



International Environmental
Law Research Centre

NARMADA BACHAO ANDOLAN (APPLICANTS)
VS.
UNION OF INDIA & OTHERS (RESPONDENTS)

**In the Supreme Court of India, Civil Writ Jurisdiction,
I.A. No. ____ of 2006, in Writ Petition (civil) No. 328 of 2002**

Application for Directions (Declared Oustees)

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Narmada Bachao Andolan (Applicants)

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Union of India & Others (Respondents),

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Application for Directions

To,

The Hon'ble Chief Justices of the Supreme Court of India and

His Companion Justices of the Supreme Court of India

The humble application of the Applicants above named

Most Respectfully Showeth that:

1. This application is being filed by the above Applicants who are all farmers residing in different villages of Jhabua, Dhar and Badwani Districts, Madhya Pradesh. The Applicants are all project-affected families (PAFs) whose lands and houses are facing submergence on account of the inter-state Sardar Sarovar Project (SSP) but have not been rehabilitated as yet. They were all affected even at the dam heights of 69, 90, 95, 100 and 110 metres; the current dam height is 110.64 metres and, therefore, they were legally entitled to be rehabilitated before the dam height was increased, and they must certainly be rehabilitated before any increase in dam height in the future. Applicants 1 – 42 are Adivasis/ tribals. Applicants 2 – 38, whose villages are located in the interior tribal area in the Vindhyachal mountain range, have already faced submergence of their lands and even houses in many cases, and in fact have been facing submergence for many years now. Due to lack of rehabilitation, these families have just moved higher into the mountains, but are facing a crisis of shortage of food, increase in incidence of diseases due to impoundment of water and hampered movement due to filling up of water. These villages are only accessible by boat. There is no rehabilitation site even made for these families in M.P. On the other hand, Applicants 1, 39 – 48 live upstream in the plains of Nimad, in thickly populated mixed-caste villages; these villages have all amenities such as schools, dispensaries, shops, government buildings, irrigation pumps, lift irrigation facilities, temples, mosques, Jain temples, *ghats*, *dharamshalas*, and many other civic amenities. These villages have *pacca* houses, wells, and thousands of trees, along with very fertile agricultural land, which gives rich harvests of wheat, cotton, sugarcane, chillies, *jowar*, *bajra*, corn, and orchards of bananas, papayas and lemons. These Applicants are also affected under the height of 110 metres, as per the government's own records, and their bountiful properties can get submerged anytime with a higher level of rainfall.

2. All these applicants had approached the Grievances Redressal Authority (GRA) for relief and rehabilitation. In most of the cases, the GRA has directed that the affected applicants be rehabilitated as per the Narmada Water Dispute Tribunal Award (NWDTA) in Madhya Pradesh, since most of these oustees were given ex-parte allotments of land in Gujarat without ascertaining their choice of where to be resettled. In some of these cases, the representations are still pending in front of the GRA even after expiry of considerable period of time, over a year in most cases. The dates of representations made by all of the Applicants and dates of response are in the form of a table, which is **ANNEXURE A/1**. In few other cases, the orders on the representations are still pending. True and correct copies of the orders passed by the GRA in case of few applicants is **ANNEXURE A/2 (Colly)**. The applicants are filing these applications in view of Order dated 9.9.2002 passed in Writ Petition (C) No. 328 of 2002 as well as the judgment dated 9.9.2002 in W.P No. 328 of 2002. A true and correct copy of the Order dated 9.9.2002 in W.P. 328 of 2002 is **ANNEXURE A/2(a)**.

3. The State of Madhya Pradesh and the concerned authorities, instead of rehabilitating the applicants and other affected persons as per the Award, by giving them minimum two hectares of irrigable and cultivable land has now very recently offered uncultivable grazing land which is proved to be uncultivable from the Respondents' own records. On top of it, the State of M.P. is forcing cash compensation in the form of the Special Rehabilitation Package (SRP) on the oustees by arbitrarily and illegally showing them the so-called offer of uncultivable land and saying that if they do not want that land, then the only option left for oustees is to accept the cash compensation offer under the SRP. Thus, without following the Award, judgments of this Hon'ble Court, *inter alia*, dated 18 October 2000 and 15 March 2005, and without rehabilitating affected PAFs, the governments are preparing to raise the dam height from the present 110.64 metres to 121.92 metres.

Hence, an extraordinary situation has emerged because now further submergence may be merely a few days away. This is evident from the following:

1. Several PAFs have been served notices to vacate their houses and villages by January 31st, 2006, as it is stated that these will come into submergence in the monsoon of 2006 at a dam height of 121.92 metres. A sample notice is ANNEXURE A/3. The said date has passed and the Applicants live constantly in the fear of being evicted from their homes and villages.
2. The State of Madhya Pradesh has allegedly prepared its ATRs – Action Taken Reports – showing that all PAFs under the dam height of 121.92 metres have been rehabilitated. The said reports would soon be presented (or may already have been) to the Narmada Control Authority to gain clearance for further construction.
3. Recent statements in the press also point to the fact that the governments are in the process of attempting to raise the dam height to 121.92 metres. The Chief Minister of Madhya Pradesh, Shri Shivraj Singh Chauhan issued a statement which was reported in the Times of India on 16.12.2005, saying that he would ensure rehabilitation of 14,000 oustees in M.P. by December 31st, following which they would submit the Action Taken Reports (ATRs) to the NCA for clearance for raising the height of the dam. The said news article is ANNEXURE A/4.
4. More recently, Bhupendrasingh Chudasama, Gujarat State Minister of Agriculture and Cooperation, stated as reported in Business Standard on 2.2.2006 that 'soon the government will obtain permission to increase the height of Narmada Dam to 121 metres from present 110 m.' The said news article is ANNEXURE A/5.

