority as of a formal or routine nature;
- iv) Any other matter which any of the four party states require that it shall be decided at a meeting where all the members from the party states are present;

Provided that, if any particular item cannot be disposed of at two successive meetings owing to the absence of one or more members from the party States, it shall be disposed of as provided in paragraph 4.

(3) Subject to the foregoing provisions, the Authority shall frame its own rules for the conduct of its business.

(4) The Authority shall cause proper minutes or records of all its proceedings to be kept as permanent record.

(5) Where the Secretary to the Government of India, Ministry of Environment & Forests, is of the opinion that any decision of the Authority is inconsistent with the needs of environmental protection, the matter shall be reserved for the decision of the Review Committee.

## **6. INDEMNITY OF MEMBERS**

No member, officer or employee of the Authority shall be liable for loss, injury or damages resulting from (a) action taken by such member, officer or employee in good faith and without malice under the apparent authority of the orders, even though such action is later determined to be unauthorised or (b) the negligent or wrongful act of omission of any other person, employed by the Authority and serving under such member, officer or employee unless such member, officer or employee failed to exercise due care in the appointment of such other person or the supervision of his work.

## **7. OFFICERS AND SERVANTS OF THE AUTHORITY**

The Authority may from time to time appoint or employ such and so many officers and employees as it thinks fit and remove or dismiss them, under the rules & regulations applicable to the appointment, removal and dismissal of the Central Government officers and employees. All such officers and employees shall be subject to the sole control of the Authority. The Authority may, with the previous approval of the Central Government, make regulations to regulate conditions of service of all such officers and employees in respect of residential accommodation, house rent allowance, travelling allowance, daily allowance, conveyance allowance and medical reimbursement. The scales of pay and other service conditions shall be as applicable to Central Government employees.

Persons employed in the services of the four states may be appointed or employed by the Authority in such proportions as the Authority may deem fit. The Authority shall arrange with the state governments to spare the services of the persons employed in state governments for whole-time employment with the Authority, or for the performance of any work or services for the Authority. The Authority may also make direct recruitment of any personnel or obtain the same from the Centre or other source as considered appropriate.

## **8. ADMINISTRATIVE AND FIELD ORGANISATION COSTS**

(1) All expenses of the Authority (including the salary and expenses of the independent members) shall be borne by the State Governments of Madhya Pradesh, Gujarat, Maharashtra and Rajasthan in equal shares. The expenses pertaining to a member representing a State shall be borne by the State concerned. The expenses pertaining to the members representing the Central Government shall be borne by the Government. The cost of maintaining, operating and controlling the gauging and other hydrological stations in each State and the communication system for communicating the data shall be borne by the State concerned.

(2) The costs of construction of the storages, power installations, diversion works, headworks and canal networks shall be borne wholly by the State Government in whose territory the work is located except for works whose cost has been ordered by the Tribunal to be shared between two or more party States. Where the capital cost is thus shared, the operation and maintenance cost shall also be shared in the same proportion.

## **9. POWERS, FUNCTIONS, AND DUTIES OF THE AUTHORITY**

(1) The role of the Authority will mainly comprise of overall coordination and direction of the implementation of all the projects including the engineering works, the environmental protection measures and the rehabilitation programme and to ensure the faithful compliance of the terms and conditions stipulated by the Central Government at the time of clearance of the aforesaid projects.

2. The Authority shall be charged with the power and shall be under a duty to do any or all things necessary, sufficient and expedient for the implementation of the Order of the Tribunal with respect to:

- i) the storage, apportionment, regulation and control of the Narmada waters;
- ii) sharing of power benefits from Sardar Sarovar Project;
- iii) regulated releases by Madhya Pradesh;
- iv) acquisition by the concerned States for Sardar Sarovar project of lands and properties likely to be submerged under Sardar Sarovar;
- v) compensation and rehabilitation and settlement of oustees; and
- vi) sharing of costs.

(2)(a) The Authority may constitute one or more sub-committees and assign to them such of its function and delegate such of its powers as it think fit.

