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Law Research Centre

# **NARMADA WATER DISPUTES TRIBUNAL**

**FINAL ORDER AND DECISION OF THE TRIBUNAL,  
12 DECEMBER 1979**

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## **Narmada Water Disputes Tribunal**

### **Final Order and Decision of the Tribunal, 12 December 1979**

#### **Clause I: Date of Coming into Operation of the Order**

This Order shall come into operation on the date of publication of the Decision of this Tribunal in the Official Gazette under Section 6 of the Inter-State Water Disputes Act, 1956.

#### **Clause II: Determination of the Utilisable Quantum of Narmada Waters**

The Tribunal hereby determines that the utilisable quantum of waters of the Narmada at Sardar Sarovar Dam site on the basis of 75 per cent dependability should be assessed at 28 Million Acre Feet (34,537.44 M.cu.m.)

#### **Clause III: Apportionment of the Utilisable Quantum of Narmada Waters**

1) The Tribunal hereby orders that out of the utilisable quantum of Narmada waters, (a) Madhya Pradesh is entitled to a share of 18.25 MAF (22,511.01 M.cu.m.), (b) Gujarat is entitled to a share of 9 MAF (11,101.32 M.cu.m.), (c) Rajasthan is entitled to a share of 0.5 MAF (616.74 M.cu.m.) and (d) Maharashtra is entitled to a share of 0.25 MAF (308.37 M.cu.m.);

2) Further, it is clarified that the apportionment relates to actual withdrawals and not consumptive use;

3) Within its share of water, each party State is free to make such changes in the pattern of water use and in the areas to be benefited within or outside the Narmada basin in its territory as it may consider necessary.

#### **Clause IV: Order with Regard to Excess Waters and Sharing of Distress**

1) The utilisable flow of Narmada in excess of the 28 MAF (34,537.44 M.cu.m.) of utilisable flow in any water year, i.e., from 1<sup>st</sup> of July to 30<sup>th</sup> of June of next calendar year is apportioned in the following ratios of allocation, i.e., 73 for Madhya Pradesh, 36 for Gujarat, 1 for Maharashtra and 2 for Rajasthan;

2) In the event of the available utilisable waters for allocation in any water year from 1<sup>st</sup> of July to 30<sup>th</sup> June of the next calendar year falling short of 28 MAF (34,537.44 M.cu.m.), the shortage should be shared between the various States in the ratio of 73 for Madhya Pradesh, 36 for Gujarat, 1 for Maharashtra and 2 for Rajasthan;

3) The available utilisable waters in a water year will include the waters carried over from the previous water year as assessed on the 1<sup>st</sup> of July on the basis of stored waters available on that date;

4) The available utilisable waters on any date will be inclusive of return flows and exclusive of losses due to evaporation of the various reservoirs;

5) It may be mentioned that in many years there will be surplus water in the filling period after meeting the storage requirements and withdrawals during the period. This will flow down to sea. Only a portion of it will be utilisable for generating power at Sardar Sarovar river-bed power-house and the rest will go waste. It is desirable that water, which would go waste without even generating power at the last river-bed power-house, should be allowed to be utilised by the party States to the extent they can.

Gujarat is, therefore, directed that whenever water starts going waste to sea without generating power, or based on the information received from upstream gauging stations, it anticipates that water would so go waste, it shall inform the Narmada Control Authority (hereinafter referred to as the Authority) and designated representatives of all the concerned States. Gujarat shall also inform them when such flows cease. During the period of such flows, the party States, whose reservoirs are spilling and the spill water cannot be stored elsewhere, may utilise such flows from the said reservoirs as they like and such utilisation by the party States will not count towards allotment of supplies to them, but, use of such water will not establish any prescriptive rights.

#### **Clause V: Period of Operation of the Order of Apportionment**

Our Orders with regard to the equitable allocation in Clauses III and IV are made subject to review at any time after a period of 45 years from the date of publication of the Decision of the Tribunal in the Official Gazette.

