



International Environmental
Law Research Centre

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

**In the Supreme Court of India, Civil Original Jurisdiction, I.A. No. ____ of 2005,
in Writ Petition (C) No. 328 of 2002, Sildaria Bavajia & Ors. (Applicants)**

Application for Directions (Undeclared Oustees)

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I. APPLICATION FOR DIRECTIONS

In the matter of:

Narmada Bachao Andolan (Applicants) v Union of India & Others (Respondents), In the Supreme Court of India, Civil Original Jurisdiction, I.A.No. _____ of 2005 in Writ Petition (C) NO.328 OF 2002

And in the matter of:

1. Sildaria S/o Bavajia
2. Jagia S/o Gulabsingh
3. Ramsia S/o Bunda
4. Jamni D/o Bawa (W/o Awalsing)
5. Sevalia S/o Janglia
6. Barkibai widow of Chagnia
7. Pidia S/o Hazaria

Applicants 1 to 7 all residing at village Jalsindhi, Tehsil Alirajpur, District Jhabua, Madhya Pradesh

8. Putiya S/o Bhursingh, Residing at Village Kakrana, Tehsil Alirajpur, District Jhabua, M.P.
9. Richdi D/o Muvasiya (W/o Chupsingh), Residing at Village Kakrana, Tehsil Alirajpur, District Jhabua, M.P.
10. Ratan S/o Dalsingh, Residing at Village Sugat, Tehsil Alirajpur, District Jhabua, M.P.
11. Baddu S/o Lalsingh, Residing at Village Bhitada, Tehsil Alirajpur, District Jhabua, M.P.
12. Rehanjiya S/o Chima, Residing at Village Dubkheda, Tehsil Alirajpur, District Jhabua, M.P.
13. Thutti D/o Rehanjiya, Residing at Village Dubkheda, Tehsil Alirajpur, District Jhabua, M.P. (Applicants)

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:

1. This application is being filed on behalf of the above 13 Applicants who are all adivasis residing in different villages of Alirajpur Tehsil in Jhabua district, Madhya Pradesh. The Applicants are persons whose lands and houses are facing submergence on account of the inter-state Sardar Sarovar Project (SSP) but whose names do not even figure in the official list of Project Affected Persons (PAPs), hence they are not even considered eligible for rehabilitation. They are filing this application seeking directions in regard to their inclusion in the PAP list and consequent rehabilitation by the Respondents in accordance with the Narmada Water Dispute Tribunal Award (hereinafter referred to as NWDTA). This Application is being filed pursuant to the order dated 9.9.2002 passed by this Hon'ble Court in Writ Petition (Civil) No.328 of 2002 wherein it was observed that: "if there is any person so aggrieved or has a justifiable grievance, it is open to that person to approach the Grievance Redressal Authority (GRA), failing which this Court". Each of the Applicants have approached the GRA for redressal of their grievances but have not been granted any relief. Hence this Application before this Hon'ble Court. A true copy of the order dated 9.9.2002 passed by this Hon'ble Court in Writ Petition (Civil) No.328 of 2002 is annexed herewith and marked as **Annexure-A/1.**

For the purposes of the present application the relevant respondents would be the State of Madhya Pradesh and the Narmada Valley Development Authority (NVDA), who are Respondents to the main writ petition as well.

Facts of the Case

1. The Applicants crave leave to place before this Hon'ble Court, the following background facts necessary for the disposal of the present application.

2.1 The applicants 1 to 7 had earlier filed an application before this Hon'ble Court, being I.A. No. 8-9 in W.P. (C) No. 328 of 2002, which came to be disposed of by this Hon'ble Court on 3.2.2004. A copy of the Order dated 3.2.2004 is enclosed herewith as Annexure A/1-A. It may be clarified that neither at the time of filing the said I.A. 8-9 nor even at the time of hearing of the applications did the applicants have any information on the status of their applications they before the GRA and accordingly this Hon'ble Court directed that the GRA shall dispose of the applications at an early date, if possible by June 30, 2004.

2.2 Thereafter on 25.2.2004/ 3.3.2004, Applicant No.1, on behalf of applicants 1 to 7 herein, wrote to the GRA enclosing a copy of the order of this Hon'ble Court and requested for a hearing on the applications pending before the GRA. A copy of the said letter dated 25.2.2004 from Applicant No.1 to the GRA is annexed herewith as Annexure A/1-B. Since no reply was received to this letter before the deadline of 30.6.2004, counsel for the applicants addressed a further letter dated 12.7.2004 to the GRA seeking a date of hearing. A true copy of the said letter dated 12.7.2004 is annexed herewith as Annexure A/1-C. A reply dated 21.7.2004 was received from the office of the GRA stating that the applications in question had already been disposed of. However, copies of the orders were not annexed to this letter. A true copy of the letter dated 21.7.2004 received from the GRA is annexed herewith as Annexure A/1-D. The counsel for the applicants wrote to the GRA again on 16.11.2004 requesting for copies of the orders pointing out that none of the applicants had yet received copies of the said orders. A true copy of the letter dated 16.11.2004 sent to the GRA is annexed herewith as Annexure A/1-E. The GRA sent a letter dated 27.11.2004 enclosing copies of the orders passed in the applications. A true copy of the letter dated 27.11.2004 received from the GRA is annexed herewith as Annexure A/1-F. The relevant orders as far as they concern applicants 1 to 7 herein are placed hereafter along with certain other orders at Annexure A/11 (Colly).

3. As per the NWDTA, Clause XI Sub-Clause I (1) (2), an "oustees" is defined "as any person who since at least one year prior to the date of publication of the notification under Section 4 of the Act, has been ordinarily residing or cultivating land or carrying on any trade, occupation, or calling or working for gain in the area likely to be submerged permanently or temporarily."

In addition, a family is defined in Clause XI Sub-Clause I (1) (3) of the Award as follows: "(i) A family shall include husband, wife and minor children and other persons dependent on the head of the family, e.g., widowed mother. (ii) Every major son will be treated as a separate family."

Clause XI Sub-Clause IV (6) (ii) also mandated that, "In no event shall any areas in Madhya Pradesh and Maharashtra be submerged under the Sardar Sarovar unless all payment of compensation, expenses and costs as aforesaid is made for acquisition of land and properties and arrangements are made for the rehabilitation of the oustees therefrom in accordance with these directions and intimated to the oustees." A true copy of the NWDT Award is annexed herewith and marked as Annexure-A/2

4. All the applicants, despite being affected by the Sardar Sarovar Project, i.e. residing/ cultivating land in the submergence area since atleast one year prior to the issuance of section 4 notice of the Land Acquisition Act, have not been recognized as Project Affected Persons (PAPs). And hence have been denied rehabilitation.

5. The list of Project-Affected Persons (PAPs) was drawn up based on the acquisition of land by the Narmada Valley Development Authority (NVDA). The PAP list, as it is commonly referred to, enumerates the number of persons residing in each village that would be affected by submergence, and hence entitled to rehabilitation in accordance with the NWDTA. The PAP list consists of different categories of persons such as landholders, adult sons, encroachers, landless etc. Landholders/ co-sharers being those who were recorded in the revenue records as having titled land; adult sons being defined by the NWDTA as those who attained 18 years in the year of issuance of section 4 notification (under the Land Acquisition Act, 1894) for the said village; encroachers are those cultivating Government revenue/ forest land. As per the NWDTA (quoted above in para 3), anybody residing or 'cultivating land' (without any qualifications of actual ownership of such land) in the area to be submerged atleast one year

prior to issuance of section 4 notice must be classified as an oustee. But the State of M.P. recognizes only those cultivating encroachments prior to 13.4.1987 and until date of section 4 notification at least as landholding oustees and considers them eligible to be allotted 2 hectares of land. A true copy of the relevant extracts of Action Plan of 1993 of the Government of Madhya Pradesh defining an encroacher is annexed herewith and referred to as **Annexure-A/3**

6. The PAP lists drawn up by the state of M.P. are, however, severely flawed. No proper field surveys or verification of accuracy of existing land records was carried out and hence the deskwork-based Land Acquisition process and the PAP list were fraught with mistakes and many have been omitted from this list. The persons incorrectly left off the PAP list, including the Applicants, fall into four main categories 1). Those who have been left out on the pretext of having been minors at the time of the section 4 notification, 2). Encroachers i.e. people who do not own any titled land but only possess forest encroachments which is considered to be government property, 3). Those who have been excluded for no evident reason, 4). Those who are considered not affected due to incorrect level surveys.

7. The Applicants are all adivasis and residents of villages in Alirajpur tehsil, district Jabua. Applicants no. 1-7 are residents of village Jalsindhi, Applicants no. 8-9 are residents of village Kakrana, applicant no. 10 is a resident of village Sugat, Applicant no. 11 is a resident of village Bhitada, Applicants no. 12-13 are residents of village Dubkheda. These villages are all located on the banks of the Narmada River, and are affected by submergence from the Sardar Sarovar Project (SSP). At the present dam height of 110.64 metres all these villages have lost most of their prime lands and houses to submergence. The full planned height of the dam is 138.68 metres. A copy of a rough map indicating the location of these villages is annexed herewith and marked as **Annexure-A/4**.

8. These villages lie in extremely inaccessible terrain in the Vindhya mountain ranges along the Narmada and have till date been totally neglected by the government for any kind of developmental work. There are no government services of any kind in these villages such as schools, ration shops, dispensaries, there is no electricity and not even any motorable roads leading to the village. The only access to these villages is by boat or on foot. The nearest ration shop with adequate rations is about 8-20 kms. away. The nearest government hospital is more than 25 kms. away. The government schools in these villages run only on paper, and not in reality. The postal system in these villages is unreliable because the villages are inaccessible. Further, the government has abandoned all developmental activity in these villages for the past decade as they are slated for submergence.

9. In all these villages, the process of land acquisition of all property, i.e. agricultural lands and houses, coming under submergence, was carried out between 1991 and 1994. However, the residents of these villages, who are all adivasis, were neither informed about this process, nor were they ever served any notices whatsoever throughout the entire process, including the final Award. Though the Land Acquisition process has already culminated in the form of land acquisition Awards in 1994 itself, and many of the lands and houses have submerged, a substantial number of oustees are still residing in the village and cultivating the parts of the land that are not yet submerged as they have been left with no rehabilitation. Without rehabilitation and with no other means of livelihood, people are left without a choice and are compelled to cultivate the remaining land and continue to survive in a precarious condition.