(3) In particular and without prejudice to the generality of the foregoing functions, the Authority shall perform inter alia, the following functions:

i) Madhya Pradesh or Gujarat as the case may be shall submit to the Authority the Sardar Sarovar Project Report, the Narmada Sagar Project Report, the Omkareshwar Project Report and the Maheshwar Project Report. The Authority shall point out to the States concerned, the Central Water Commission, the Central Electricity Authority and Planning Commission any features of these projects which may conflict with the implementation of the orders of the Tribunal. Any subsequent changes in the salient features or substantial increase in cost in respect of dams, power houses and canal headworks shall be reported to the Authority for taking appropriate action in the matter.

ii) The Authority shall decide the phasing and shall coordinate construction programmes of the Narmada Sagar Project and Sardar Sarovar Unit-II (canals) with a view to obtaining expeditiously optimum benefits during and after the completion of the construction of the projects having due regard to the availability of funds.

iii) The Authority shall obtain from the concerned States periodical progress reports both as to works and expenditure and shall on receipt of such reports review the progress of construction of different units of the projects and whenever necessary advise the State concerned on the steps to be taken to expedite the work, except in respect of

Unit-I (dam and appurtenant works) and Unit-III (power complex of Sardar Sarovar Project). The States shall submit completion reports to the Authority in respect of projects referred to in sub-paragraph (3) (i).

iv) The Authority shall issue appropriate directions whenever necessary for timely and full compliance by the concerned States within the orders of the Tribunal in the matter of acquisition for and making available to Gujarat lands and properties likely to be submerged under the Sardar Sarovar Project and in the matter of compensation and rehabilitation of oustees thereunder.

v) The Authority shall cause to be established, maintained and operated by the State Governments concerned or any one or more to them, such stream and other gauging stations, equipped with automatic recorders, where necessary, discharge, silt and evaporation observation stations and measuring devices as may be necessary from time to time for securing the records required for carrying out the provisions of the orders of the Tribunal. If deemed necessary, the Authority may require the installation, maintenance and operation by the State concerned of measuring devices of approved type at the head of main canals as also at the off take of the canal for Rajasthan for measuring amount of water diverted from Narmada River system.

vi) Concurrent records shall be kept of the flow of the Narmada at all stations considered necessary by the Authority and the records correlated.

vii) The Authority shall frame rules of regulation and water accounting as per guidelines given in Clause IX of the order of the Tribunal. It shall determine the share of water of each State for every ten-day period for purposes of regulation and water accounting.

viii) The Authority shall ensure implementation of the orders of the Tribunal in respect of (a) quantum and pattern of regulated releases by Madhya Pradesh; (b) Payment for such regulated releases and sharing of costs.

ix) The Authority shall collect from the State concerned data for the areas irrigated by Narmada waters in each season, of power generated at each hydro-electric power station at and downstream of Narmada Sagar, of withdrawals for domestic, municipal and industrial or any other purposes and of waters going down the river from Sardar Sarovar Project.

x) The Authority shall determine the volume of water flowing in the river Narmada and its tributaries in a water year (1 July of a year to the 30 June of the next year).

xi) The Authority shall determine from time to time the volume of water stored by each State in reservoirs and other storages and may for that purpose adopt any device or method.

xii) The Authority shall determine at appropriate periodic intervals the use of Narmada Water made by the states, or such of them as necessary, at any place or in any areas at any time and for that purpose it may take note of all diversions or obstructions, whether natural or artificial or partly natural and partly artificial from the river Narmada and its tributaries and measure such use by any method as it deems fit.

xiii) The Authority or any of its duly authorised representative shall have power to enter upon any land and property upon which any project or development of any project, or any work of gauging, evaporation or other hydrological station or measuring device has been or is being constructed, operated or maintained by any state for the use of Narmada water. Each state through its appropriate departments shall render all cooperation and assistance to the Authority and its authorised representatives in this behalf.

xiv) The Authority shall meet as often as necessary and decide on a proper management of waters including in particular the manner and details of withdrawals of waters from the storages on the Narmada River system in accordance with the orders of the Tribunal. In particular, the Authority shall meet at the end of the filling season, and review the availability of waters in the storages on the Narmada River system and decide upon the pattern of their regulation for the next irrigation season, taking into account the carry over storage.

xv) The Authority shall give directions for a phased programme of construction for generation and transmission of power in fulfillment of the shares of power allocated to the three States of Madhya Pradesh, Maharashtra and Gujarat from Sardar Sarovar and for payments therefore in accordance with the orders of the Tribunal. The Authority shall also ensure that generation and transmission of power from Sardar Sarovar complex are in accordance with the orders.

xvi) The Authority shall issue appropriate directions for establishment, and maintenance and operation of an effective system of flood forecasting and flood control including reporting of heavy precipitation and telecommunication systems. The safety of a structure shall primarily be the responsibility of the Chief Engineer in charge of the structure and no decision or order shall be binding on him if in his opinion the safety of the structure will be endangered thereby. The Authority shall publish annually and make available to party States the data regarding operation of reservoirs during floods.