#### **Clause VI: Full Supply Level of the Navagam Canal**

The Tribunal hereby determines that the Full Supply Level of Navagam Canal off-taking from Sardar Sarovar should be fixed at 91.44m, (+300') at its head regulator with a bed gradient of 1 in 12,000 from head to 290 km (mile 180), that is, upto the off-take of Saurashtra branch. From that point to Rajasthan border the bed gradient should be 1 in 10,000. These bed gradients may be changed by Gujarat and Rajasthan by mutual agreement. Gujarat and Rajasthan shall be at liberty to decide the canal capacity required by each in the light of water which would be expected to be available within their share.

#### **Clause VII: Full Reservoir Level and Maximum Water Level of the Sardar Sarovar Dam**

The Tribunal hereby determines that the height of the Sardar Sarovar Dam should be fixed for Full Reservoir Level +138.68 m, (+455') and Maximum Water Level at +140.21 m, (+460'). Gujarat shall take up and complete the construction of the dam accordingly.

#### **Clause VIII: Sharing of Costs and Benefits**

(1) (i) The Tribunal hereby determines that out of the net power produced at Navagam at Canal Head and river-bed power-houses on any day the share of Madhya Pradesh will be 57 per cent; Maharashtra's share will be 27 per cent and Gujarat's share will be 16 per cent.

(ii) The party States shall make available in annual instalments their share of funds required according to approved construction programme and take all the necessary steps to complete the Sardar Sarovar Dam within ten years of the date of publication of the Final Order and Decision of the Tribunal in the Official Gazette.

(2) The Tribunal makes the following further Orders:

(i) The power generated in the river-bed and canal power-houses at Navagam will be integrated in a common switchyard.

(ii) Madhya Pradesh and Maharashtra will be entitled to get 57 per cent and 27 per cent respectively of the power available at bus bar in the switchyard after allowing for station auxiliaries.

(iii) The above entitlement applies both to availability of machine capacity for peak loads and to the total energy produced in any day.

(iv) The entitlement of power and energy for any day can be utilised fully or partly by the concerned States or sold to another participating State under mutual agreement. It cannot, however, be carried forward except under a separate agreement or working arrangement entered into among the affected parties.

(v) Gujarat will construct and maintain the transmission lines needed to supply the allotted quantum of power to Madhya Pradesh and Maharashtra upto Gujarat State border, along an alignment as agreed to between the parties and if there is no agreement along such alignment as may be decided by the Narmada Control Authority. The transmission lines beyond Gujarat State border shall be constructed and maintained by Madhya Pradesh and Maharashtra in their respective States.

(vi) The power houses and appurtenant works including the machinery and all installations as well as the transmission lines in Gujarat State will be constructed, maintained and operated by Gujarat State or an authority nominated by the State.

(vii) The authority in control of the power houses shall follow the directions of the Narmada Control Authority in so far as use of water is concerned.

(viii) The scheme of operation of the power houses including the power required and the load to be catered for the different party States during different parts of the day shall be settled between the States at least one week before the commencement of every month and shall not be altered during the month except under agreement among the States or under emergencies. If and when Sardar Sarovar power complex gets linked with the regional or national power grid, the operation of the Sardar Sarovar power complex will be governed by such altered system conditions. But in that event the Narmada Control Authority should arrange to take such steps as are necessary to enable the three States of Gujarat, Madhya Pradesh and Maharashtra to get their entitlement of power and energy from the Sardar Sarovar power complex according to these orders.

- (ix) The capital cost of the power portion of Navagam complex shall comprise the following:
- (a) Full cost of Unit III electrical works and control works pertaining thereto, upto and including the switchyard.
  - (b) Full cost of transmission lines in Gujarat State constructed for supplying power to Madhya Pradesh and Maharashtra.
  - (c) 56.1 per cent of the net cost of common facilities such as dam and appurtenant works i.e. Unit I of Sardar Sarovar Project, after allowing for credits, if any;
  - (d) 56.1 per cent of the credit given to Madhya Pradesh for the downstream benefits derived from Narmada Sagar Dam.
  - (x) Madhya Pradesh and Maharashtra shall respectively pay to Gujarat 57 per cent and 27 per cent of the capital cost of the power portion of the Sardar Sarovar headworks worked out vide (ix) above. This amount shall be paid in annual instalments until the capital works are completed. Each instalment will be worked out on the basis of the budgeted figures of the concerned works at the commencement of each financial year and shall be set off and adjusted against actual figures at the end of the financial year.
  - (xi) In addition to the payments vide (x) above, Madhya Pradesh and Maharashtra shall also pay to Gujarat 57 per cent and 27 per cent respectively of the operation and maintenance costs of the Sardar Sarovar power complex each year. These payments are also to be based on budgeted figures at the commencement of each financial year and adjusted against actual cost at the end of the year.
  - (xii) Notwithstanding the directions contained hereinabove, the party States may, by mutual agreement, alter, amend, or modify any of the directions in respect of sharing of power and payment for it.