10. The inaccuracy and unreliability of the data available for this area, based on which Land Acquisition was carried out and the PAP list drawn up, has been acknowledged by the Respondents. In 1993 the NVDA had prepared an Action Plan for the implementation of the rehabilitation of the project-affected families (PAFs). For the purpose of the preparation of the said Action Plan the NVDA had conducted a socio-economic study of few of the villages coming under submergence. For ready reference the Applicants produced below extracts from the said Action Plan:

‘As per the recommendations, the following actions need to be initiated:

D. Land records must be updated to get a clear picture on co-sharers and encroachers...’

The Action Plan further states that,

‘...Land records are not up to date and do not correctly show the position of co-sharers...’

A true copy of the relevant extracts of the Action Plan 1993 is annexed and referred to as **Annexure-A/5**.

11. Thus it is clear that, in 1991-92, when the notifications under section 4 of the Land Acquisition Act were issued, the mandated process of updating land records had not yet been done. And since the PAP lists were drawn up based on such existing outdated records, without any ground level verification they were totally flawed. Numerous blunders were made in the process of Land Acquisition, including in several instances the passing Land Acquisition Awards in the names of persons who were no longer alive at the time of passing the Award. Thus in just 7 villages of Alirajpur tehsil there are at least 13 cases where Land Acquisition Awards were passed in the name of already deceased persons (some having died as long as 20 years ago) and where the mutation of land records had already been carried out i.e., the title to land had already been transferred to the legal heirs. A list of the said 13 cases as a sample is annexed herewith as Annexure A/6.
12. This anomaly has been brought to the notice of the NVDA several times. In fact, a version of the above list was handed over to Mr. Rajneesh Vaish in the office of the GRA on August 9, 2004. Shri Vaish, who was Commissioner (Rehabilitation) of NVDA at the time, admitted that this indeed was a mistake on the part of the GRA and it would be corrected. However, it is obvious that no such corrections have been done by the NVDA. Take the example in the case of Dedia S/o Jhetriya of village Anjanwara. Though at the time of land acquisition, his father Jhetriya S/o Kotwal had already been dead for over 10 years and the land title had already been passed on to his sons who were recorded as co-sharers in the official land title, the Land Acquisition Award was still passed in the name of Jhetriya Kotwal and his sons were recorded as "adult sons". This anomaly continues even till today. In the first week on September, PAP lists were distributed in the villages of Madhya Pradesh. Even in this recent PAP list of Anjanwara (letter no. 893/rehab/05, dated 5/9/05), Dedia Jhetriya who is aged about 80 yrs continues to be listed as an adult son, while his dead father continues to be listed as land holder. This is not an isolated case. The 13 cases mentioned are only the tip of the iceberg and expose the blunders in the entire system of surveying and recording in these remote and inaccessible villages. If people long dead could be recorded as living land holders and living land holders recorded as adult sons, then it is not surprising that many genuine eligible persons have been left out of the PAF lists that were drawn up. Even the Hon'ble Supreme Court in its verdict dated 15 March 2005 in I.A. No. 10 in I.A. No. 4 and I.A. No. 11 in I.A. No. 7 in Writ Petition (Civil) No. 328 of 2002, noticed these blunders and have directed that in case Awards have been passed in the name of dead persons, the heirs should be treated as landholders. "Each of the 8 applicants were, thus, in reality a landholder in their own right since their father Athiya and Khatriya died even prior to issuance of the notification under Section 4 of the Act."
13. Initially people could not even raise objections to their names being excluded from the Project Affected Persons lists, as for many years the people to be affected did not even know whether their names were in the official list of affected persons or not. As they hadn't even received the mandatory notices for Land Acquisition they had no way of knowing whether they were included in the official list. They repeatedly demanded to see the official PAP list so that in case any of their names were missing they could bring it to the attention of the concerned authorities. (e.g. Minutes of meeting with Chief Minister of M.P. dated 10.5.94, letter to Collector, Jhabua dated 30.5.95, letter to NVDA, Alirajpur dated 29.12.95, letters dated 11.1.99, 16.1.99 and 22.1.99 to NVDA, Alirajpur, Again to the same authority on 11.7.99 and on 2.9.99, letter to Director NCA, Indore on 10.11.2000. These letters are available with the Applicants and can be produced if so desired by this Hon'ble Court).
14. Though it stands to reason that the PAP list is a public document and should have been easily available, in any case at least to the affected people, it took several years before even a partial list was made available to the Applicants. It was only as late as January 1996 that some *Gram Panchayats* in this area received some partial lists of affected persons accompanied with a letter stating that in case of objections or claims as to having been omitted from the list the concerned persons should approach the Rehabilitation Officer (RO), NVDA, Alirajpur.
15. Following this, those of the Applicants whose names had been omitted from the list wrote individually to the R.O. Alirajpur requesting that their names be included. But there was no response to these applications. The Applicants place on record a true copy of a sample of the above-mentioned petition as Annexure-A/7.
16. The matter was taken up with the State government as well. In a meeting with the Chief Minister held on 5.1.2000 in Bhopal, a list of persons omitted from the official list was submitted and a need for verification of claims was expressed. The Chief Minister promised that camps would be set up in villages and the claims of PAPs excluded from the list would be verified. Unfortunately such a process was not carried out. Following the meeting with the CM, some of the claimants and village representatives received notices wherein they

were told to present themselves with documentary proof of their being PAPs (mainly proof of age) at the NVDA office in Alirajpur on 14.3.2000 and 16.3.2000. People went in hordes and submitted their panchayat sarpanch praman patras, but till date nothing has come of this process either. The claimants have never received any replies from the authorities as to whether their claims were accepted or denied. The Applicants place on record a true copy of the above-mentioned notices issued by the R.O., Alirajpur as **Annexure-A/8**.

17. As mentioned in para 6, one of the categories of those wrongly left out of the PAP list are Adult/Major Sons who had attained 18 years of age at the time of issuance of section 4 notice. Applicants no.1, 2, 3, 4, 8, 11, 12 i.e Sildaria s/o Bavajia, Jagia s/o Gulabsingh, Ramsia s/o Bunda, Jamni d/o Bawa, Putiya s/o Bhursingh, Baddu s/o Lalsingh, Rehanjia s/o Chima respectively fall under this category.
18. In order to prove their claims such claimants have been asked to produce proof of age, which could be documents such as school certificates or police station certificates. This is an impossible task as the villages of the Applicants, as explained above, are situated in a remote area with either no schools at all or schools functioning only on paper. Recently some schools have started functioning, though not in any way regularly. But there is clearly no way of obtaining school certificates of more than two decades ago. The nearest police station is 20-30 kms away and nobody from the villages ever registers a birth there. There is no government appointed *chowkidar* in the village. In other more developed areas upstream, such as the villages in the plains of Nimad, which are also affected by the dam, infrastructure such as schools is present to a greater extent and hence some people of those areas have been able to produce school certificates as proof of age. But this is impossible in the remote villages where the Applicants belong.
19. The kind of documents available with some of the villagers are ration cards, voters identity cards, voters lists, and certificates of age issued by the *Gram Panchayat*. This Gram Panchayat is a statutory elected body under the Panchayati Raj Extension to Scheduled Areas Act (PESA Act) and is headed by the Sarpanch who is an elected official. The Gram Panchayat and Gram Sabhas in these villages are especially empowered due to their scheduled status.
20. On 14.3.2000, all the Applicants whose names were omitted from the PAP list submitted individual petitions to the Rehabilitation Officer (RO), Alirajpur. Along with these petitions they produced certificates of age and domicile issued by the *Gram Panchayat* as proof. But after this there was no further response from the government. No verification of claims was carried out. The Applicants place on record a true copy of a sample of the above-mentioned petitions and certificate of age and domicile issued by the *Gram Panchayat* as **Annexure-A/9 and Annexure A/10** respectively.
21. After the establishment of the Grievance Redressal Authority (GRA) on 30.3.2000 by the Government of M.P. following the orders of this Hon'ble Court, the Applicants collectively and/ or individually approached the GRA seeking inclusion in the PAP list on the grounds of having been adult at the time of land acquisition, or of having been a resident of the village and having possessed encroached forest land since decades. True copies of the orders passed by the GRA in the applications of each of the applicants and a table showing the various petitions made to the GRA and the response by the GRA, along with the order is annexed herewith as **Annexure A/11 (Colly)**.
22. The GRA passed orders in the applications filed without granting any relief to any of the Applicants. In the cases seeking the inclusion of names in PAP list on the basis of having been adults, the GRA has insisted on school certificates as the necessary proof for age despite it being repeatedly put before him the all the Applicants are illiterate and schools in the area are either non-existent or non-functional. The GRA has rejected all other documentary proofs such as ration cards, forest minor produce licenses, age certificates issued by *Gram Panchayats* etc, and accepted only school certificates as sufficient proof of age. In addition, the GRA has asked for proofs that pre-date the section 4 notice, which in these villages ranges from 1991 to 1994, as mentioned above. This is clear from the Authority's order in case no.890 - 920. However there are no proofs in these villages, let alone 10 or 15-year old proofs. A true copy of the order dated 3.9.2002 passed by the GRA in Case No.890 of 920 in the case of Akadia village is annexed herewith and marked as **Annexure-A/12**.
23. As there continued to be no response from the authorities in spite of so many different processes having been initiated, the issue was yet again raised before the Collector of Jhabua district in August 2004. In response, the Collector ordered that teams of officials carry out verifications of the claims of undeclared oustees by

visiting the villages. A letter to this effect dated 10/8/04 is available with the Applicants and can be produced if desired. However, nothing tangible appears to have emerged as a result of this exercise. In any event, no information in this regard has been given to the applicants or other villagers. What is clear, however, is that none of the applicants has been included in the PAP list till date. No official communication has ever been received by any of the villagers as to what were the results of these numerous procedures carried out by the authorities.