Therefore, the time has come to strictly enforce the judgments delivered by this Hon'ble Court and not to permit the State, and other authorities to displace affected families without rehabilitation. It is needless to point out that rehabilitation has been accepted as a part of Article 21 of the Constitution, and the State and other authorities are duty-bound to act in a manner which is just, fair and reasonable.

4. Briefly stating the facts, this Hon'ble Court had delivered a judgment in Narmada Bachao Andolan versus Union of India and Others on 18 October 2000, reported in 2000(10) SCC 664, wherein the provisions in NWDTA were upheld and it was directed that the States/ authorities are bound to ensure implementation of the Award by giving minimum 2 hectares of irrigable cultivable land to the affected oustees and rehabilitating them at a well-developed rehabilitation site with all civic amenities. As regards Madhya Pradesh, the following grievance was pointed out by the Petitioners (vide para 139) and the same is quoted below:

'With regard to the State of Madhya Pradesh it is submitted that as per the award PAFs have a right to choose whether to go to Gujarat or to stay in the home State. The State of Madhya Pradesh is stated to have planned the whole resettlement based on the assumption that overwhelming proportion of oustees entitled to land will go to Gujarat, yet even for the limited number of oustees who are likely to stay in Madhya Pradesh the submission is that no land is available. The petitioner also disputes the averment of the State of Madhya Pradesh that the oustees have been given a choice as to whether they would like to go to Gujarat or stay in the home State. According to the petitioner the majority of the oustees would prefer to stay in the home State that is Madhya Pradesh but sufficient land for their resettlement in Madhya Pradesh is not available. According to the petitioner, the State of Madhya Pradesh has stated that it does not have land for any PAFs above 830 and even for 830 PAFs the land is not available. **It is also submitted that the Madhya Pradesh Government cannot wriggle out of its responsibility to provide land for the oustees by offering them cash compensation.** The petitioner finds fault with the

effort of the State of Madhya Pradesh to push the oustees to Gujarat whose rehabilitation scheme is more attractive and beneficial than that of Madhya Pradesh.’ (Emphasis supplied)

In para 221, this Hon’ble Court had reminded the State of Madhya Pradesh its responsibility to take prompt steps so as to comply with the provisions of the Tribunal’s Award relating to relief and rehabilitation.

‘An affidavit on behalf of the State of Madhya Pradesh draws a picture of rehabilitation which is quite different from that of Gujarat. There seems to be no hurry in taking steps to effectively rehabilitate the Madhya Pradesh PAFs in their home State. It is indeed surprising that even awards in respect of six villages out of 33 villages likely to be affected at 90 m dam height have not been passed. The impression which one gets after reading the affidavit on behalf of the State of Madhya Pradesh clearly is that the main effort of the said State is to try and convince PAFs that they should go to Gujarat whose rehabilitation package and effort is far superior to that of the State of Madhya Pradesh. It is, therefore, not surprising that a vast majority of PAFs of Madhya Pradesh have opted to be resettled in Gujarat but that does not by itself absolve the State of Madhya Pradesh of its responsibility to take prompt steps so as to comply at least with the provisions of the Tribunal’s award relating to relief and rehabilitation. The State of Madhya Pradesh has been contending that the height of the dam should be lowered to 436 ft so that lesser number of people are dislocated but we find that even with regard to the rehabilitation of the oustees at 436 ft the R&R programme of the State is nowhere implemented. The State is under an obligation to effectively resettle those oustees whose choice is not to go to Gujarat. Appropriate directions may, therefore, have to be given to ensure that the speed in implementing R&R picks up. Even the interim report of Mr. Justice Sohni, GRA for the State of Madhya Pradesh, indicates lack of commitment on the State’s part in looking to the welfare of its own people who are going to be under the threat of ouster and who have to be rehabilitated. Perhaps the lack of urgency could be because of lack of resources, but then the rehabilitation even in Madhya Pradesh is to be at the expense of Gujarat. A more likely reason could be that, apart from electricity, the main benefit of the construction of the dam is to be of Gujarat and to a lesser extent to Maharashtra and Rajasthan. In a federal set up like India, whenever any such inter-State project is approved and work undertaken the States involved have a responsibility to cooperate with each other. There is a method of settling the differences which may arise amongst there like, for example, in the case of inter-State water dispute the reference of the same to a Tribunal. The award of the Tribunal being binding, the States concerned are duty-bound to comply with the terms thereof.’

In paras 57 and 58, in the context of ILO Convention 107, it is stated that:

‘While accepting the legal proposition that International Treaties and Covenants can be read into the domestic laws of the country the submission of the respondents was that Article 12 of the ILO Convention No. 107 stipulates that ‘Populations concerned shall not be removed without their free consent from their habitual territories except in accordance with national laws and regulations relating to national security, or in the interest of national economic development or of the health of the said populations’.

The said Article clearly suggested that when the removal of the tribal populations is necessarily as an exceptional measure, *they shall be provided with land of quality at least equal to the land of the previously occupied by them and they shall be fully compensated for any resulting loss or injury. The rehabilitation package contained in the Award of the Tribunal as improved further by the State of Gujarat and the other States prime facie shows that the land required to be allotted to the tribals is likely to be equal, if not better, than what they had owned.*’ (Emphasis supplied)

In para 151, in the context of the cash policy given in other dam projects, it is stated that:

‘The displacement of the people due to major river valley projects has occurred in both developed and developing countries. In the past, there was no definite policy for rehabilitation of displaced persons associated with the river valley projects in India. There were certain project specific programmes for implementation under the provisions of Land Acquisition Act, 1894 used to be given to the project affected families. This payment in cash did not result in satisfactory resettlement of the displaced persons, the requirement of relief and rehabilitation of PAFs in the case of Sardar Sarovar Project was considered by the Narmada Water Disputes Tribunal and the decision and final order of the Tribunal given in 1979

contains detailed directions in regard to acquisition of land and properties, provision of land, house plots and civic amenities for the resettlement and rehabilitation of the affected families. The resettlement has thus emerged and developed along with Sardar Sarovar Project.' (Emphasis supplied)

In addition, in the directions given by this Hon'ble Court in the verdict dated 18.10.2000, it was stated:

'2). As the Relief and Rehabilitation Sub-Group has cleared the construction up to 90 metres, the same can be undertaken immediately. Further raising of the height will be only pari passu with the implementation of the relief and rehabilitation and on the clearance by the Relief and Rehabilitation Sub-Group. The Relief and Rehabilitation Sub-Group will give clearance of further construction after consulting the Grievances Redressal Authorities.