(4) In the light of its experience, the Authority may modify or add to the functions enumerated in sub-paragraph (3) (i) to sub-paragraph 3(xvi) by a resolution.

(5) All the concerned States shall submit to the Authority all the relevant information called for by the Authority in connection with the Narmada Valley Development expeditiously.

## **10. ANNUAL REPORT OF THE AUTHORITY**

The Authority shall prepare and transmit to each of the four party States as early as possible and in any case before the end of the current Water Year (1 July of the year to the 30 June of the next year) an annual report covering the activities of the Authority for preceding year and to make available to the Central Government and to the government of each of the party states, on its request any information within its possession any time and always provide access to its records to the Central Government and to the government of each of the party states and their representatives. The Central Government shall cause the annual report to be laid before each house of the Parliament.

## **11. RECORDS OF THE AUTHORITY AND THEIR LOCATION**

The Authority shall keep a record of all meetings and proceedings, maintain regular accounts, and have a suitable office where documents, records, accounts and gauging data shall be kept open for inspection by the Central Government and the government of each of the party states or their representatives at such times and under such regulations as the Authority may determine.

The location of the central, regional and sub-regional offices of the Narmada Control Authority shall be determined by the Authority. The headquarters of the Authority shall be at New Delhi till such time as it decides on its permanent location.

## **12. CONTRACTS AND AGREEMENTS**

The Authority shall enter into such contracts and agreements as may be necessary and essential for the full and proper performance of the functions, and duties conferred or imposed on it.

## **13. FINANCIAL PROVISION**

(1) All the capital and revenue expenditure required to be incurred by the Authority shall be borne by the state governments of Madhya Pradesh, Gujarat, Maharashtra and Rajasthan equally. The Governments of the said States shall provide the necessary funds to the Authority to meet all capital and revenue expenditure required to be incurred by the Authority for the discharge of its functions. For this a fund to be called 'The Narmada Control Authority Fund' shall be constituted to which the sums paid by the States and other sums received by the Authority shall be credited.

(2) On the constitution of the Authority, the Governments of the States of Madhya Pradesh, Gujarat, Maharashtra and Rajasthan shall contribute each a sum of Rs 5,00,000 to the fund of the Authority in the first instance.

(3) The Authority shall in the month of September of each year prepare detailed estimate of the amounts of money required during the twelve months from the first day of April of the ensuing year, showing the manner in which it is proposed to spend such money. The Authority shall on or before the fifteenth of October forward a copy of such detailed estimate to the concerned Chief Secretaries of the four States and indicate the amount required to be contributed by each state for the ensuing financial year. Each of the state governments shall pay to the Authority its contribution as indicated by the Authority on or before the 30 day of April of the ensuing year.

(4) The Authority shall maintain detailed and accurate accounts of all receipts and disbursements and shall after the close of each financial year, prepare an annual statement of accounts and send copies thereof to the Accountant General as well as the concerned Chief Secretaries of the four States. The form of the Annual Statements of Accounts shall be such as may be prescribed by rules framed by the Authority. The accounts maintained by the Authority shall be open for inspection at all reasonable times by the Central Government and the governments of the party states through their duly authorised representative or representatives.

(5) Disbursement shall be made from the funds of the Authority only in such manner as may be prescribed by the Authority. The Authority may incur such expenditure as it may think fit to meet any emergency in the discharge of its functions.

(6) The accounts maintained by the Authority shall be audited by the Comptroller and Auditor General of India or his nominee who shall certify subject to such observation as he may wish to make on the annual accounts of the Authority. The Authority shall forward to the Accountant General and the concerned Chief Secretaries of the four States copies of the Report of the Comptroller and Auditor General of India and shall include the same in its Annual Report.