24. As mentioned in para 6, another category of those omitted from the list are 'encroachers' i.e those who do not possess titled land but have been cultivating land technically belonging to the forest or revenue departments. The NWDTA defines an oustee as, "any person who since at least one year prior to the date of publication of the notification under Section 4 of the Act, has been ordinarily residing or cultivating land or carrying on any trade, occupation, or calling or working for gain in the area likely to be submerged permanently or temporarily." (Clause XI Sub-Clause I (1) (2)). Thus the NWDTA acknowledges anybody "cultivating land" as an oustee, without any qualifications of actual ownership of such land. Further, as stated in para no. 5 above, the State of M.P. in its policy recognizes encroachers as PAPs who are entitled to land for rehabilitation but only recognizes encroachments that are pre 1987, though the NWDTA defines any person cultivating one year prior to issuance of section 4 notice as a PAP.
25. The villages of the Applicants are located in the middle of the forest and all the adivasis in submergence villages (as also all adivasis of surrounding villages) cultivate lands which are technically classified as forest lands and hence belonging to the State, though most of these lands have been in the possession of cultivators since several decades and in some cases since generations. A survey in early 1990 conducted by the Forest Department of the area following directions from the then SC/ST Commissioner showed that there were 777 encroachers in just 19 villages in the Mathwad range (Most of the submergence villages lie in this range). It was also found that some of the villagers possess only forest encroachments and no titled land. However, as already pointed out in para 5 above, the Action Plan of 1993 drawn up by the State of M.P. (Annexure A/3) itself recognizes such 'encroachers' as Bhoomi Swamis and entitled to rehabilitation on the same terms as those with titled land. In reality, no one can be 'landless' in these villages, which are very remote and inaccessible, and where agriculture is the only source of livelihood. Gathering of forest produce or fish from the river may be, at best, supplementary income, but land is primary for living, and that too is used only for growing essential cereals such as jowar, bajri, makkai, wheat, tuvar dal, moong dal, chawli, groundnuts (to extract oil), etc. There are absolutely no industries or any other source of livelihood in the region, hence everyone is de-facto landed.
26. In 1994, the state government began a process of regularisation for encroachments prior to 1980. As a preliminary step it asked for individual applications from encroachers. Over 220 applications were filed from the submergence villages of Alirajpur, 42 just from one village, Jalsindhi. However, the regularisation process has not been completed till date. Copies of the said applications are available with the Applicants.
27. As is the case with proofs of age, people in most cases do not possess documentary proofs of their possession of old encroachments. The usual documentary proofs such as PORs and fine receipts do not exist due to the corruption that exists in the lower rung of forest officials. Thus people paid fines but were never given receipts. The Applicants do possess certificates issued by the *Gram Panchayat*. In 1994, after an appeal from many tribal organisations across the state, who were also facing the same problem of lack of documentary evidence, the Chief Minister agreed in principle that certification by a full sitting of the *gram sabha* should be accepted as valid proof. But actual orders were never issued. The Applicants place on record a sample of the above-mentioned *Gram Panchayat* certificates as **Annexure-A/13**.
28. In these cases again, the GRA has refused to accept certificates issued by the *Panchayat* as sufficient proof. In the case of Pidia Hazaria of village Jalsindhi, Applicant no. 7 in this case, the GRA rejected the *Panchayat* certificate issued in 1996 as part of the procedure described above and also the vital proof that the land of Pidia Hazaria was submerged and loss of crop was recorded by the NVDA in 1999. At present his entire land and his house has been submerged. But he still isn't recognised as a PAP. Similarly the land and house of Ratan Dalsingh of village Sugat, Applicant no. 10 in this case, have been submerged but he has been granted no relief, and he is not even recognized as a PAP yet.

29. To summarise the individual cases of the applicants:

- i. Applicants no.1, 2, 3, 8, 11 and 12 namely Sildaria s/o Bavajia, Jagia s/o Gulabsingh, Ramsia s/o Bunda, Putiya s/o Bhursingh, Baddu s/o Lalsingh and Rehanjia s/o Chima are all sons of declared PAPs and should be declared as adult sons. But they have all been omitted from the PAP list despite having been adult at the time of land acquisition. The NVDA based on its faulty desk-work surveys rejects their claims saying that these persons were either minor at the time of drawing up of lists or that they do not exist in their records. The GRA has given them no relief. As proof of their age these applicants have various documents such as voters cards, voters lists, ration cards, age certificates issued by the Gram Panchayat etc. These are set out in detail in a table annexed herewith and referred to as **Annexure A/14**.
- ii. Applicant no.2, namely, Jamni d/o Bawa (w/o Awalsingh) is the daughter of Bawa Mahariya who is a declared PAP of village Jalsindhi. She has lived all her life in village Jalsindhi and was adult at the time of Land Acquisition. After marriage she continued to live with her husband and family in the same village and cultivate part of her father's land as he had no sons. Thus she is an Adult Daughter eligible to be a PAP but has not been recognized as such. Based on the definition of 'oustee' as laid out in the Award, she was living and cultivating land along with her husband in the submergence area at the time of the Section 4 notification, hence needs to be declared as an oustee.
- iii. Applicant no.5, namely, Sevalia s/o Janglia is the son of Janglia s/o Athiya (deceased), who was the eldest son of Athiya Dokhlia, a declared PAP of village Jalsindhi. The three younger brothers of Janglia Athiya, namely, Bavajia Athiya, Sabnia Athiya, Maknia Athiya are all declared PAPs. But Janglia Athiya, has been left out of the list. For a certain period of time the family of Janglia Athiya had migrated to another area in search of livelihood. But he is also the rightful heir of Athiya Dhoklia along with his brothers Bavajiya, Sabnia and Maknia, and hence entitled to be declared as a PAP. Since Jangliya is now deceased, his heirs including his son Sevalia must be declared as oustees.
- iv. Applicant no.6, namely Barkibai w/o Chagnia has recently been widowed after the death of Chagnia s/o Sathia. Chagnia Sathiya's father and brother were declared as PAPs of village Jalsindhi. On the death of Sathiya, the land title was wrongly transferred only in the name of Chagnia's elder brother Hurji Sathiya, (who has been declared and resettled in Gujarat) and Chagnia's name was left out even though he had a share in the land as well. Chagnia Sathiya's name (and hence his widow's name) has been omitted from PAP list either in the category of land holder or adult son (as his father was a declared PAP) though he is above 40 years of age. Also house is being affected by submergence. Now that Chagnia Sathia has also died, his widow Barkibai must be considered a legal heir and declared as an oustee.
- v. Putiya Bhursingh of village Kakrana is the eldest son of Bursingh Muvasiya who is a declared PAP resettled in Khargodhra in Gujarat. Even though Putiya's younger brothers have been declared as PAPs, the NVDA based on its incorrect surveys claims that Putiya was a minor at the time of issuance of sec 4 notice. Voter's list of 1999 shows age of Putiya as 33 yrs and that of his younger brothers Bhayla and Rayla (they've been allotted land in Gujarat already) as 29 and 28 yrs respectively. Putiya's ration card of 6/12/04 shows his age as 39. In addition, his wife Bhimbai Putiya has a voter card no. MP/39/304/471559 where her age as on 1/1/95 was 28. Hence Putiya has been left off the lists because of NVDA's wrong assertion that he was not a minor at the time of section 4. But he was major at the time and needs to be declared as a major son.
- vi. Applicant no.9, namely, Richdi d/o Muvasiya (w/o Chupsingh) is a titled landholder. She is a co-sharer in her father Muvasiya Nansingh's land who is a declared PAP and whose land has been acquired. Land title bears her name as well and the ration card in her name dated 2/10/04 shows her age as 52 yrs. Thus despite being a landholder she has not been declared as a PAP, probably because she is a woman landholder and the NVDA considers her to be dependent on her husband. However, she is a landholder and if land has been acquired from her then she must be declared as an oustee and be rehabilitated.

- vii. Applicant no.13, namely, Tuthi d/o Rehanjia is the daughter of Rehanjia Namalya (deceased), who was a declared PAP. He was co-sharer with his brother Bothia Namalya who is also a declared PAP. Following the death of Rehanjia Namalya, his three minor children including Tuthi rehanjiya were recorded as landholders in the land title along with their uncle Bothia Namalya (this was even before completion of land acquisition process). But till date they have not been recognized as PAPs. Thus despite being a titled land holder, from whom land has been acquired, she has not been declared as PAP.
- viii. Applicant no.7, namely, Pidia Hazaria, is a resident of village Jalsindhi and has been cultivating forest encroachment for 3 decades. As proof he has a Gram Panchayat Certificate showing his age and well as showing that he has been cultivating this land since before 1980. In addition he also has a Submergence Panchnama made by the NVDA showing that he lost crops due to the submergence from the dam in 1999.
- ix. Applicant no.10, namely, Ratan Dalsingh is a resident of Sugat and has been cultivating forest encroachment since about 2 decades. His name is listed in the voter's list of 1999 at serial No. 668, aged 34. This is further substantiated by his ration card. His land has already submerged. So has his house which was numbered 24 by the govt.

A table detailing the status of each of the applicant and the supporting evidence available with them is placed as [Annexure-A/14](#)

- 30. The main hurdle in the verification and regularisation of these claims has been the failure to set a reasonable, feasible and rational set of parameters, taking into consideration the circumstances, past experiences, the backwardness of the geographical area involved and the status of the people involved, by which the claims of the Applicants could be assessed. As can be observed from Table 2 placed as Annexure-A/14, the Applicants have different documents as proof of age and domicile such as ration cards, voter lists, *Panchayat* certificates etc. In January 2005, the Rehabilitation Officer, Alirajpur again initiated a process for declaring people and issued notices to undeclared persons listing out documents that could be submitted as proof by them. The list included (1) Marksheet of Higher Secondary (2) School certificate (3) Police station or hospital certificate relating to age (4) Other age related certificate (5) Land related documents (6) Any other acceptable documents. However, it is not clear if the NVDA requires any one of these documents or all of them. It also vague about 'any other acceptable documents'. Although people submitted ration cards, voter identity cards and voter lists as proofs, their claims have still not been accepted. They have as usual been given no information about the results of the process. A true copy of the above mentioned notice is placed as [Annexure A/15](#).
- 31. Despite the GRA also expressing the need for setting up such a set of parameters (opinion of the GRA recorded during the consultations with the R&R Sub-group in 2002), no such parameters have been spelt out. As mentioned before, the GRA has rejected ration cards, voter's cards, census data, forest minor produce licenses, age certificates issued by the *Gram Panchayat* as sufficient proofs of age or domicile. The only document that seems to be accepted by proof is the school certificate, which none of the Applicants can produce as they have never been given the opportunity to go to school. In the case of encroachers also the GRA has declined to accept certificates issued by *Gram Panchayats* as sufficient proof.
- 32. Despite their having time and again approached the appropriate authorities for correction of the PAP lists, no feasible mechanism for the verification of people's claims has been established by the government. These aspects have not been satisfactorily dealt with by the GRA. The GRA, despite acknowledging the need to establish a mechanism and parameters for verification of claims has not done so. It has failed to adopt a feasible and rational procedure of declaring people, taking into account the geographic, social and economic condition of the area, of field verification. It has pleaded lack of infrastructure.