5). The reports of the Grievances Redressal Authorities, and of Madhya Pradesh in particular, shows that there is a considerable slackness in the work of the identification of land acquisition of suitable land and the consequent steps necessary to be taken to rehabilitate the project oustees. We direct the States of Madhya Pradesh, Maharashtra and Gujarat to implement the Award and give relief and rehabilitation to the oustees in terms of the packages offered by them and these States shall comply with any direction in this regard which is given either by the NCA or the Review Committee or the Grievances Redressal Authorities.'

7). The NCA within four weeks from today draw up an Action Plan in relation to further construction and the relief and rehabilitation work to be undertaken. Such an Action Plan will fix a time frame so as to ensure relief and rehabilitation pari passu with the increase in the height of the dam. Each State shall abide by the terms of the action plan so prepared by the NCA and in the event of any dispute or difficulty arising, representation may be made to the Review Committee. However each State shall be bound to comply with the directions of the NCA with regard to the acquisition of land for the purpose of relief and rehabilitation to the extent and within the period specified by the N.C.A. (Emphasis supplied)

5. That, in spite of the judgment of this Hon'ble Court dated 18 October 2000 and specific directions given to the State of Madhya Pradesh and the Narmada Control Authority (NCA), the affected oustees were not granted the relief of rehabilitation. The claims of persons temporarily affected as well as the major sons were denied contrary to the provisions of NWDTA. Not only that, the State, in their Action Taken Reports (ATRs) had shown them rehabilitated in Gujarat, and on that basis had obtained permission to raise the dam height. Some of the affected oustees had filed I.A. No. 4 (Village Picchodi) and I.A. No. 7 (Village Jalsindhi) in W.P. (C) 328 of 2002 before this Court. After considering the submissions of Applicants therein and the response of the State of Madhya Pradesh, the following findings were made in the judgment reported in 2005 (4) SCC 32:

- i. This Hon'ble Court had noted in the said verdict of 2005 that in terms of NWDT Award that the irrigable lands and house sites were required to be made available to the PAFs one year in advance of the submergence and requisite amenities were also to be provided. Further, the notices for vacation of lands are to be given after the R&R of the PAFs on or before 31st December, that is, 6 months before actual submergence (likely on the 1st of July of the next year).
- ii. This Hon'ble Court also noted that it is evident that in the Award of the Tribunal, no distinction was made between permanently and temporarily affected oustees
- iii. This Hon'ble Court had also stated that the plain reading of the definition of family shows that even where a major son of a land holder did not possess land separately, he would be entitled to a grant of a separate holding, and also that it would be ideal to contend that the scheme of giving 'land for land' would be applicable only to those major sons who were land holders in their own right.
- iv. It also noted that it is not in dispute that the Award provided that every displaced family whose 25% of more agricultural land holding has been acquired, shall be entitled to be allotted irrigable land to the extent of land acquired subject to prescribed ceiling of the state with a minimum of two hectares of land.
- v. This Court also highlighted that Sub-clause IV (6)(ii) of Clause XI of the Award that no kind of submergence in the states of Madhya Pradesh and Maharashtra shall be permitted unless arrangements

are made for rehabilitation of the oustees. Thus, complete resettlement and rehabilitation of oustees was a condition precedent for submergence.

6. That the relevant quotes from the 15 March 2005 order of this Hon'ble Court, are mentioned hereunder:

'Sub-clause IV (6)(ii) of Clause XI makes it imperative that submergence would not be allowed to take place until complete settlement and rehabilitation of oustees is done which in view of the definition of 'oustees' would mean both permanently and temporarily affected persons.'

'In terms of NWDTA Award, the irrigable lands and house sites were required to be made available to the PAFs one year in advance of the submergence and requisite amenities were also to be provided. Further, the notices for vacation of the lands are to be given after completion of the R&R of the PAFs on or before 31st December, i.e., 6 months before actual submergence (likely on the 1st of July of the next year). In terms of these stipulations, raising of the dam which would cause submergence would not be permitted unless rehabilitation programme is carried out.

'In the Action Taken Reports (ATRs) of 90-95 m and 95-100 m, the applicants have been shown as PAFs having been rehabilitated in Gujarat purported to be on the basis of allotment of land made behind their back...It is evident that the State took a different stand at the earlier stage of the proceedings on the assumption that these oustees would go to Gujarat and as such their entitlements were acknowledged, but as soon as they made it clear that they will prefer rehabilitation in the State, Their rights are being denied. This attitude on the part of the state, as has been observed in the main judgment, cannot but be deprecated.'

'Sub-Clause IV (6)(ii) of Clause XI of the Award states that no kind of submergence in the States of Madhya Pradesh and Maharashtra shall be permitted unless arrangements are made for rehabilitation of the oustees in terms of the directions contained therein. Thus, complete resettlement and rehabilitation of oustees was a condition precedent for submergence.'

