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HIGH COURT OF MADHYA PRADESH
Narmada Bachao Andolan

vs.

State of Madhya Pradesh, 2009

ORDER OF 12 NOVEMBER 2009

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HIGH COURT OF MADHYA PRADESH JABALPUR

(Writ Petition No. 14765/2007)

Narmada Bachao Andolan

Vs.

State of Madhya Pradesh & others

PRESENT :

HON'BLE SHRI JUSTICE A.K. PATNAIK, CHIEF JUSTICE
HON'BLE SHRI JUSTICE SANJAY YADAV

Ms. Medha Patkar for the petitioner.

Shri Shekhar Bhargava learned Sr. Counsel with

Mr. Vivek Patwa for the State.

Shri Syed Naqvi, learned counsel for the NCA.

ORDER

(12.11.2009)

PER SANJAY YADAV, J :

This order shall lead to disposal of Interlocutory Applications: I.A. Nos. 3771/2009, 4269/2009, 5257/2009, 7478/2009, 8918/2009, 9286/2009, 9692/2009, 9693/2009, 9694/2009 and 10157/2009.

2. These applications are filed seeking directions that, Justice S.S. Jha Commission, which was appointed vide order dated 21.8.2008 to enquire into the allegations of irregularities and corruption in implementation of measures for resettlement and rehabilitation of the project affected persons of Sardar Sarovar Project in the State of Madhya Pradesh, be allowed to have a wider the complaints pertaining to corruption and irregularities in implementation of R & R policy and as alleged there is likelihood of such corrupt practices becoming more rampant because the mechanism which was brought into existence by constituting the GRA is ineffective in checking such corruption and irregularities. We have also been informed that the NCA, though a statutory body, has no direct disciplinary control over the officials of the NVDA and the Revenue Department or Government of Madhya Pradesh.

21. Keeping in view the fact that the complaints of multifaceted irregularities and corruption have remained unattended and thus has adversely affected the right to livelihood of the oustees in several ways as reflected in an exhaustive submissions put forth by the petitioner, coupled with the fact that neither the NCA nor the GRA can effectively deal with such complaints directly, we are left with no option but direct an effective enquiry into these allegations of corruption and irregularities by Justice S.S.

Jha Commission. The investigative machinery available under the Cr. P.C being under the control of State Government officials will not, in our considered opinion, in the given facts of present case, be able to impartially and effectively inquire into the allegations of corruption and irregularities against the officials of the NVDA and the Revenue Department.

22. Therefore, we are inclined to enlarge the scope of reference of Justice S.S. Jha Commission, which while enquiring into the matters already referred to the Commission by the order dated 21.8.2009;

“shall also enquire into the alleged corruption/irregularities as to livelihood grants and alternative livelihood, house plot allotment and reallocation at the R & R sites; payment of compensation and grants to the ineligible persons mentioned in the I.As. referred to in the first paragraph of this order and submit a report whether there is prima facie material to show that any offence is committed by the officials of the NVDA and Revenue Department engaged in the re-settlement and rehabilitation and disbursement of money to the

23. During course of hearing, it was alleged on behalf of the petitioner that though the term of Commission has been extended for a period of one year, the State Government is not responding affirmatively and proper funds are not released as a result whereof the Commission is not able to work effectively. It is, therefore, urged that all the funds required for the Commission be requisitioned through the office of Registrar, M.P. High Court and that the Commission be requested to apprise this Court with the progress in the matter from time to time. We have also received letters dated 3.11.2009 from the Secretary of the Commission, informing the Court that the Commission has not received any proper allotment of fund as sought for and as such it is hampering its smooth functioning.

24. We are also apprised that, the proposed budget for the financial year 2009-2010 was forwarded by the Commission to the State Government but the General Administration Department of Govt. of Madhya Pradesh vide memo No. F-24-7/2009/1-10 dated 15.5.2009 has sanctioned Rs. 1 lac towards salary and allowances, an amount of Rs. 20,000/- towards other allowances and traveling allowances and Rs. 47,000/- towards contingency fund; total Rs. 1,67,000/- were allotted for a period of 4 months, which is much less than the total salary of employees of the commission per month which is around 1,75,000/-. We are further informed that Commission is required to pay a sum of Rs. 80,000/- towards rent of building, telephone, electricity, transport amount etc. per month. We are, however, informed that in the budget for the year 2009-10, total amount of Rs. 11,67,000/- has been allotted whereof Rs. 6,00,000/- towards head of salary and Rs. 2,20,000/- traveling allowances and other allowances and Rs. 3,47,000/- towards contingency fund. The Secretary of the Commission has also intimated us in the letter dated 3.11.2009 that payment to the Commission has been stopped w.e.f. 6.10.2009 and as such the Commission is not able to function.

25. When we brought these facts to the notice of learned senior counsel appearing for the State of Madhya Pradesh, he sought some time to seek instructions and Court that all possible assistance shall be rendered to the Commission to ensure its smooth functioning.

26. Keeping in view the entirety of facts and circumstances, we direct that henceforth all the requisitions by the Commission shall be routed to the State Government through the Registrar General of this High Court and the funds allocated from time to time for the functioning of Commission be also placed with the Registrar General of this Court.

27. The State Government will issue an order widening the terms of reference to the S.S. Jha Commission so as include the additional subject referred to the Commission by this order within two weeks from today and will provide to the Commission a team of competent police officers as required by the Commission for conducting the enquiry into this additional subject.

The I.As. stand disposed of.

(A.K. PATNAIK)
CHIEF JUSTICE

(SANJAY YADAV)
J U D G E

VIVEK TRIPATHI