To quote from the minutes of the consultations that the GRA had with the R&R sub-group:

"The Chairman GRA further stated that for lack of necessary infrastructure, the GRA was not in a position to ascertain the veracity of the information furnished as aforesaid by NVDA..."

A further issue, which has been raised before the GRA as well, is that the GRA holds its hearings of the applications of the oustees in the presence of NVDA officials at either Bhopal or Indore. This means that each of the Applicants seeking rehabilitation has to spend a minimum of Rs 500 (for one trip to Indore) and having to be away from home

for a minimum of 4 days. The oustees pleaded before the GRA that this practice was not proper since with most of the oustees are illiterate and poor it was difficult for them to attend these hearings at such far-flung places. Besides the obvious financial constraints it was also brought to the GRA's notice that, consistent with the requirements of natural justice, the hearings should be held either at the oustees' village or in the nearby district headquarters. However, this request has not been acceded to by the GRA. Due to the financial and other reasons, when people are not able to make it to their hearings, they authorize a representative to do so. However recently, the Chairman of the GRA questioned a representative saying that it was desirable that either oustees themselves appear for their hearings or that a lawyer be sent by them to represent them. Obviously, the GRA does not understand the situation that people are in if he feels that they can pay for lawyers to represent them at hearings in Indore. The GRA is extremely out-of-touch with the people he is dealing with.

33. When any undeclared person approaches the GRA with a claim, the case is immediately referred to the NVDA and the NVDA invariably states that the particular person was a minor at the time or even that the said person did not exist as per their 64-column survey, which it claims was done before drawing up of the PAP lists. The GRA accepts the claims of the NVDA, placing the onus of disproving the records of the NVDA on the Applicant. But no such ground level survey was ever conducted. As stated earlier, this survey was only a desktop affair. The glaring anomalies pointed out at the outset of this Application in the Land Acquisition process and subsequent drawing of PAP lists clearly show that the NVDA was just using old records to fill up their columns without even bothering to verify whether the said persons were still alive or dead. The lapse was so gross that they even failed to take into account the ground level change in ownership of land titles.
34. Thus several of the Applicants have been declared to be non-existent or minor; even though they very much live in the villages and have other documents of proof such as ration cards and voter's lists. Here the case of Putia Bhursingh of village Kakrana, Applicant no. 8 in this case, deserves to be highlighted. According to the NVDA, he was a minor of 15 years at the time of survey. His brothers Bhayla Bhursingh, Bathda Bhursingh, Rayla Bhursingh, Ramsiya Bhursingh who in reality are younger than him have however been declared to have been adults, their names are found in the PAP list, and they have been allotted land in Gujarat, along with their father Bhursingh Muvasiya. This is substantiated by the voter's list of year 1999 where Putia Bhursingh's age is recorded as 33 and that of his younger brothers as 29 (Bhayla) and 28 (Rayla).
35. Though, now Applicants are being asked to produce age certificates, it is pertinent to note that no such parameter was used when PAP lists were drawn up. This was done totally arbitrarily and in fact the age of numerous persons has been arbitrarily recorded as 17 or 16 with no basis whatsoever, and this simple fact makes them ineligible since they are not recorded as 18 years (major son age). Cases where names of elder brothers have been omitted or whose ages have been recorded less than that of their younger siblings, such as the case of Putiya above, abound and only point to the arbitrariness of the whole process.
36. The insistence on parameters such as school certificates as proofs of age, which were not even followed by the NVDA while drawing up its lists, amounts to an outright discrimination against the Applicants, who are all illiterate due to the negligence of no one but the government itself, having neither schools nor any other basic facilities in the area. This is also a negation of the special protection accorded to Scheduled Tribes residing in scheduled areas as explicitly recognised in Schedule V of the Constitution of India. All these villages are scheduled villages. It is submitted that the refusal by the authorities to accept the certificates issued by the *Gram Panchayat* as valid proof of age and domicile is contrary to the special status and powers conferred on the *Gram Panchayats* through the 73rd Amendment to the Constitution.
37. At this juncture it may be useful to refer to the procedures followed by the governments of Gujarat and Maharashtra in similar situations. In December 2001, the government of Maharashtra commissioned a Task Force chaired by the Divisional Commissioner, Nasik, which gave its final report in July 2002. The team which consisted of government officials (revenue and forest and Narmada Vikas departments), and *Panchayat* and village representatives, conducted a comprehensive household level survey of all families in the villages, thus identifying and listing out those families who had not been given PAF status in spite of residing in submergence villages. The ages of all major sons were also recorded. Based on the report of the Task Force the claims are being verified and hundreds of eligible persons have been declared. But in the villages of the Applicants that lie just across the river from the Maharashtra villages, this is not the case and hundreds of eligible families remain undeclared.

38. Also the governments of Maharashtra and Gujarat have been accepting several of the above mentioned documents as proofs of age and have also been conducting medical examinations in cases where no form of documentary proofs are available.
39. Another gross injustice that needs to be taken into account here is the cut off date adopted by GoMP. As has been mentioned before the section 4 notices in these villages were issued around 1991-1992 and the land acquisition completed by 1994. Despite 11 years having passed most of the oustees yet remain to be rehabilitated and lands yet to be submerged. Thus the oustees are being unjustly punished for the delays in rehabilitation by the government. Ousteas who are recorded as minors are now heads of independent families with several children.
40. To summarise:
- i. The applicants are all affected by the Sardar Sarovar Project but have been incorrectly left out of the PAP list. This was as a result of the totally flawed Land Acquisition process and the subsequent drawing up of PAP lists. Despite the applicants and other villagers repeatedly approaching the NVDA and the state government no attempts have been made to have a proper survey conducted to determine the status of the applicants and other villagers in a similar position.
 - ii. The GRA has rejected the claims of all the applicants and has failed to put in place a rational procedure and parameters by which such claims could be verified.
 - iii. Thus there is a need to determine a set of parameters by which the claims of undeclared persons could be verified. A thorough, well planned ground level survey and verification needs to be carried out, preferably by a team consisting of government officials along with village representatives, the composition of which should be determined in consultation with the affected people. For purposes of verification of age and domicile voters identity cards, voters lists, ration cards, forest minor produce licenses, age certificates issued by the elected Gram Panchayat should be accepted as proof. In the absence of any documentary proof a medical examination could be used to determine age (as has been done in the states of Maharashtra and Gujarat). For purposes of determining status of encroachments on the spot verification and certificates issued by the Gram Sabha can be accepted.
 - iv. As has been shown, in some cases titled landholders, heirs, especially women, whether single, married or widowed have been left out of the lists. Similarly adult daughters who have continued to live with their fathers even if married and to cultivate their father's land have been denied PAP status. This gross injustice needs to be rectified.
 - v. Most of the lands in these villages have already been permanently submerged and the applicants are surviving in precarious conditions by cultivating the remaining lands. Thus there is an urgent need that relief be granted to the applicants

It is submitted that the above circumstances, the Applicants are constrained to once again approach this Hon'ble Court seeking the reliefs as prayed for. It is submitted that it is the interest of justice to this Hon'ble Court to allow this application.

Prayer

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- a) set aside the orders of the GRA at Annexure A-11(Colly) and A-12 and direct that each of the applicants be included in the list of PAPs entitled to all the benefits of rehabilitation;
- b) direct the Respondents State of Madhya Pradesh and the NVDA:

- (i) To establish a time-bound and fair mechanism, in consultation with the Applicants and their representatives for rehabilitation of each of the the Applicants;
 - (ii) To modify, as regards other oustees similarly placed as the applicants herein, the existing set of parameters for determining entitlement for inclusion in the list of PAPs by permitting other alternate documents as proof such as but not limited to ration cards or panchayat certificates or voter lists.
- c) Pass such other or further orders as may be deemed just and proper by this Hon'ble Court in the facts and circumstances of the case.

and for this act of kindness, the applicants as in duty bound shall ever pray.

Drawn and filed by

New Delhi

(S.Muralidhar)

Dated 5.10.2005

Advocate for the Applicants

II. ANNEXURES

Annexure A/1: A true copy of the order dated 9.9.2002 passed by this Hon'ble Court in Writ Petition (Civil) No.328 of 2002

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO.328 OF 2002**

Narmada Bachao Andolan Petitioner

Versus

Union of India and Others Respondents

ORDER

The Grievance Redressal Authority having been put in place, there is no reason for this Court to interfere. As far as the dispute raised in this petition is concerned, that is over and final with the earlier decision of this Court. In case an oustee or a person affected by the Project has any grievance, it is open to him to approach the Grievance Redressal Authority.

It is also contended that land for land has not been given. If there is any person so aggrieved or has a justifiable grievance, it is open to that person to approach the Grievance Redressal Authority, failing which this Court.

It is made clear that full assistance will be rendered by the Narmada Control Authority as well as the State Governments to the Grievance Redressal Authority in the discharge of their respective functions.

This writ petition is disposed of in the aforesaid terms.

Sd/-
(K.G. Balakrishnan)

Sd/-
(Arijit Pasayat)

New Delhi, September 9, 2002

Annexure A/2: A true copy of the final Award of the Narmada Waters Disputes Tribunal [not reproduced]

Annexure A/3: Government of Madhya Pradesh, Narmada Valley Development Authority Sardar Sarovar Project, Action Plan of Resettlement & Rehabilitation for the Oustees of Madhya Pradesh (Bhopal: Narmada Valley Development Authority, March 1993), Extracts from Chapter IV

CHAPTER IV: RESETTLEMENT & REHABILITATION POLICIES

1. Rehabilitation Policy For The Oustees Of Narmada Project – Government Of Madhya Pradesh

The policy of the State Government regarding rehabilitation and resettlement of displaced persons of Narmada Sagar Complex Projects as amended upto August 1992 is as follows:

1. Broad principles for rehabilitation of displaced families:

- a) The aim of the State Government is that all displaced families as defined hereinafter would, after their relocation and resettlement improve, or at least regain, their previous standard of living within a reasonable time.
- b) It would be ensured that no hardship is caused to the displaced families in moving out from the present habitat in-to a new place and way of living.
- c) It would be ensured that no adverse social, economic and environment effects of displacement would take place on the host communities.
- d) Special care would be taken of the families of Scheduled Castes, Scheduled Tribes, marginal farmers and small farmers.
- e) Families having legal titles to land and the encroachers would be treated on the same footing for the purpose of entitlement for compensation or for payment of an amount equivalent to compensation as the case may be and for their rehabilitation.
- f) No distinction would be made between the families from revenue villages and the families displaced from forest villages in respect of their rehabilitation.
- g) Reasonable compensation would be determined for the lands, buildings and other immovable assets acquired. Similarly, a reasonable cost would be charged for the lands that would be allotted at the new sites.
- h) Displaced families would be rehabilitated, maintaining the existing structure of social groups as far as possible, in the command area or near the periphery of the affected areas in accordance with their preferences.
- i) Adequate physical and social infrastructure and community services would be provided at the new sites.
- j) While resettling families entitled for allotment of land, it will be ensured that viable units of land are given.
- k) In order that in the process of resettlement, the new and host families get fully integrated, the displaced families would be encouraged and assisted in purchase of land from voluntary sellers of the host villages.
- l) The rehabilitation policy be so implemented that middlemen and profiteers would get eliminated.
- m) Landless agricultural labourers and non-agriculturist families would be assisted in rehabilitation at the new places by giving grant-in-aid in the initial period and self and wage employment opportunities.
- n) Displaced families would be given priority in employment on the project construction.