'The expression 'PARI PASSU', therefore, has a direct nexus with raising of the height vis-à-vis implementation of relief and rehabilitation progress both of which must proceed 'equably' or 'ratably' which would mean that relief and rehabilitation measures must be undertaken as and when the height of the dam is further raised. The said expression should be construed in a meaningful manner.'

'In view of the dicta of this Court that the oustees would be BETTER OFF at the rehabilitated place, they should be offered lands which are really cultivable or irrigable. They are also entitled to the basic civil [civic] amenities and benefits specified in the Award.'

7. That even after the second judgment of this Hon'ble Court, the State of Madhya Pradesh did not act in a fair manner showing the urgency in redressing the grievances of the affected oustees. The Applicants wish to point out that they are affected oustees in as much as they are losing 25% or more of their land holding and their houses and they reside in the affected villages. However, they have not yet been rehabilitated in Madhya Pradesh by granting the minimum 2 hectares of irrigable and cultivable land and all other amenities. Very recently, as late as December 2005, the State of M.P. has issued notices with offers of land, even though several of these oustees are affected at 69, 80, 90, 95, 100 and 110 metres dam height. For most of the Applicants, this is the first time they are being offered land in M.P., though most of them have been demanding for many years to be resettled in their home state. However, even the land that has been offered to PAFs at such a late stage is uncultivable land and that fact is proved from the Respondents' own documents. In several cases, small pieces of land are available and the same has been offered to several oustees.

8. That a list showing the village/ place where the Applicants and other families have been offered uncultivable land is ANNEXURE A/6. These names of villages also appeared in an additional affidavit filed by the State of M.P. in this Hon'ble Court dated 11.4.2000, where it provided a list of villages with details of government (grazing) land, cultivable, uncultivable land and land that *could be made available after due development process* and could be used for rehabilitation. This land was all to be obtained after reducing grazing land area in these villages from 5% to 2% and using the newly-freed up grazing land for allotting to oustees. The Applicants are enclosing this affidavit of the State of M.P. dated 11.4.2000 as ANNEXURE A/7. In addition, the GRA, in its interim report to

this Hon'ble Court dated 30.6.2000 had clearly stated that land should not be allotted to PAFs by reducing grazing land area of other villages since this would lead to social tension of PAFs with host communities. To quote from the report:

'The villagers who had gathered at the sites at the time of survey were all vehemently opposed to allotment of any part of their grazing land to oustees. Under the circumstances, the allotment of such land to PAFs is bound to result in social tension and would add further worry to the lives of PAFs. In the opinion of the Authority therefore land made available for allotment to PAFs by reduction of grazing land area of a village from 5% to 2% cannot be held to be suitable for Resettlement and Rehabilitation.' (Emphasis supplied)

The Applicants are enclosing a copy of the relevant portion of the interim report of the GRA as ANNEXURE A/8.

9. That in spite of the fact that these lands are uncultivable and unsuitable for allotment to PAFs, these notices were sent. Replies have, in most cases, been sent by respective oustees to reject the land and to ask for an offer of truly cultivable land. ANNEXURE A/9 (Colly) is a true translation of a sample land allotment notice and response thereto by Applicant no. 1, Kailash S/o Gansya. It is important to note, however, that these offers of land have most likely been treated as ex-parte (one-sided) allotments by the State of M.P., without considering the replies of the oustees, for the purpose of completion of their ATRs, to show compliance with rehabilitation requirements as per directions of the Supreme Court.

10. That in addition, it is to be noted that all the said notices state that the allotted land is part of the Land Bank of the Madhya Pradesh government and that the said lands are certified to be cultivable by the Director (Agriculture), NVDA, Bhopal. However, most of the lands in the Land Bank have already been surveyed by the oustees of the project, sometimes along with government officials, and found to be completely uncultivable grazing land. A document prepared in this regard, which was annexed in the GRA submission of Applicants 16-21 but was ignored by the GRA in its order, is ANNEXURE A/10.

11. That the affidavit of the State of M.P. dated 11.4.2000 mentioned land to be made available from three sources, viz, land obtained from reduction in grazing land, denuded forest land and land purchased from private sellers. However, even 5 years after the said judgment, the State of M.P. has still not purchased/ acquired any private land to make it available for rehabilitation of oustees. Instead it continues to offer completely uncultivable and unsuitable land to PAFs.

12. Hence it is evident that, after the verdict of this Hon'ble Court dated 15.3.2005, the State of M.P. made no efforts to locate land that was cultivable, irrigable and suitable to allot to oustees, as was mandated by this Hon'ble Court. Instead, the State of M.P. brought out a Government Resolution (GR) no. 12/1/21/27/05/1749 dated 16 June 2005, whereby a revised mechanism in the name and guise of Special Rehabilitation Package (SRP) was evolved, which is really cash compensation in disguise. The above GR provides for disbursement of cash instead of land to oustees. The money is to be disbursed to affected families as per the formula:

Per acre value X the amount of land to be distributed according to the eligibility + 30 % solatium – Award amount

The GR clearly states:

That special rehabilitation grant to be paid only to those oustees who:

- i. will not demand land-for-land from the govt
- ii. will buy irrigated land for themselves from the given amount
- iii. will get ousted voluntarily and hand over the vacant land to the govt

This is called an additional liberalized rehabilitation package because the NVDA claims that they are offering PAFs a package over and above the Award. However, the SRP as stated above is in reality a violation of the NWDT Award's mandate of allotment of cultivable land to oustees along with fully developed rehabilitation sites. A true and correct translation of GR dated 16.6.2005 is ANNEXURE A/11.

13. That in addition to the GR, the intention of the Madhya Pradesh government to give oustees cash and not land is made amply evident by a circular issued by the Collector of Dhar district dated 9.10.2005, which fixes a work schedule for rehabilitation of oustees. The circular does not mention anything about oustees being offered land, being taken to show the land, etc. Instead, the circular fixes a schedule for conducting camps for distribution of SRP cheques for the affected families of Dhar district. A true translation of this circular and cheque-distribution table is ANNEXURE A/12.