**Clause IX: Regulated Releases to be Made by Madhya Pradesh for the Requirement of Sardar Sarovar Project**

With regard to the quantum and pattern of regulated releases, the Tribunal makes the following Order:

It has been agreed by the party States and decided by the Tribunal in its Order dated 8<sup>th</sup> October, 1974, that the utilisable quantity of water of 75 per cent dependability in the Narmada at Sardar Sarovar Dam site should be assessed at 28 MAF (34,537.44 M.cu.m.). The actual inflow of 75 per cent dependability, however, is only 33,316.29 M.cu.m. (27.01 MAF) and this is brought up to utilisable quantity of 28 MAF (34,537.44 M.cu.m.) by means of carryover in various reservoirs allowing for evaporation losses and regeneration. Out of 28 MAF (34,537.44 M.cu.m.), 11,101.32 M.cu.m. (9 MAF) has to be provided for Gujarat and 0.5 MAF (616.74 M.cu.m.) for Rajasthan at Sardar Sarovar. The requirements at Sardar Sarovar have to be met by releases by Madhya Pradesh and by inflows from the intermediate catchment, surplus to the requirements of Madhya Pradesh below Narmada Sagar and Maharashtra. The releases from Maheshwar work out to 10,015.86 M.cu.m. (8.12 MAF). Making uniform monthly releases the amount of water to be released by Madhya Pradesh per month would be 834.65 M.cu.m. (0.677 MAF). The actual inflow in the river system, however, would vary from year to year and, therefore, the releases by Madhya Pradesh would also vary.

The inflow during the filling period, July to October, cannot be predicted at the beginning of the season. It is only in October that it would be fully known whether the particular year is a normal year or the extent to which it is a surplus or deficit year. Normally the releases by Madhya Pradesh during the filling period, therefore, would have to be more or less on the basis of the year yielding 28 MAF (34,537.44 M.cu.m.) utilisable quantity. The month of July and early part of August are crucial for kharif sowing. It is important that during this period regulatory arrangements should ensure that due share of water is made available to all parties.

Having regard to the facts mentioned in the preceding two paragraphs, we order that detailed rules of regulation and water accounting shall be framed by Narmada Control Authority in accordance with the guidelines given below. These guidelines may, however, be altered, amended or modified by agreement between the States concerned.

- (i) The 28 MAF (34,537.44 M.cu.m.) utilisable supplies of 75 per cent dependability in a water year (1<sup>st</sup> July to 30<sup>th</sup> June next year) shall be shared by the party States as under:

Madhya Pradesh	18.25 MAF	(22,511.01 M.cu.m.)
Gujarat	9.00 MAF	(11,101.32 M.cu.m.)
Rajasthan	0.50 MAF	(616.74 M.cu.m.)
Maharashtra	0.25 MAF	(308.37 M.cu.m.)
	28.00 MAF	(34,537.44 M.cu.m.)

(ii) Surplus or deficit utilisable supplies in a water year shall be shared to the extent feasible by the party States in the same proportion as their allotted shares in (i) above. The surplus water shall first be utilised for filling up the reservoirs to capacity and surplus water shall be utilised for irrigation and other purposes only after that has been ensured.

(iii) The water available in the live storages of the various reservoirs on 30<sup>th</sup> June shall be reckoned as an inflow to be shared in the next water year.

(iv) The releases necessary to ensure Gujarat and Rajasthan's share of water in a water year shall be let down by Madhya Pradesh at a reasonably uniform rate, permitting only such variation as the Authority may direct or approve and keeping in view the directions for regulated releases.