1. DEFINITIONS :

1.1 (a) Displaced person:

Any person who has been ordinarily residing or carrying on any trade or vocation for his livelihood for atleast one year before the date of publication of notification under section 4 of the Land Acquisition Act or has been cultivating land for at least three years before the date of such notification in an area which is likely to come under submergence whether temporary or permanent because of the project or is otherwise required for the project.

1.1 (b) Displaced Family:

i. A family composed of displaced persons as defined above shall mean and include husband, wife and minor children and other persons dependent on the head of the family, eg, widowed mother, widowed sister, unmarried sister, unmarried daughter or old father.

ii. Every son who has become major on or before the date of notification under section – 4 of the Land Acquisition Act, will be treated as a separate family.

1.2. (a) Landless Person:

A person who, whether individually or jointly with members of his family, does not hold any agricultural land or does not have any land for agriculture.

Explanation:

If a person is practicing agriculture on revenue or forest land by encroachment, he will not be treated as a landless person in view of the provision in clause 2.1 below. If a person is working on landholdings of other as a labourer, he will be treated as a landless person.

1.2 (b) Small Farmers:

A cultivator with an unirrigated land holding of 2 Ha or irrigated land holding of 1 Ha or less.

(c) Marginal farmer:

A cultivator with an unirrigated land holding of 1 Ha or irrigated land holding of 0.5 Ha or less.

Rehabilitation includes resettlement. No distinction shall be made between persons displaced from agricultural lands and those displaced from forest lands for the purpose of rehabilitation.

2.0 LAND AND PROPERTY ACQUISITION:

2.1 All relevant land records would be brought upto date expeditiously for ensuring adequate compensation and allotment of land to displaced persons. Encroachers would be treated as “Bhoomi Swamis” for the purpose of entitlement for payment of an amount equivalent to compensation, provided the encroachments, whether in revenue or forest villages were made prior to 13.4.1987.

2.2 The price of land in the submergence area has been depressed for the last several years. For calculating the compensation for agricultural and rural abadi land to be acquired for the project, the price of similar land in the adjacent command areas will be taken as the basis. For assessing the value of urban abadi and other lands, the average sale prices in the nearest town of similar size outside the submergence area will form the basis of calculation of compensation.

2.3 If 75 percent or more land of a contiguous holding of any person is required to be compulsorily acquired such person will have the right to seek such acquisition of the entire contiguous holding. In other cases, such as enclaves surrounded by water, hamlet rendered as non-viable social unit, disjointed holdings, non-submerged land of less than 2 Ha etc a decision about the offer, if any, for acquisition of the entire holding would be taken after examination on a case by case basis by the Narmada Valley Development Authority.

2.4 Compensation of buildings will be determined on the basis of their replacement value.

2.5 Displaced families would be allowed to take away the building material that could be salvaged of the houses at the old sites to the new relocation sites. There would be no reduction in the compensation amount due to this. Transit passes would be issued by the competent forest officials for carrying away wooden ballies, frames and all such articles which require permits.

2.6 For determining the compensation of trees, capitalized value on the basis of income likely to accrue for a specified period, determined according to each species of trees, would be taken into account.

2.7 Outstanding loans from financial institutions will be transferred to the branch of the Bank operating in the service area where oustees will be allotted lands. Encumbrances would stand transferred to the land granted to the oustees. However, in case of defaulting borrowers the amounts due to the bank will be adjusted by the Land Acquisition Officer for regularisation/ liquidation of overdues.

3.0 ALLOTMENT OF AGRICULTURAL LAND:

3.1 Displaced families would be rehabilitated in accordance with their preferences on land at the new sites, taking as far as possible, the social groups as a unit.

3.2(a) Every displaced family from whom more than 25 percent of its landholding is acquired in revenue villages or forest village shall be entitled to and be allotted land to the extent of land acquired from it, subject to provision in 3.2 (b) below.

3.2(b) A minimum area of 2 Ha. of land would be allotted to all the families whose lands would be acquired irrespective of whether Government land is offered or private land is purchased for allotment.

Where more than 2 Ha. of land is acquired from a family, it will be allotted equal land, subject to a ceiling of 8 Ha.

3.2(c) The government will assist displaced families in providing irrigation by well/ tubewell or any other method on the land allotted, provided such land is not already irrigated. In case the allotted land cannot be irrigated (which fact would be certified by the Agriculture Department), the displaced family would be allotted a minimum of 4 Ha. of land instead of 2 Ha. provided at 3.2 (b) above. In other cases, where irrigation is not possible, the development of dry land would be subsidized by the State Government to the extent of 75% of the cost involved, unless higher subsidies are provided to farmers in any other scheme of the Government.

3.3 Entitlement of Encroachers for Allotment of Land:

Encroachers, whether on revenue land or forest land will also be entitled for allotment of land. Where the area of the land acquired from an encroacher is upto 1 Ha. he will be entitled to 1 Ha. area of land. In those cases where acquisition of land from an encroacher is more than 1 Ha., he will be entitled to 2 Ha. of land irrespective of the fact that the land acquisition from such as encroacher may even be greater than 2 Ha.

Annexure A/4: Rough map showing the location of the villages of the Applicants [not reproduced]

Annexure A/5: Government of Madhya Pradesh, Narmada Valley Development Authority Sardar Sarovar Project, Action Plan of Resettlement & Rehabilitation for the Oustees of Madhya Pradesh (Bhopal: Narmada Valley Development Authority, March 1993), Extracts from Chapter V

CHAPTER V: DISPLACED TRIBALS – SPECIAL MEASURES FOR REHABILITATION

Narmada Valley Development Authority had commissioned a socio-economic study of the tribal people in the 17 villages coming under submergence in the first phase. An independent consultant of repute, Dr. K.C. Dubey and his team were entrusted with this assignment. The report submitted by them is a comprehensive study of the tribal people. An executive synopsis of the report is enclosed.

As per their recommendations, the following actions need to be initiated:

- A. The State Tribal Welfare Department should be moved to get certain tribal communities included in the list of Gujarat State to resolve the discrepancy between the lists of Gujarat and Madhya Pradesh so as to give them uniformly the facilities due to them.
- B. To facilitate the process of 'informal participation', the traditional leaders, i.e., the 'pujara', the 'badwa', the 'patel' and the 'dahalas', should be involved at each step in the rehabilitation and resettlement activities.
- C. Their deities must be shifted and the ritual observances performed at the outset of relocation activity, i.e., choice of relocation site, house site, direction of the house, cohabitation of different subtribes in the same neighbourhood. This will aid adjustment without disrupting their ethos.
- D. Land records must be updated for a clear picture on co-sharers and encroachers.
- E. Suitable self-employment programmes must be designed and alternative vocation visualized with provision for training. This will provide occupational rehabilitation respectable for the landless.

Extract

The Bhilalas and Barelals are usually small land holders but the Naiks and Mankars have either no land or very little land. Land records are not upto date and do not correctly show the position of co-sharers.

Action: Land records need to be brought up to date so that the situation regarding co-sharers is known with more clarity. Landlessness of Mankar and Naiks could be studied. Detailed survey may be necessary to find out the magnitude of encroachment.

(B) The Bhils own quite a large number of cattle but they are not a pastoral people. Similarly, they keep poultry for food and not as a commercial proposition. Fishing is not done by the whole tribe, but only by the Naik sub-tribe. Because of absence of market, this brings only a small income to the Naiks. The Bhils are a seasonally migratory people and migrate for labour to Gujarat for about five months in a year. This is a very important source of income for them.

Action: Suitable self employment programme with training input in fishing can be visualised and alternative to migratory labour can be designed.

10. Dependence on Forests

Dependence on forests is only nominal. Firstly, there is no forest in the eastern half of the strip-Borkhedi, Katarkheda, Chhachhkuan, Jhandana, Kakrana, Dasana Dabhani, Bhitada etc. The western part – Akadia, Chilkada etc. have some forest. Thus, collection of forest produce like Chironji, honey, gum is carried on only in some villages and not in all. Collection of temroo leaves and mahua as also other forest produce are seasonal occupations and do not extend over the whole year. So, whatever income

Annexure A/6: List of deceased persons in whose names Land Acquisition Awards were passed

Jalsindhi

1. Shankaria Dhoklia

Dubkheda

2. Namalya Jeama

3. Nahaliya Hajaria

4. Kaljia Hajaria

5. Modia Megha

Bada Amba

6. Velji Parsingh

Anjanwara

7. Jhetriya Kotwal

8. Narmadia Harji

9. Muvasia Kotwal

Bhitada

10. Omkarsingh Terla

Kakrana

11. Kanada Jheta

12. Butibai W/o Valjya

Jhandana

13. Singaria Pahadia

Annexure A/7: True translation of a sample of the letter individually wrote to R.O. Alirajpur, dated 8.2.1996

**To
Rehabilitation Officer
Narmada Valley Development Authority (NVDA)
Office Alirajpur
Dist. Jhabua
Madhya Pradesh**

Sir,

I, Sildar, S/o Bavajia, am a resident of village Jalsindhi. I am the adult son of Bavajia Athiya who is the son of Athiya Dhokhia. I am married and have children. My name is missing in the project affected persons list of Sardar Sarovar Project. Kindly include my name.