At this stage, it is important to note the grave situation that has been created on account of both the terms and intention behind the SRP itself as well as the arbitrary manner in which it is being implemented, by forcing it on all oustees, even those who are entitled to land, and especially on major sons who became entitled to land as per the 15.3.2005 judgment of this Hon'ble Court.

14. That the manner in which the State is disbursing the SRP is by making affected people sign a variety of forms. These forms, which the oustees are being made to sign, state that the oustee has been shown land in M.P. but he does not choose to take it. Instead, he chooses to take money to purchase land for himself and will not demand land-for-land from the government. The forms make false statements about oustees being offered land, but in reality they are not offered any land at all, just cash. It is important to note that these forms are all printed by the government itself. Some of the forms are even printed on the letterhead of the Office of Land Acquisition and Rehabilitation Officer and then addressed from the PAFs to the same person. To quote excerpts from these different forms:

'That I was offered __ hectares land by the government in village ____, District ____, which I do not want to accept. I should be granted the Special Rehabilitation Package, with which I will buy irrigated land of my choice.'

'That I will not demand land-for-land from the government. I will buy land for myself from the granted money. And we will all get displaced by ourselves and will hand over the vacant land to the government.'

'I want to receive the full cash of the Special Rehabilitation Grant for my submergence-affected land. After receiving the cash compensation and Special Rehabilitation grant, I will make arrangements for land for myself, and I will not demand land from the government.'

'That it is not acceptable to us that I and my major sons be allotted agricultural land by the SSP/ state of Madhya Pradesh. We will buy irrigated agricultural land of our choice, and in this regard we have even given an option to the state of M.P.'

'As an adult son, I am not willing to take the land from the land bank of the Government. I will purchase irrigated land of my choice, and I will shift from submergence area on my own.'

True and correct translations of these forms are ANNEXURE A/13 (Colly).

15. That government officials have been going to the affected villages forcing people to sign the above-mentioned forms and to take the SRP. They tell oustees categorically that they will not be able to provide land in Madhya Pradesh. They will only get cash, and if they do not take the cash now, then they will lose that amount as well. Many oustees were told that they will get the cash only till December 31, 2005, after which the offices of the NVDA will close and they will get nothing. Other oustees were threatened by many middlemen/agents (who are engaged in this process because of the money involved) that if the oustees did not take the cash, they would lose it. Some oustees, including Applicant no. 41, Sokliya Karsan, have made complaints at the local police stations as well, with a request to register the FIRs and conduct investigation into the corrupt and forceful practices. True translations of some of the written complaints are in ANNEXURE A/ 14 (Colly). However, the police have thus far, refused to register the FIRs.

16. That there is an unprecedented level of corruption going on in the region due to the disbursement of cash, which is being reported in local papers. Thirty-seven officials of the NVDA office in Badwani were suspended in November 2004 and continue to remain suspended until now. Recently again, a submission in this regard has been made to the Lok Ayukta, Bhopal, dated 27.12.2005 by the affected people of the region. A true translation of this representation to the Lok Ayukta is ANNEXURE A/15.

17. That another tactic being followed by the State is one of intimidation. The officials of the NVDA have been going to the submergence villages with fully armed police force. On Dec 17, 2005 when affected families took out a bullock-cart rally to oppose cash compensation and demanded land-based rehabilitation, there was a lathi-charge on them, which was widely reported in local newspapers. There is even video footage of this lathi-charge, which was then followed by an 18-day dharna by the oustees in front of the office of the NVDA in Badwani. An application to look into this matter of lathi-charge has been filed with the Madhya Pradesh State Human Rights Commission (MPHRC). This was done after a personal meeting by some of the oustees with Justice Dharmadhikari, Chairperson of the Commission, before whom the petition was placed. The petition has been registered as case no. 11460, which is pending enquiry. A true and correct copy of the petition before the MPHRC and the acknowledgement received is **ANNEXURE A/16.**

18. That on December 31st, the NVDA went to the extent of mailing SRP cheques to the home addresses of oustees' who have refused to accept the cash compensation and are demanding land instead. Some of these persons are those who were made to fill out the forms through deception or force, but who did not accept the money from the government. For instance, Applicant no. 41, Sokliya Karsan, was duped into signing the forms, and he refused to accept the SRP cheques worth Rs. 146245 that was delivered to his home, as stated in a notarised affidavit he has signed dated 13.1.06. However, the cheques were delivered to him at home, which he rejected and returned it vide a letter dated 13.01.06 to the Land Acquisition and Rehabilitation Officer, Badwani. True translations of the affidavit and of the letter written to reject the money are **ANNEXURE A/17 (Colly).**

19. That the illegality of the above-mentioned GR as well as the arbitrary manner in which it is being implemented, have repeatedly been brought to the notice of the NCA. In fact, it is noteworthy that even the NCA has recorded in the minutes of the 62nd meeting of the R&R Sub-Group of NCA held on 12.9.05 that the SRP which is being enforced by the State of M.P is contrary to the Award as well as the judgements (supra) given by this Hon'ble Court. The relevant extracts from the minutes of the NCA meeting dated 12.9.2005 read as follows: -

'Commissioner (PR), Ministry of Water Resources (MOWR) informed that the issue related to compliance of the Judgement of the Hon'ble Supreme Court dated 15.3.2005 was discussed in a meeting convened by the Chairman, NCA and Secretary, MOWR with the Chief Secretaries of Madhya Pradesh and Gujarat on 21st July, 2005 wherein SRP issue was also raised by GOMP. In this meeting it was emphasised that the further course of action for implementation of Resettlement and Rehabilitation (R&R) programme should be in accordance with the directions of the Hon'ble Supreme Court of India dated 15th March, 2005. The Vice-Chairman, NVDA vide his letter dated 01.09.2005 addressed to the Chairman, NCA and Secretary, MOWR has forwarded the opinion of GRA-MP on Special Rehabilitation Package (SRP). This matter was examined and accordingly MOWR vide letter dated 07.09.2005 has conveyed the views of Chairman, NCA. He informed that it has been advised to GOMP that all eligible PAFs are to be allotted land in Madhya Pradesh. Subsequent to the allotment of land to the PAFs, in case there is any grievance of PAFs, GRA is to be approached for its opinion/ redressal. It is noticed that the GOMP has approached the GRA for the opinion without offering land to PAFs and got the opinion which is contrary to the deliberations and decisions taken in the meeting held on 21st July 2005 and also the directions of the Hon'ble Supreme Court dated 15.03.2005.