(v) The Authority shall ensure by so directing the releases by Madhya Pradesh that there is at all times sufficient utilisable water in Sardar Sarovar to meet the requirements of the next ten days subject to water being available in the storages in Madhya Pradesh after taking into account the proportionate requirements of Madhya Pradesh. For this purpose, Gujarat and Rajasthan would intimate their requirements of the 10 daily period well in advance.

(vi) Utilisation in a water year by each party State shall be figured out on the basis of actual daily discharge at canal head on every major and medium project. For minor works, it shall be on the basis of area irrigated under different crops, the delta for each crop being approved by the Authority. For pumping schemes, drawing directly from the river, its tributaries or reservoirs, whether for irrigation, domestic or industrial use, water drawn shall be reckoned on the basis of the rated capacity of pumps and the number of hours they run. For a cross check, the seasonwise and cropwise area irrigated by each pumping scheme shall also be recorded, and if the figures of water drawn as worked out by the two aforesaid methods differ, the decision of the Authority as regards water, drawn shall be final.

(vii) Withdrawals from Sardar Sarovar for Navagam Canal for Gujarat and Rajasthan shall be measured at the head of Navagam Canal. The supply to Rajasthan shall be measured at Gujarat-Rajasthan border. The loss in the canal in carrying the supply for Rajasthan shall be determined by the Authority after the canal has been constructed and shall reckon against the share of Rajasthan.

Water let down into the river from Sardar Sarovar through power house turbines shall be measured on the basis of power generated by it and that escaped through the spillway by measurement at the spillway.

Gujarat may let down water from Sardar Sarovar for its downstream use by making specific indent for it and such releases shall reckon against its share. Such releases for downstream use shall be made through the turbines and the power so generated shared between Madhya Pradesh, Maharashtra and Gujarat in the prescribed ratio.

Water let down into the river from Sardar Sarovar except at the specific indent of Gujarat shall not reckon against the share of Gujarat. The water drawn from Sardar Sarovar for use in Madhya Pradesh and Maharashtra, as the case may be, shall reckon against the share of water of that State.

(viii) For major and medium projects, water account shall be kept by 10 daily period. The last 10 daily period of a month may have 11 days, 10 days or less, depending upon the number of days in the month. For minor schemes water accounts shall be kept by crop seasons, kharif (July to October) rabi (November to March) and hot weather (April to June). For pumping schemes and domestic and industrial uses it shall be monthly.

(ix) The water use by minor and pumping schemes in any ten daily period may provisionally be taken to be the same as in the corresponding period in the previous year on the basis of average use during the crop period. For final water account, however, it will be determined as in (vi) above.

(x) Each State shall furnish to the Authority and make available to any party State desiring the same, such data and information as the Authority may require and ask for.

(xi) The Authority shall arrange the review of the ten day releases made by Madhya Pradesh at least once a month and oftener as considered necessary for directing any change in the releases. It may designate a person for doing so.

(xii) The Authority shall direct final adjustment to be made in the following water year of the use in excess of the authorised use, if any, by any State or States during the preceding water year by curtailing the share(s) of the State or States concerned which have used water in excess and make over the same to the State or States which have received short supplies. Water supplied to Rajasthan on any day in excess of 10 per cent over and above its indent shall reckon against use by Gujarat.

(xiii) The Authority shall furnish the annual water account for the water year to the Governments of the party States by the end of August of the next water year. Each State may make any observation on the account and/or point out corrections in it, if any, within one month of its receipt. After making the necessary modifications, the Authority shall furnish to each party State the final annual water account for the water year by 31<sup>st</sup> October. The Authority shall cause the annual water account to be published each year.

#### **Clause X: Payment to be Made by Gujarat to Madhya Pradesh for such Regulated Releases**

(1) Madhya Pradesh shall take up and complete the construction of Narmada Sagar dam with FRL 262.13 m (860 ft.) concurrently with or earlier than the construction of Sardar Sarovar Dam.

(2) The Tribunal further orders that Gujarat should credit to Madhya Pradesh each year 17.63 per cent of the expenditure on account of Narmada Sagar dam in the financial year commencing from the year of taking up of the construction of Narmada Sagar dam. This will be initially credited on the basis of budget allotment to be adjusted at the end of the year on actual expenditure. The post construction expenditure on maintenance is not to be considered as cost of construction.