**8.2.1996
Sildaria Bavajia
Vill. Jalsindhi
Dist. Jhabua, M.P.**

Annexure A/8: True copy of notices issued by the R.O., Alirajpur

Office of the LAO and RO, SSP, Alirajpur, Letter no./203/Rehab/2000

Alirajpur dated 23/2/2000

To,

1. Bawa Mahariya, village Jalsindhi
2. Selarsingh Kaljia, village Dubkheda
3. Dhniya Mangtiya, village Anjanwara
4. Gulsingh Bhamta, village Bada Amba
5. Huvariya Daliya, village Sakarja
6. Bhangi Surla, village Sugat
7. Vaniya Bahura, village Jhandana

NBA Activist

Subject: To be present at the checking of the petitions given at the 5/1/2000 sitting called by the Hon'ble Chief Minister

According to the said subject, for the petitions received by this office, there needs to be a checking to assess whether or not the applicants were major at the time of the survey. For this checking, applicants have been sent notices to be present along with their proofs (praman patra).

Hence, we request that you please take the trouble of being present on 14/3/2000 Tuesday and 16/3/2000 Thursday at the time of the checking of the applicants petitions.

N.S. Bramhe
LAO and RO
SSP
Alirajpur, M.P.

Annexure A/9: True translation of a sample letter individually written by the applicants to the R.O. Alirajpur, dated 13.3.2005

To

**Rehabilitation & Land Acquisition Officer
Alirajpur, Dist. Jhabua
Madhya Pradesh**

13.3.2000

Sub: Regarding inclusion of name in PAP List.

Sir,

I am Sildar, S/o Bavajia, village Jalsindhi, Tehsil Alirajpur, District Jhabua, M.P., I belong to Gram Panchayat Akadia. My age is 29 years. My name has been mistakenly excluded from the Sardar Sarovar Project affected persons list. Therefore, I request you that my age be verified and my name included in the PAP List.

**Copy to: Collector,
Dist. Jhabua.**

Sildar Bavajia

Annexure-A/10: True translation of a sample of the certificate issued by the Gram Panchayat

It is certified that Shri Sildar S/o Bavajia, is an original resident of village Jalsindhi, Gram Panchayat Akadia, Block Sondwa, Tehsil Alirajpur, Dist. Jhabua, Madhya Pradesh. He is a Bhilala adivasi.

In our village Jalsindhi, Panchayat Akadia there is no school certificate available nor is there any record of birth of death and there is no government appointed village watchman who would report information regarding birth/death to the police station. This has always been the situation.

In our village all the Gram Sabha members together, after making due enquiries, have estimated his age to be 29 years. As per the vision and respective and policy of the Madhya Pradesh Government the Gram Sabha has this power.

This certificate issued under my signature and seal is a true one.

Dated: 13.3.2000
Place: Jalsindhi

Indersingh
Sarpanch

Annexure- A/11: Orders issued by the Grievance Redressal Authority

1. Grievance Redressal Authority, M.P., (For Sardar Sarovar Project), CASE No.616, Order

1. This is a complaint made by Sildar S/o Bavajya, residing at village Jalsindhi, Tehsil Alirajpur, District Jhabua. The grievance made by the complainant is that there has been no proper survey of the area that would be in submergence as a result of the construction of the Sardar Sarovar Dam and the complainant apprehends that his property would be submerged. The complainant has therefore requested that a resurvey be directed to correctly ascertain the area of submergence.

2. In reply to filed on behalf of NVDA on 28.12.2001, it was stated that after giving notice to the villagers, the survey of the area of submergence was conducted but the complainant and other villagers who were present refused to sign the Panchnama. It was further averred that the hut of the complainant would not be affected even by the back water if the height of the Dam was raised to 455 ft.

3. A copy of the reply filed on behalf of NVDA was sent to the complainant seeking his response, if any. He was also requested to let this Authority know whether he would like to be heard personally. No response was received from the complainant.

4. The case was then fixed for hearing on 25.6.2002. The notice of the date of hearing sent to the complainant was returned unserved by the postal department as according to the endorsement, the complainant had refused to accept service of notice. On the date of hearing Ms. Karuna of NBA on behalf of the complainant stated that the survey of the field of the complainant had not been undertaken to ascertain whether it would be affected by the construction of the Dam. She was filed a photostat copy of an application alleged to have been filed by the complainant before this Authority on 18.3.2002 contending that a false Panchnama had been prepared by NVDA. Shri A.K. Khare on behalf on NVDA denied the allegations made by Ms. Karuna and state that if particulars of the land of the complainant were given, survey would be undertaken to ascertain facts.

5. It is therefore directed that in case particulars of the agricultural land holding of the complainant which he apprehends would be submerged are furnished to the Director, NVDA, Indore, within a month from the date of this order, he shall after notice to the complainant and after carrying out the survey, send a report to the Authority with a copy to the complainant. In case the complainant is aggrieved by that report, he shall be at liberty to file a fresh complaint before this Authority for Redressal of his specific grievance, if any.

6. The case is accordingly disposed of. A copy of this order be sent to N.B.A., Badwani, as requested by Ms. Karuna and to N.V.D.A.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal, 12th July 2002

2. Grievance Redressal Authority, M.P. (For Sardar Sarovar Project), Case Nos. 1395, 1396, 1397, 1404, 1405 and 1406 of 2002, Order

1. These are complaints filed by Ramsya Kelji [Ramsya Bunda], Pidiya Hajaria, Dadla Bunda, and Sildar Bavalia [Sildar Bavajya], residents of village Jalsindhi. Their grievance is that though they are affected by the construction of the Sardar Sarovar Dam and are entitled to be rehabilitated, their names have not been included in the list of project affected families. They have therefore sought appropriate relief in that behalf. Copies of the complaints were sent to the NVDA for submitting its comments.

2. In the reply filed on behalf of NVDA, it is averred that on receipt of the copies of the complaints, the complainants were informed that enquiry into their claims would be made on 1.6.2002 at the village and that they should at that time produce necessary material to substantiate their claims. It is averred that these complainants failed to produce any material to show that they had attained majority on 14.2.1991 when the notification under Section 4 of the Land Acquisition Act 1894 was published for acquisition of the area of submergence in village Jalsindhi. Copies of Panchnama made in that behalf are annexed to the reply. It is therefore contended that these complainants cannot be held entitled to any relief.

3. A copy of the reply filed on behalf of NVDA was sent to the complainants on 9.9.2002 to seek their response, if any within a fortnight. These complainants failed to send any response so far till this date.

4. In the circumstances, as the complainants have failed to bring any material on record to show that they had attained majority on the relevant date, they cannot be held entitled to reliefs available to major sons of oustees.

5. The complaints are disposed of accordingly. A copy of this order along with translation in Hindi of paras 4 and 5 of the order be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal
Dated: 25.10.02

3. Grievance Redressal Authority, M.P. (For Sardar Sarovar Project), Case No. 620, Order

1. This is a complaint filed by Sevalia S/o Janglia, residing at village Jalsindhi, Tehsil Alirajpur, District Jhabua. The grievance of the complainant is that the land holding of his father would be affected by the construction of the Sardar Sarovar Dam and after the death of his father he is one of the joint holders. He has therefore sought relief in accordance with the provisions of the N.W.D.T. Award and the R.R. Policy of the State Government.

2. In the reply filed on behalf of NVDA it is stated that at the time of publication of notification under section 4 of the Land Acquisition Act 1894, for acquisition of the area of submergence in village Jalsindhi, the father of the complainant was residing at village Palasia Sadi in District Dhulia, Maharashtra and that two or three years ago, after the death of his father the complainant came to Jalsindhi and has been residing there. It is further averred that there is no record to indicate that the complainant or his father had been recorded as land holders of any parcel of land in the area of submergence.

3. The case was fixed for hearing on 17.7.2002 but the notice of hearing served to the complainant was returned unserved by the postal authorities with an endorsement that the addressee refused to accept the notice.

4. There is material on record to show that the complainant is a project affected person. He cannot therefore be held to any relief as sought by him.

5. The complaint is disposed of accordingly. A copy of this order along with translation in Hindi of para 4 of the order be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal
Dated: 2.9.02

4. Grievance Redressal Authority, M.P. (For Sardar Sarovar Project), Case Nos. 1394, 1398, 1399, 1400, 1401 & 1402 of 2002, Order

1. As these cases raise common questions they are disposed of by a common order.

2. These are complaints filed by Murkhi Bai, Jahagia Gulab, Awalsingh Shenkaria, Sevalia Janglia, Putaria Jangliya, Khumaniya Jangliya and Khamaliya Jangliya, residing at village Jalsindhi. Their grievance is that even though they are project affected persons, they have not been rehabilitated. They have therefore sought appropriate relief in that behalf. Copies of the complaints were sent to NVDA for submitting its comments.

3. In the reply filed on behalf of NVDA it is averred that on receipt of the copies of complaints, the complainants were informed that enquiry into their claims would be made on 1.6.2002 at the village and at that time they should produce necessary material to substantiate their claims. It is contended that these complainants failed to furnish any particulars on the basis of which it could be held that they were oustees in accordance with the provisions of the N.W.D.T Award. It is therefore contended that these complainants cannot be held entitled to any relief.

4. A copy of the reply was sent on 9.9.2002 to the complainants to seek their response, if any. No response has been received from the complainant so far.

5. Complainants have failed to bring on record any material to show that they were entitled to any relief as oustees, in accordance with the provisions of the N.W.D.T Award and the R.R. Policy of the State Government. Hence no relief can be granted to them.

6. The complaints are disposed of accordingly. A copy of this order along with translation in Hindi of paras 5 and 6 of the order be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal
Dated: 15th October 2002

5. Grievance Redressal Authority, M.P. (For Sardar Sarovar Project), Case No. 3035 of 2002, Order

1. This is a complaint filed by Chagnia Sathia, residing at village Jalsindhi, Tehsil Alirajpur, District Jhabua. The complainant has averred that his village has been affected by the construction of the Sardar Sarovar Dam by raising the height of the Dam to 90 metres but the villagers have not been rehabilitated so far. He has further averred that after the death of his father the parcel of land held by his father has been recorded in the name of his brother but his name was not entered as a co-sharer. He has therefore sought an enquiry in that behalf.

2. In the reply filed on behalf of NVDA it is stated that no property recorded in the name of the complainant is affected by submergence as a result of the construction of the Sardar Sarovar Dam. It is further stated that the complainant has failed to give any particulars of his property alleged to be in the area of submergence and hence it would not be possible to deal with the allegations made in that behalf.