The V.C., NVDA pointed out that the letter had not yet been received by them. He was however, of the opinion that the SRP has to be implemented.' (Emphasis added)

True and correct copy of the minutes dated 12.9.2005 is **ANNEXURE A/18.**

Hence, it is clear from the NCA meeting minutes as quoted above that:

NCA had required the state of M.P. to firstly offer cultivable and irrigable land to all entitled oustees.

The fact that the state of M.P. approached the GRA for its opinion on the SRP before offering land to eligible PAFs, and got the opinion of the GRA, is indicative of the fact that the State of M.P. has been vigorously implementing SRP without offering land to PAFs and also that SRP per se is illegal, as being contrary to the directions of the Hon'ble Supreme Court dated 15.03.2005. It appears from the NCA minutes that, in compliance with the Supreme Court order, in a meeting held on July 21st 2005, NCA itself had considered SRP to be illegal.

20. That this Hon'ble Court has taken note of the fact that rehabilitation as per the NWDTA is a package that consists of not only land based compensation, but R&R also must mandatorily include allotment of house plots and provision of civic amenities like electricity, parks, schools, panchayat ghar, beej godam, etc. To quote the relevant portion of the Award:

'Sub-Clause IV (1) of clause XI of the Award states Gujarat shall establish rehabilitation villages in Gujarat in the irrigation command of the Sardar Sarovar Project on the norms hereinafter mentioned for rehabilitation of the families who are willing to migrate to Gujarat. For oustee families who are unwilling to migrate to Gujarat, Gujarat shall pay to Madhya Pradesh and Maharashtra the cost, charges and expenses for establishment of such villages in their respective territories on the norms as hereinafter provided'

The government of M.P. also has sworn to, in its affidavit before the Supreme Court that the same will be made available to the PAFs. However, the recently given offers of land, as mentioned in Annexure A/6 above, are all empty barren lands that are classified as grazing lands in government revenue records. At these locations, there are no rehabilitation sites with any house plots or amenities of any kind.

21. That it is still more serious that the State of M.P. vide its GRs no. No./F/12-1/101/2001/27(2)/662 dated 14.5.2001 and no. 2530/27/2/04 dated 20.10.2004, has been illegally making payment of Rs. 50,000 in lieu of house plots to PAFs eligible for house plots at a rehabilitation site. English translations of the GRs dated 14.5.2001 and 20.10.2004 is **ANNEXURE A/19 (Colly)**. This is being done because, let alone cultivable land, the State of M.P. does not even have adequate house plots for all the oustees at the resettlement sites that have been developed so far, hence it is trying to give Rs. 50,000 instead. This is a devious design to disown the responsibility of the government to make provisions for the civic amenities, which has been mandated by the Award and judgments of this Hon'ble Court, and will leave affected people shelterless.

22. That the particulars of the Applicants (village-wise), dam heights at which they are affected and their current situation is given below: -

Table 1: Current situation of the Applicants

S. No.	Name	Village	Dam height at which affected (Metres)	Current status of Applicant
1	Kailash Awasya	Bhilkheda	95	Still not rehabilitated, has received notice dated 24.12.05 of uncultivable land at village Borgaon (Khandwa dist), officials have tried to force him to take SRP but he is demanding cultivable land
2	Nirbhaysingh Gulsingh	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Kalyanpur (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land. Land submerging since 1999.
3	Mohansingh Gulsingh	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Kalyanpur (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land.
4	Andi Gulsingh	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Kalyanpur (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land

5	Shankarsingh Gulsingh	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Kalyanpur (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
6	Ranya Gulsingh	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Kalyanpur (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
7	Revsingh Gulsingh	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Kalyanpur (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
8	Saisingh Gulsingh	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Kalyanpur (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
9	Khumansingh Hariya	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Bhoinda (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
10	Lalsingh Guruji	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Bhoinda (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
11	Dhulsingh Kutriya	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Bhoinda (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
12	Vangriya Hukarsingh	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Kalyanpur (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
13	Rupsingh Terla	Bhitada	90	Still not rehabilitated, has received notice of uncultivable land at village Bhoinda (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
14	Ruva Kutriya	Bhitada	90	Still not rehabilitated. He has not received any notices of land offers in M.P.