#### **Clause XI: Directions Regarding Submergence Land Acquisition and Rehabilitation of Displaced Persons**

##### Sub-Clause I: Definitions

I(1): 'Land' The expression 'land' shall have the same meaning as defined in the Land Acquisition Act, 1894 (hereinafter referred to as the Act) which states 'the expression 'land' includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth'.

I(2): 'Oustee' – An 'oustee' shall mean 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.

I(3): 'Family' – (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.

##### Sub-Clause II: Lands Which are to be Compulsorily Acquired

II(1): Madhya Pradesh and Maharashtra shall acquire for Sardar Sarovar Project under the provisions of the Land Acquisition Act, 1894, all lands of private ownership situated below the FRL +138.68 m (455') of Sardar Sarovar and all interests therein not belonging to the respective States. If on the basis of aforesaid, 75 per cent or more land of a contiguous holding of any person is required to be compulsorily acquired, such person shall have the option to compel compulsory acquisition of the entire contiguous holding.

II(2): Madhya Pradesh and Maharashtra shall also acquire for Sardar Sarovar Project under the provisions of the Land Acquisition Act, 1894, all buildings with their appurtenant land situated between FRL +138.68 m (455') and MWL +141.21 m (460') as also those affected by the backwater effect resulting from MWL +141.21 m (460').

II(3): The backwater level at the highest flood level in Sardar Sarovar shall be worked out by the Central Water Commission in consultation with Madhya Pradesh and Gujarat.

##### Sub-Clause III: Liability of Gujarat to Pay Compensation for Land Acquisition and Rehabilitation etc.

III(1): Gujarat shall pay to Madhya Pradesh and Maharashtra all costs including compensation, charges and expenses incurred by them for or in respect of the compulsory acquisition of lands required to be acquired as aforesaid.

III(2): Gujarat shall pay to Madhya Pradesh and Maharashtra and the Union of India compensation for the respective Government lands and structures on principles similar to those underlying the Land Acquisition Act, 1894. Where any dispute or difference arises between Gujarat, Madhya Pradesh, Maharashtra and the Union of India with respect to the compensation payable as aforesaid, any of the three States of Gujarat, Madhya Pradesh and Maharashtra or the Union of India may refer the matter in dispute to arbitration. The State of Gujarat on the one hand and the States of Madhya Pradesh, Maharashtra or the Union of India (as the case may be) on the other hand shall respectively nominate one arbitrator each. In the event of disagreement between the arbitrators, such dispute or difference shall be referred to an umpire who shall be a person appointed in that behalf by the Chief Justice of India from among persons who are, or have been judges of the Supreme Court. The decision of the arbitrators, or, as the case may be, of the umpire shall be final and binding on the parties and shall be given effect to by them.

III(3): Gujarat shall pay to Madhya Pradesh and Maharashtra land revenue in accordance with the respective Land Revenue Codes of Madhya Pradesh and Maharashtra in respect of all lands in their respective territories acquired for Gujarat or conveyed to it.

III(4): Gujarat shall pay to Madhya Pradesh and Maharashtra all costs, charges and expenses incurred by Madhya Pradesh and Maharashtra for the purpose of removal and reinstallation of any ancient or historical monuments, archaeological remains, religious place of worship or idols likely to be affected by submergence under Sardar Sarovar and that in the event of such payment being made, no separate compensation as hereinbefore provided shall be required to be paid in respect of the same having been affected by the submergence.

III(5): Gujarat shall pay to Madhya Pradesh and Maharashtra all costs, charges and expenses required to be incurred by them for rehabilitation of oustees and oustee families in their respective territories in accordance with the directions hereinafter contained.

III(6): Gujarat shall pay to Madhya Pradesh and Maharashtra costs on account of establishment charges for land acquisition and rehabilitation and other departmental staff which Madhya Pradesh and Maharashtra may consider necessary for the purpose of such acquisition and rehabilitation.