3. As regards the grievance of the complainant that his name has not been entered as a co-sharer in the revenue record along with his brother after the death of his father 20 years ago, the complainant should have approached the revenue authorities for any relief in that behalf. This Authority has jurisdiction to look into the grievance of any project affected person but the complainant has merely raised general questions relating to rehabilitation of the project affected persons of village Jalsindhi without giving any particulars to show that he is a project affected person and is being deprived to any amenity due to him in accordance with the provisions of the N.W.D.T Award and the R.R. Policy of the State Government. In the circumstances, no relief can be granted to the complainant on the basis of vague allegations. The complainant shall however be at liberty to file a fresh complaint before this Authority for Redressal of his specific grievance, if any.

4. The complaint is disposed of accordingly. A copy of this order along with translation in Hindi of paras 3& 4 of the order be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.

Bhopal

Dated: 15th October 2002

6. Grievance Redressal Authority, M.P. (For Sardar Sarovar Project), Case No. 557, Order

1. This is a complaint filed by Pidiya S/o Hajaria, residing at village Jalsindhi, Tehsil Alirajpur, District Jhabua. The complainant has averred that his village is in the area of submergence as a result of the construction of the Sardar Sarovar Dam upto the height of 90 metres but he has not been rehabilitated so far. He has averred that he is in possession of land as an encroacher and he is entitled to be rehabilitated as a Bhumiswami by allotting him 2 hectares of agricultural land, as provided by the R.R. Policy of the State Government.

2. In the reply dated 16.11.2001 filed on behalf of NVDA it is stated that no property of the complainant is in the area of submergence and hence he cannot be held to be a project affected person. A copy of the reply was sent to the complainant on 28.11.2001 to seek his response, if any. He was also requested to let this Authority know whether he would like to be heard personally. No response was received from the complainant. The case was then fixed for hearing on 24.6.2002. The notice of hearing sent to the complainant was returned unserved with the postal endorsement that the addressee refused to accept service of notice. However, on the date of hearing Shri Baba Maharia and Shri Shashank Kela appeared and submitted documents which were taken on record and they were heard. At the time of hearing, on behalf of the complainant, an application was submitted that he was in possession of land bearing Survey Nos. 44 and 56/1 since the year 1980, as was evident from the certificate issued by Gram Panchayat and that his name has been omitted from the list of project affected persons even though he was an encroacher since the year 1980. He has filed a certificate from Sarpanch of Gram Panchayat Akadia, stating that he has been an encroacher in possession of land since 18 years and has been cultivating land. On behalf of the complainant, a report dated 29.9.1998 from the office of Nayab Tehsildar also been filed showing that the complainant Pidiya who was cultivating land bearing Survey No. 44 and 56/1 had suffered damages amounting to Rs. 2500 on account of loss of crops due to flood.

3. In the supplementary reply filed on behalf of NVDA, it is averred that the award for the land bearing Survey No. 44 in village Jalsindhi was passed on 17.12.1993 in favour of on Gulabsingh Luharia whose name was recorded in the Land Revenue records as the holder of land and as regards land bearing Khasra No. 56/1, it is recorded as forest land in the revenue record and the record shows that from the year 1985-86 to 1988-89 it is not recorded to be in possession of any person. It is however admitted that the possession of the complainant over that land has been shown in the revenue record in the year 1998. It is contended that according to the R.R. Policy, the possession of the complainant as an encroacher prior to 13.4.1987 attracts the deeming provision contained in the Clause 2.1 of the R.R Policy enabling an encroacher to be treated as a 'Bhumiswami'.

4. The question for consideration is whether on the basis of the material on record it can be held that the complainant was an encroacher over parcels of land bearing Survey Nos. 44 and 56/1 in village Jalsindhi, prior to 13.4.1987.

It was contended on behalf of the complainant that prior to the year 1988 the complainant used to pay fine to the forest rangers for being in unlawful possession of the land as an encroacher. It was urged on behalf that the Authority should summon the relevant documents of the forest department. It is however evident from copies of the revenue record produced on behalf of NVDA that from the years 1985-86 to 1988-89 the land in question was not in possession of any encroacher. The certificate from Sarpanch of Gram Panchayat that the complainant has been in possession as an encroacher since the year 1980 is not substantiated by revenue record which has evidentiary value. Hence, the contention advanced on behalf of the complainant, that he was proved to be in possession of the land in question as an encroacher prior to 13.4.1987, cannot be upheld.

5. Under the circumstances, it cannot be held on the basis of the material on record that the complainant was in possession of the land in question, as an encroacher prior to 13.4.1987. The complainant therefore cannot be entitled to the relief sought by him.

6. The complaint is disposed of accordingly. A copy of this order along with translation in Hindi of para 5 of the order be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal
Dated: 15th October 2002

7. Grievance Redressal Authority, M.P. (For Sardar Sarovar Project), Case No. 583, Order

1. This is a complaint made by Richdi Muvasia and other residing at village Kakrana, Tehsil Alirajpur, District Jhabua. The complainants have averred that their names have been omitted from the list of project affected persons even though they are affected by the construction of the Sardar Sarovar Dam. They have therefore sought appropriate relief.

2. In the final reply dated 17.9.2002 filed on behalf of NVDA it is stated that the complainant Richdi Muvasia D/o Nanji, is a married daughter of an oustee, that she was married to Shri Chupsingh Nagriya before the publication of notification under section 4 of the Land Acquisition Act, 1894, for acquisition of the area of submergence in village Kakrana hence her name could not be included in the list of project affected persons. As regards Lakhasingh S/o Chupsingh it is averred that on the date of publication of notification under section 4 of the Land Acquisition Act for acquisition of the area of submergence in village Kakrana, the age of the complainant was recorded as 15 years and that as less than 25% of the land holding of the father of the complainant has been acquired as it would be in the area of submergence and as the house of the complainant's father would also not be affected by submergence, this complainant would not be entitled to any relief. As regards complainant Pudia [Putiya] and complainant Charia Sons of Bhursingh, it is averred that the age of Pudia was recorded as 15 years at the relevant time while the age of complainant Chamria was recorded as 13 years at the material time and that they were unable to produce any material before the survey team to substantiate their age. As regards complainant Mohanlal S/o Kachra, it is averred that he has already filed a complaint which is registered as Case No. 709 and as he would be affected when the height of the Dam would be raised to 132 metres he would be rehabilitated at that stage in accordance with the provisions of the Award. A copy of the final reply was sent to the complainants on 1.10.2002 seeking their response, if any within 15 days and to let this Authority know whether they would like to be heard personally. No response has been received from the complainants.

3. In the circumstances, as complainants Richdi Muvasia, Lakhsingh, Pudia and Chamria have failed to bring on record any material to substantiate their allegations, they cannot be held entitled to any relief. As regards complainant Mohanlal, the complaint which had been filed by him and registered as Case No. 709 of 2001 has already been disposed of by this Authority on 25th July, 2002 granting him the appropriate relief. Hence no specific orders in his case be passed in this case as regards complainant Mohanlal.

4. The complaint is disposed of accordingly. A copy of this order along with translation in Hindi of paras 3 and 4 of the order be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal
Dated: October 2002

8. Grievance Redressal Authority, M.P. (For Sardar Sarovar Project), Case No. 1444 of 2002, Order

1. This is a complaint filed by Rathan S/o Dalsingh, residing at village Sugat, Tehsil Alirajpur, District Jhabua. The complainant has averred that he is in possession of a parcel of agricultural land situated at village Sugat, as an encroacher, that the village is in the area of submergence but his name is not included in the list of oustees. He has therefore sought appropriate relief in that behalf.
2. In the reply filed on behalf of NVDA it is stated that the complainant has not given any particulars about the parcel of land alleged to be in his possession as an encroacher. It is contended that unless the complainant is able to establish that he has been in possession of any land as an encroacher one year prior to 13.4.1987 till 8.3.1991, the date of publication of notification under section 4 of the Land Acquisition Act for acquisition of the area of submergence in village Sugat, no relief can be granted to the complainant.
3. The complainant has failed to bring any material on record for holding that he can be held entitled to the relief available to an encroacher according to the R.R. Policy of the State. Hence no relief can be granted to the complainant. However, the complainant shall be at liberty to file a fresh complaint before this Authority for relief, if he is able to adduce satisfactory evidence for holding that he has been in possession of any parcel of land in the area of submergence as an encroacher from at least one year prior to 13.4.1987.
4. The complaint is disposed of accordingly. A copy of this order along with translation in Hindi of paras 3 and 4 of the order be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal
Dated: 19th February 2003

9. Grievance Redressal Authority, M.P. (For Sardar Sarovar Project), Case No. 437 of 2003, Order

1. This is a complaint filed by Badu Lalsingh, resident of village Bhitada, Tehsil Alirajpur, District Jhabua. The grievance of the complainant is that though he is a project affected person as a result of the construction of the Sardar Sarovar Dam, his name has not been included in the list of project affected families. He contends that according to the provisions of the N.W.D.T Award and the decision of the Hon'ble Supreme Court, he is entitled to allotment of 5 acres of land as a major son. In support of the fact that he had attained majority, he has produced a certificate of the Gram Panchayat. He has therefore sought appropriate relief in that behalf.
2. In the reply filed on behalf of NVDA it is stated that the notification under section 4 of the Land Acquisition Act for acquisition of the area of submergence in village Bhitada was published on 8.7.1992 and that no property recorded in the name of the complainant is found to be affected by submergence as a result of construction of the Sardar Sarovar Dam. It is admitted that the father of the complainant is a project affected person, as more than 25% of his agricultural land would be affected by submergence. It is however stated that the name of the complainant does not appear as a member of the family of his father in the 64 column register. It is further stated that there is no material on record for holding that the complainant was residing in the area of submergence one year before 8.7.1992 and that he has attained majority on the date of publication of the notification under section 4 of the Land Acquisition Act.
3. A copy of the reply filed on behalf of NVDA was sent to the complainant on 9.1.2004 to seek his response. He was also informed that the case would be heard on 7.2.2004. On the date so fixed for hearing, the complainant did not appear. He has also not sent any response. The complainant has not placed any material on record except a certificate from the Sarpanch of the Gram Panchayat certifying that it was estimated that the complainant was aged about 40 years. It is not disclosed in the certificate that it has been given in pursuance of any provision in the Act or on the basis of the official record maintained by the Grampanchayat. No reliance can be placed on such a certificate.
4. As the complainant has failed to establish that he has attained majority on 8.7.1992, the date of publication of the notification under section 4 of the Land Acquisition Act for acquisition of the area of submergence and that he had been residing one year before 8.7.1992, in the area of submergence, no relief can be granted to the complainant.