15	Bhangiya Gulsingh	Bhitada	90	Still not rehabilitated, has received ex-parte allotment of uncultivable land at village Musapura (Khandwa dist), officials have tried to force him to take SRP but he is demanding cultivable land
16	Ranhiya Sursingh	Nadi Sirkhedi	95	Still not rehabilitated, has received notice of uncultivable land at village Ringnod (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
17	Ganpat Sursingh	Nadi Sirkhedi	95	Still not rehabilitated, has received notice of uncultivable land at village Ringnod (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
18	Jagniya Sursingh	Nadi Sirkhedi	95	Still not rehabilitated, has received notice of uncultivable land at village Ringnod (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
19	Tarkiya Sursingh	Nadi Sirkhedi	95	Still not rehabilitated, has received notice of uncultivable land at village Ringnod (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
20	Bokhibai w/o Sursingh	Nadi Sirkhedi	95	Still not rehabilitated, has received notice of uncultivable land at village Ringnod (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
21	Nursingh Salu	Nadi Sirkhedi	90	Still not rehabilitated, has received notice of uncultivable land at village Ringnod (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land
22	Dhaniya Mangtiya	Anjanwara	69	Still not rehabilitated, has received notice of uncultivable land at village Dolana (Dhar dist) whereas his brother Jhanjhadiya has been given land in a separate village Palvada, officials have tried to force him to take SRP but he is demanding cultivable land. His land has been submerging since 1994
23	Dedia Jhetriya	Anjanwara	69	Still not rehabilitated, he has been offered uncultivable land at village Palvada (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land.
24	Khajan Chupa	Anjanwara	69	Still not rehabilitated, has NOT EVEN received a notice of land offer, though his 5 brothers (as below) have been offered land. Officials have tried to force him to take SRP but he is demanding cultivable land, land submerging since 1994

25	Budia Chupa	Anjanwara	69	Still not rehabilitated, these 4 brothers (along with their brother Phudia Chupa) have received notice of uncultivable land at village Dolana (Dhar dist), officials have tried to force them to take SRP but they are demanding cultivable land.
26	Udia Chupa	Anjanwara	69	
27	Demsia Chupa	Anjanwara	69	
28	Shankariya Chupa	Anjanwara	69	
29	Kubla Muvasiya	Anjanwara	69	Still not rehabilitated. Kubla (along with his brother Devajiya) have been offered uncultivable land at village Dolana (Dhar dist), whereas Saisingh has alone been offered land in Manasa. Officials have tried to force them to take SRP but they are all demanding cultivable land
30	Saisingh Muvasiya	Anjanwara	69	
31	Mulia Thavariya	Anjanwara	69	Still not rehabilitated, these 2 brothers (along with their 3 rd brother Hursingh Thavariya) have been offered uncultivable land at village Dolana (Dhar dist), officials have tried to force them to take SRP but they are demanding cultivable land, land submerging since 1994
32	Hukliya Thavariya	Anjanwara	69	Still not rehabilitated, has NOT EVEN received a notice of land in M.P., land submerging since 1999
33	Dhokliya Sumla	Anjanwara	81.5	
34	Gulia Dhanajya	Anjanwara	69	Still not rehabilitated, has NOT EVEN received a notice of land in M.P., land submerging since 1994
35	Nansingh Patu	Kakrana	81.5	Still not rehabilitated, has NOT EVEN received a notice of land in M.P., land submerging since 1994
36	Sardiya Nansingh	Kakrana	81.5	Still not rehabilitated, has NOT EVEN received a notice of land in M.P., land submerging since 1994
37	Mangliya Maniya	Kharya Bhadal	90	Still not rehabilitated, has received notice of uncultivable land at village Rabadghati (Khargone dist), officials have tried to force him to take SRP but he is demanding cultivable land, land submerging since 1999
38	Gokhru Mangliya	Kharya Bhadal	90	Still not rehabilitated, has received notice of uncultivable land at village Rabadghati (Khargone dist), officials have tried to force him

				to take SRP but he is demanding cultivable land, land submerging since 1999
39	Jamsingh Jalal	Amlali	110	Still not rehabilitated, has NOT EVEN received a notice of uncultivable land in M.P.
40	Madansingh Rukhdusingh	Picchodi	95	Still not rehabilitated, has not received any offer of land in M.P. His land has also been forcefully acquired for making R&R sites, for which he is being given no relief.
41	Sokliya Karsan	Pendra	95	Still not rehabilitated, he was given SRP by force and deception, now he has returned the uncashed cheque and also written to the police to file an FIR in the matter
42	Shivram Sokliya	Pendra	95	Still not rehabilitated, has NOT EVEN received a notice of uncultivable land in M.P., though GRA said he is entitled to relief
43	Kailash Bhiluram	Chota Barda	100	Still not rehabilitated, has received notice of uncultivable land at village Nasirabad (Khandwa dist), officials have tried to force him to take SRP but he is demanding cultivable land.
44	Hirdaram Bavliya	Khaparkheda	100	Still not rehabilitated, has received notice of uncultivable land at village Kesur (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land.
45	Devram Vedu	Pipri	100	Still not rehabilitated, all 3 of them have received notice of uncultivable land at village Ashapur (Khargone dist), officials have repeatedly tried to force them to take SRP but they are demanding cultivable land
46	Gangaram Mukund	Pipri	100	
47	Bhilya Gangaram	Pipri	100	
48	Gopal Patidar	Bhavariya	95	Still not rehabilitated, has received notice of uncultivable land at village Umariya (Dhar dist), officials have tried to force him to take SRP but he is demanding cultivable land

23. That due to all these facts the Applicants have been thus put in miserable situation. The State of M.P., taking advantage of their own deliberate inactions or wrong actions, is now thrusting upon the Applicants the Special Rehabilitation Package by telling them that there were no options but to accept the same. The justification for giving the SRP by the State is that the land that was offered to the affected oustees (though the land is uncultivable/ grazing land) has been rejected by the oustees.

It appears that on this untenable premise and in utter violation of the directions of this Hon'ble Court, the State of M.P has indeed prepared their ATRs showing rehabilitation in all the villages where the applicants reside and many other submergence villages in M.P. This has been done by the State of M.P, as done by them earlier, with the sole objective of increasing the dam height, which on earlier occasions has been adversely commented upon by this Hon'ble Court.