## 14. DECISIONS OF THE AUTHORITY

The decisions of the Authority on all matters covered under paragraph 9 shall be final and binding on all the party States.

## 15. CONSTRUCTION OUTSIDE JURISDICTION OF THE AUTHORITY

Save and except to the extent otherwise prescribed in the order of the Tribunal, the planning and construction of the projects will be carried out by each State Government through its own agencies.

## 16. REVIEW COMMITTEE

(1) There shall be a Review Committee which may *suo moto* or on the application of any party State or Secretary to the Government of India, Ministry of Environment and Forests review any decision of the Authority. In urgent cases the Chairman of the Review Committee may on the application of the Government of any party State, or Secretary to the Government of India, Ministry of Environment and Forests grant stay of any order of the Authority pending final decision on review.

(2) The Review Committee shall consist of six members including a Chairman as under:

i) Union Minister in charge of Water Resources (Chairman)

i(a) Union Minister of Environment & Forests (Member)

ii) Chief Minister of Madhya Pradesh (Member)

iii) Chief Minister of Gujarat (Member)

iv) Chief Minister of Maharashtra (Member)

v) Chief Minister of Rajasthan (Member)

The Secretary to the Government of India, Ministry of Water Resources shall be the convenor of the Review Committee but shall not have any voting right. In case there is a President's Rule in any of the four party States, the governor of the state or his authorised representative will act as member of the Review Committee.

(3) The Chief Ministers of the party states may nominate their respective ministers in charge of irrigation either generally or specially as the alternate member with full powers of voting, taking decisions, etc.

(4) The Review Committee may review the decision of the Authority at a meeting at which the Chairman and all the members of the Review Committee are present. The decisions of the Review Committee will be by consensus. In cases, where no consensus is possible, the decision shall be by majority of votes of members including the chairman.

(5) Advance notice of the proposed meeting of the Review Committee, its agenda and agenda notes will be forwarded by the convenor to the governments of the party states.

(6) The decision of the Review Committee shall be recorded in writing and shall be final and binding on all the States.

17. The Authority may with the previous approval of the Central Government, make regulations for giving effect to the purpose of the Scheme.

#### Annex-III: Environment Sub-group – Composition And Functions

(a) Composition [omitted]

(b) Functions

i) To work out the environmental safeguard measures to be planned and implemented for the entire Narmada basin so that environmental safeguard measures are executed and remain fully in consonance with the clearance accorded to the Narmada Sagar and Sardar Sarovar Projects.

ii) To determine the terms of reference of required surveys and studies necessary for implementation of environmental safeguard measures inclusive of database required, the methods by which the database is to be prepared and also to identify the institutions/individuals to undertake the preparation of such documents.

iii) To get prepared for clearance by the Ministries and NCA the action plans with regard to all environmental safeguard measures and the assessment criteria thereof.

iv) To devise a suitable monitoring and evaluation mechanism so that the action plans are effectively implemented in consonance with stipulations at the time of clearance of the projects.

v) To assess the necessary organization with management capability being set up for adequate implementation of environmental safeguard measures.

vi) To undertake all measures necessary to assist Narmada Control Authority in the planning and implementation of environmental safeguard measures.

#### Annex-IV: Resettlement and Rehabilitation Sub-group – Composition and Functions

(a) Composition [omitted]

(b) Functions

i) To monitor the progress of land acquisition in respect of submergence land of SSP.

ii) To monitor the progress of implementation of the action plan of rehabilitation of project affected families (PAFs) in the affected villages of SSP in concerned States.

- iii) To review the R&R action plan from time to time in the light of results of the implementation.
- iv) To review the reports of the agencies entrusted by each of the States in respect of monitoring and evaluation of the progress in the matter of resettlement and rehabilitation.
- v) To monitor and review implementation of resettlement and rehabilitation programmes *pari passu* with the raising of the dam height, keeping in view the clearance granted to SSP from environmental angle by Government of India and Ministry of Environment and Forests.
- vi) To co-ordinate state/agencies involved in the R&R programmes of SSP.
- viii) To undertake any or all activities in the matter of resettlement and rehabilitation pertaining to SSP.

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