#### Sub-Clause IV: Provision for Rehabilitation

IV(1): According to the present estimates the number of oustee families would be 6,147 spread over 158 villages in Madhya Pradesh, 456 families spread over 27 villages in Maharashtra. Gujarat shall establish rehabilitation villages in Gujarat in the irrigation command of the Sardar Sarovar Project on the norms hereinafter mentioned for rehabilitation of the families who are willing to migrate to Gujarat. For oustee families who are unwilling to migrate to Gujarat, Gujarat shall pay to Madhya Pradesh and Maharashtra the cost, charges and expenses for establishment of such villages in their respective territories on the norms as hereinafter provided.

IV(2)(i): According to the present estimates the number of oustee families below RL 106.68 metres (RL 350') would be 30 spread over 20 villages in Madhya Pradesh and 250 families spread over 20 villages in Maharashtra. Within six months of the publication of the decision of the Tribunal in the Official Gazette, Gujarat, Madhya Pradesh and Maharashtra shall determine by mutual consultation the location of one or two rehabilitation villages in Gujarat to rehabilitate oustees from areas below RL 106.68 metres (RL 350'). Gujarat shall acquire necessary lands for the rehabilitation villages and make available the same within two years of the decision of the Tribunal. Within six months of the decision of the location of the rehabilitation villages in Gujarat, Madhya Pradesh and Maharashtra shall intimate to Gujarat the number of oustee families from areas below RL 106.68 metres (RL 350') willing to migrate to Gujarat. For the remaining oustee families, Madhya Pradesh and Maharashtra shall arrange to acquire lands for rehabilitation within the respective States.

IV(2)(ii): Madhya Pradesh and Maharashtra shall set up adequate establishments for land acquisition and rehabilitation of oustee families. Gujarat shall deposit within three months of the decision of the Tribunal Rupees ten lakhs each with Madhya Pradesh and Maharashtra in advance towards cost of establishment and rehabilitation in these States to be adjusted after actual costs are determined. Madhya Pradesh and Maharashtra shall start land acquisition proceedings for areas below RL 106.68 metres (RL +350') within six months of the decision of the Tribunal and convey the lands to Gujarat for project purposes within three years of the decision of the Tribunal. Within 18 months of the decision of the Tribunal, Gujarat shall make an advance payment of Rs. 70 lakhs to Madhya Pradesh and Rs. 100 lakhs to Maharashtra towards the compensation of land, to be adjusted after actual costs are determined.

IV(2) (iii): Regarding the oustee families from areas above RL 106.68 metres (RL +350'), Gujarat shall intimate to Madhya Pradesh and Maharashtra within six months of publication of the decision of the Tribunal in the

Official Gazette the number and general location of rehabilitation villages proposed to be established by Gujarat in accordance with the decision of the Tribunal. Within one year of the receipt of proposal of Gujarat, both Madhya Pradesh and Maharashtra shall intimate to Gujarat the number of oustee families willing to migrate to Gujarat. The three States by mutual consultation shall determine within two years of the decision of the Tribunal, the number and general location of rehabilitation villages required to be established by Gujarat in its own territory. Madhya Pradesh and Maharashtra shall intimate to Gujarat the number of such villages to be established in Madhya Pradesh and Maharashtra and for which Gujarat would be required to make payments to Madhya Pradesh and Maharashtra respectively.

IV(2)(iv): Gujarat shall acquire and make available a year in advance of the submergence before each successive stage, irrigable lands and house sites for rehabilitation of the oustee families from Madhya Pradesh and Maharashtra who are willing to migrate to Gujarat. Gujarat shall in the first instance offer to rehabilitate the oustees in its own territory.

IV(3): Gujarat shall also provide the following grants and amenities to the oustees:

(a) Resettlement Grants (Rehabilitation Grant) - Gujarat shall pay per family a sum of Rs. 750 inclusive of transportation charges as resettlement grant.

(b) Grant-in-aid

In addition, Gujarat shall pay per family grant-in-aid in the following scale:

Where total compensation is received	Grand-in-aid
Above Rs. 2000/-	Nil
Between Rs. 2000/- and Rs. 500/-	Rs. 500/- less an amount equal to one-third of the compensation in excess of Rs. 500/-
Less than Rs. 500/-	Rs. 500/-

(c) Civic amenities

1. One primary school (3 rooms) for 100 families.
2. One Panchayat Ghar for every 500 families.
3. One dispensary for every 500 families.
4. One seed store for every 500 families.
5. One children's park for every 500 families.
6. One village pond for every 500 families.
7. Drinking water well with trough for every 50 families.
8. Each colony should be linked to main road by roads of appropriate standard.
9. One platform for every 50 families.
10. Every oustee family shall be entitled to and allotted a house site i.e. a plot of land measuring 18.29 x 27.43m. (60' x 90') free of cost. In addition, a provision of 30 per cent additional area for roads, Government buildings, open space etc. shall be made by Gujarat under civic amenities.