24. That, as mentioned earlier, the Applicants of the above mentioned villages and thousands of other PAFs in submergence villages have received notices that they will have to leave their houses/ villages by 31st January, 2006. The said date has passed and the Applicants live constantly in the fear of being evicted from their homes and villages. They have, therefore, no option but to approach this Hon'ble Court seeking urgent direction that till they are rehabilitated as per the Award and the directions of this Hon'ble Court, the Respondents should not be permitted to cause further submergence as it would be in patent violation of the terms of the Award and the orders of this Hon'ble Court that specifically stipulate that 'complete resettlement and rehabilitation of oustees was a condition precedent for submergence.'

25. That it also needs to be brought to the notice of this Court that, as stated earlier, Applicants Nos. 2 – 38 have all faced submergence without rehabilitation, for many years now. As a result, they have faced loss of crops and land and, in many cases, even homes. They have all written separate petitions to the GRA after the monsoon of 2004, asking for compensation for losses. In the case of Applicants Nos. 16 – 21, the NVDA's reply dated 5/09/05 before the GRA was that, since the said PAFs had not yet been rehabilitated, they were only entitled to approach the Collector to get relief that is due to ordinary land holders on account of crop loss due to flood. To this, an additional submission was made before the GRA dated 26/9/05 where the PAFs stated that though the NVDA had admitted that these persons were yet to be rehabilitated, they were wrongly stating the cause of crop loss as natural floods. A detailed submission was made giving heights and levels to show that the crop loss was due to submergence without rehabilitation by the Sardar Sarovar Project, and not due to natural floods. Hence, they should be compensated not by a meagre amount under RBC VI-4 but by the NVDA who were responsible for this loss. The letter of the NVDA dated 5/09/05 and submission of the petitioners dated 26/9/05 is ANNEXURE A/20.

26. That the GRA gave its order dated 5/11/05 in which it states,

'On 05.09.2005, NVDA has filed an additional reply, a copy of which has been given to Ms. Dipti Bhatnagar on 06.09.2005. With reference to the demand raised by the complainant about the crop loss, the NVDA has contended in its reply that since the complainant has not been rehabilitated as yet, therefore, in case of any loss to the crop due to flood, the complainant shall be eligible to receive the relief under the provision of Revenue Book circular VI-4 from the Collector and for that they should approach the Collector, Jhabua... As regards crop loss due to flood, he should approach the Collector, Jhabua for the Redressal of his grievance.' (Emphasis added)

The order of the GRA is already annexed above as Annexure A/2. However, the Applicants state that the floods were caused by the dam and not by natural causes. They were subjected to submergence without rehabilitation, which is illegal as per the Award and verdicts of this Hon'ble Court. Hence, the State of M.P. must pay sufficient compensation for losses caused to crops, lands and houses.

27. That the counsel who has been representing the grievances of the affected oustees had written two letters to the Narmada Control Authority (NCA) dated 10.9.2005 and 3.12.2005 as well as an earlier letter to the Commissioner, Rehabilitation (Field), Narmada Valley Development Authority (NVDA) dated 9.7.2005. In these letters, it was, *inter-alia*, pointed out that neither have the affected oustees been rehabilitated by giving them 2 hectares of irrigable/ cultivable land nor have sincere efforts been made in that direction by the State of M.P. On the other hand it was stated, as mentioned above, that the Special Rehabilitation Package (SRP) is being disbursed to somehow show compliance and rehabilitation. Till date no replies have been received to any of the above letters. True and correct copies of the three letters are ANNEXURE A/21 (Colly). Before approaching this Hon'ble Court, placing all the above relevant facts before the NCA, a legal notice was served on it through the lawyer for the oustees on January 27, 2006. In the said notice the Authority was given a reasonable time to respond to the legal notice and to provide protection to the oustees, in view of the emergency situation that has been created in the region due to the illegal actions of the M.P. Government. A true and correct copy of the legal notice is ANNEXURE A/22.

28. That under the NWDTA as well as judgments of this Hon'ble Court dated 18.10.2000, it is mandatory for the Resettlement & Rehabilitation (R&R) Sub-Group to be responsible for verifying and monitoring the implementation of R&R benefits to the PAFs. However, it must be noted that the R&R Sub-Group has not conducted any field visits to the submergence villages since November 2000. The R&R Sub-Group is therefore not complying with its obligations. It is necessary that the R&R Sub-Group should verify the ground realities and after collecting the data, submit it before the NCA. Without discharging its obligations under the Award as well as judgments of this

Hon'ble Court, if the R&R Sub-Group still proceeds to grant any clearance, it will be wholly unsustainable and in violation of the Award and this Hon'ble Court's judgments.

29. That the Applicants are thus requesting that the NCA should be directed to look into the grievances of the applicants and to prepare a complete list of affected oustees up to the height of 110 meters and submit a report to this Hon'ble Court that all the affected persons at that height have been rehabilitated by providing them irrigable/cultivable land and house plots with amenities as rehabilitation villages.

Prayer

The Applicants, therefore, pray that in the facts and circumstances of the present case, this Hon'ble Court may be pleased to: -

1. Direct that in terms of the Award and the directions given by this Hon'ble Court in its judgements dated 18.10.2000 and 15.3.2005 all affected oustees at 110 metres be rehabilitated by providing them minimum of two hectares of irrigable, cultivable and suitable land and house plots at rehabilitation villages without any further delay.
2. Direct NCA to report compliance of all resettlement and rehabilitation measures before this Hon'ble Court, and till complete rehabilitation of PAFs up to 110 m, no further submergence be permitted.
3. Set aside the orders of the GRA with respect to compensation for loss of crops and houses, and direct the State of M.P. to pay compensation for crops and houses lost due to submergence without rehabilitation.
4. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Drafted and Filed by Anitha Shenoy, Advocate for the Applicants

Settled by: Sanjay Parikh, Advocate

New Delhi

Dated: -02-2006.

Annexures not reproduced

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