5. The complaint is accordingly disposed of. A copy of this order along with translation in Hindi of paras 2, 3, 4 and 4 of the order be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal
Dated: 27.2.04

10. Grievance Redressal Authority, M.P. (For Sardar Sarovar Project), Cases Nos. 1317 To 1332 of 2002, Order

1. These complaints have been filed by 16 residents of village Dubkheda, Tehsil Alirajpur, District Jhabua. The grievance of the complainants is that though they had attained majority, they have not been included in the list of project affected families. They have therefore sought appropriate relief in that behalf.

2. In the reply dated 17.9.2002 filed on behalf of NVDA it is stated that an intimation was sent to the the complainants to remain present when enquiry would be held regarding their ages. It is further stated that on 31.5.2002 when the survey team had gone to the site, some of the complainants were present, who stated that they were not willing to produce any material to substantiate their contentions. It is stated that no material whatsoever has been adduced on behalf of the complainants in the case nos. 1317, 1318, 1319, 1321, 1322, 1325, 1326, 1328, 1332, as to whether any property belonging to the complainants or the members of their family would be in the area of submergence. It is contended that at the time of survey they stated that they would themselves remain present before the Authority and adduce evidence.

3. As regards complainants Jankibai W/o Nahla in Case No. 1320, it is stated that the complainant Jankibai has been rehabilitated in Gujarat along with her husband who is an oustee and that there is no material on the basis of which it could be held that she is an oustee.

4. As regards complainants in cases nos. 1323, 1324, 1327, 1330 and 1331, it is stated that these complainants are all minors according to the record of NVDA and they did not produce any material to show that they had attained majority at the relevant time. It is further stated that their fathers would be rehabilitated at the appropriate stage.

5. As regards complainant no. 1329, it is stated that the complainant is an oustee as landless labourer and that he shall be rehabilitated at the appropriate stage.

6. The complainants did not appear on the date of the hearing and have also not sent any documents to support their claim.

7. In the circumstances, no relief at this stage can be granted to the complainants. If they fail to receive any relief due to them at the appropriate stage, they shall be at liberty to file a fresh complaint supported with material documents to substantiate their grievance for Redressal.

8. The cases are accordingly disposed of. A copy of this order along with translation in Hindi of paras 7 and 8 shall be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal
Dated: 3-1-03

Annexure-A/12: A true copy of the order dated 3.9.2002 passed by the GRA in Case No.890 - 920 in the case of Akadia village.

GRIEVANCE REDRESSAL AUTHORITY, M.P., (For Sardar Sarovar Project), CASE No.890 to 920

O R D E R

All the complaints are from persons who claim to be residents of village Akadia, Tehsil Alirajpur, District Jhabua. Their grievance is that they have not been rehabilitated even though they are oustees affected by the construction of the Sardar Sarovar Dam, when the height of the Dam is raised to 90 metres.

2. In reply to filed on behalf of NVDA, it is averred as follows:

In the case of complainants Devasia Tutia in Case. No.890, Subaji Tania in Case. No.897, Kava Barji in Case No.904, Janji-Jamsingh in Case No.905, Kuwarsingh-Jamsingh in Case No.906, Magansingh-Paksingh in Case No.907, Kumansingh-Darji in Case No.909, Kushala-Bardha in Case No.911, Latia-Madu in Case No.912, Bhavsingh-Naykada in Case No.913, Nasla-Aarsia in Case No.914, Bhuvlia-Bhadu in Case No.917, Kulsingh-Janglia in Case No.919 and Ramasia Abdla in Case No.920, there is no evidence to indicate that they or their fathers were residing in the area of submergence and hence these complainants cannot be held to be project affected families.

As regards complainants Sunka-Abdala in Case No.892, Kasra-Aarsia in Case No.893, Gurdhan-Narji in Case No.894, Ghusayada-Nurji in Case No.895, Ranga-Abdala in Case No.896, Punia Kevajia in Case No.898, Leharja Gurja in Case No.899, Janjadia-Chupa in Case No.900, Ramsia-Dama in Case No.901, Bavajya-Gurja in Case No.903, Anadia-Chupa in Case No.908, Dhanja Lakma in Case No.910, Sursingh-Chechra in Case No.915, Tunia-Phendaria in Case No.916 and Kachra-Phenchra in Case No.918, it has been averred that on 29.1.1993, when the notification under section 4 of the Land Acquisition Act had been published with regard to acquisition of the property in the area of submergence in the village in question, these complainants had not attained majority and hence they cannot be held to be separate oustee families by virtue of provisions contained in sub clause 1 (3) of Clause XI of Chapter IX of the NWDT Award.

i. As regards complainant Chamkya-Tikia in Case No.891, it is stated that he has been rehabilitated in the State of Gujarat as he has occupied the area offered to him in the State of Gujarat for rehabilitation.

ii. As regards complainant Bubalibai Gurja in Case No.902, it is stated that she is the mother of an oustee and included in the list of dependants of an oustee but no property in the area of submergence which has been acquired stands recorded in her name and hence she cannot be included in the list of project affected persons.

3. A copy of the reply received from NVDA was sent to the complainants on 30.5.2002 seeking their response, if any. They were also informed that their cases would be heard on 26.6.2002 at 11.30 am at the field office at Indore.

4. Out of these complainants, complainant Bublilbai in Case No.902, Bavajia in Case No.903, Janji-Jamsingh in Case No.905, Kuwarsingh-Jamsingh in Case No.906, Kumansingh in Case No.909 along with Ms. Karuna on behalf of N.B.A. appeared.

5. At the time of hearing, on behalf of complainant Bavajia in case No.903, a copy of ration card was produced to show that the complainant's age was recorded as 26 years. On the basis of this ration card, it cannot be held that the complainant had attained majority on the date of publication of notification under section 4 of the Land Acquisition Act.

6. In case No.905, complainant Janji Jamsingh, produced a photocopy of the register copy of the Forest Department.

7. In Case No.906, complainant Kuwarsingh Jamsingh, produced a photocopy of Tendupatta and Laghuvanopaj Samgrahan and Parishramik Card, wherein the age of the complainant was recorded as 38 years.

8. In Case No.909, complainant Kumansingh, produced a photocopy of the ration card. On the basis of this ration card, it cannot be held that on the date of publication of notification under section 4 of the Land Acquisition Act, the complainant was residing in the area of submergence.

9. There is no reliable evidence on record to show that these complainants who have not been held to be oustees have been, at the relevant time, residing or carrying on business in the area of submergence in the Village Akdia since at least one year prior to 29.1.1993, the date of publication of the notification under section 4 of the Land Acquisition Act and those who have not been held to have become majors on the relevant date have not been able to place any material on record to show that prior to the material date, when there could not have been any possible motive to lie, there was disclosure of their ages by themselves or by any responsible member of their families to indicate that they had attained majority on the relevant date. There is no provision in the NWDT Award and the R.R. Policy of the State Government or any law which would enable drawing of a presumption that the

complainant should be deemed to have attained majority on such date as he chooses to state on account of alleged absence of any infrastructure. Under the circumstances, no relief can be granted to these complainants.

10. So far as the complaint of Tunia S/o Phendaria is concerned, he had at the time of hearing produced copy of the School Leaving Certificate dated 11.1.2000 given by the Head Master, Primary School, Akdia, showing that the date of birth of this complainant was recorded as 27.2.1974. On behalf of NVDA, time was sought to ascertain the veracity of that certificate and by a supplementary reply dated 21.8.2002, it has been admitted on behalf of NVDA that the copy of the certificate from the school produced on behalf of Tunia S/o Phendaria was genuine and that he would accordingly be held to have attained majority on 29.1.1993 when the notification under section 4 of the Land Acquisition Act was published. It was further stated that as the father of this complainant has been rehabilitated in Gujarat, the complainant would also be entitled to be rehabilitated in Gujarat.

11. In the circumstances of the case No.916, it is therefore clear that there is a primary school at village Akdia and that complainant Tunia S/o Phendaria would be entitled to be rehabilitated as a major son of an oustee in accordance with the provisions of the NWDT Award. In case Gujarat is unable to rehabilitate him or he is not willing to be rehabilitated in Gujarat, then he shall be rehabilitated in the State of Madhya Pradesh, in accordance with the provisions of the NWDT Award and the R.R. Policy of the State Government.

The complaints are accordingly disposed of. A copy of this order along with translation in Hindi of para 9, 10 and 11 of the order be sent to the parties.

CHAIRMAN,
GRIEVANCE REDRESSAL AUTHORITY, M.P.
Bhopal
Dated: 3.9.2002

Annexure-A/13: true translation of a sample of the panchayat certificate dated 1.12.1996

It is hereby certified that Pidia S/o Hazaria, Caste Bhil, resident of Village Jalsindhi, The. Alirajpur, Dist. Jhalna is a forest encroacher since before 1980. Since 18 years he has been cultivating about 7 acres of forest encroachment of land in Nanka Phalia, Muhda Chapdi, Khundianbari, Dotradiyali hills (in village Jalsindhi)

This certificate is being issued by the Sarpanch of Akadia Panchayat on request by the encroacher in the context of the process of regularisation of forest land being carried out by the M.P. Govt.

1.12.1996
Place: Akadia
Sunji
Sarpanch
Indersingh
Dy. Sarpanch

Annexure-A/14: Table detailing the status of the applicants and the documentary evidence in their possession to prove the same [not reproduced]

Annexure-A/15: True translated copy of the notice issued by the R.O, Alirajpur dated 10.01.2005

Office of LAO and RO, SSP, Alirajpur, M.P.
Letter no. 0840/Rehab/Ali/04
Alirajpur dated 10/1/2005
Notice

To,
Shri Sildaria Bavajia
Jalsindhi

Through this notice you are being notified that at the public grievance camp at Chilakda you presented a petition, which is coming up for hearing on 18/1/2005 in this office. Please be present for your hearing along with the following documents:

1. Marksheet of Higher Secondary
2. School certificate
3. Police station or hospital certificate relating to age
4. Other age related certificate
5. Land related documents
6. Any other acceptable documents

Rehabilitation Officer
Sardar Sarovar Project
Alirajpur, M.P.

www.ielrc.org