11. The State of Gujarat shall make the following provision for rehabilitation in Madhya Pradesh and Maharashtra:

- |   |                       |
|---|-----------------------|
| (a) Resettlement  | Rs. 750/- per family  |
| (b) Grant-in-aid  | Rs. 500/- per family. |
| (c) Acquisition of land for resettlement of families affected @ 0.40 hectares (one acre) for 6 families | Rs. 1500/- per acre.  |
| (d) Civic amenities:  |                       |

1. One primary school @ 100 families	Rs. 30,000/- each.
2. One Community Hall-cum-Panchayat Bhavan @ 500 families	Rs. 20,000/- each.
3. One Dispensary @ 500 families	Rs. 25,000/- each.
4. One seed store @ 500 families	Rs. 10,000/- each.
5. One Children's Park @ 500 families	Rs. 6,000/- each.
6. One well with trough @ 50 families	Rs. 10,000/- each.
7. One pond @ 500 families	Rs. 20,000/- each.
8. One tree platform @ 50 families	Rs. 1,500/- each.
9. One religious place of worship @ 100 families	Rs. 1,000/- each.
10. Construction of approach roads and link roads for Abadies – 3 km. per every new Abadi	Rs. 30,000/- per km.
11. Electrical distribution lines and street lights – 2 km. per 100 families	Rs. 11,000/- per km.
12. Social amenities for each municipal town going under submergence, viz, water supply and sanitary arrangements layout, levelling of site etc.	Rs. 5,00,000/- each town.

IV(4)(i): Gujarat is directed to provide for rehabilitation and civic amenities as per directions contained hereinabove in Sub-clause IV(3) in its estimate for B-Land compensation and rehabilitation.

IV(4) (ii): Notwithstanding the provisions hereinbefore contained, Gujarat shall not be liable to pay any compensation for the loss of public properties, facilities or amenities such as drinking water wells, primary school buildings, internal roads, village sites, approach roads, dispensaries, panchayat buildings, rural electrification, highway, bridges, telegraph lines, power lines etc. if corresponding alternative properties, facilities or amenities are to be provided at the cost of the Sardar Sarovar Project. The party owning the facility shall have the option to accept compensation for utilities as existing or ask for their replacement or relocation at the cost of Gujarat.

IV(5): It is made clear that the monetary values in Clause IV(3)(c) are liable to be changed at the time of actual rehabilitation. Where any dispute or difference arises as regards the changed valuation, the matter shall be determined by arbitration in the manner provided in Clause III(2) above and Gujarat's liability shall stand altered accordingly.

IV(6)(i): In the event of Gujarat being unable to resettle the oustees or the oustees being unwilling to occupy the area offered by Gujarat, Madhya Pradesh and Maharashtra shall make such provisions for rehabilitation, civic amenities etc. on the lines mentioned in Clauses IV(1) to (4) above. Gujarat shall, in that event, be liable to pay all such expenses, costs etc., arising out of or in connection with rehabilitation and provision of civic amenities for the oustees including the cost of all acquisition proceedings and payment of compensation etc., as per the Land Acquisition Act, for the land allotted to oustees for cultivation and habitation.

IV(6)(ii): 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.

IV(7): Allotment of Agricultural Lands: Every displaced family from whom more than 25 per cent of its land holding is acquired shall be entitled to and be allotted irrigable land to the extent of land acquired from it subject to the prescribed ceiling in the State concerned and a minimum of 2 hectares (5 acres) per family, the irrigation facilities being provided by the State in whose territory the allotted land is situated. This land shall be transferred to the oustee family if it agrees to take it. The price charged for it would be as mutually agreed between Gujarat and the concerned State. Of the price to be paid for the land a sum equal to 50 per cent of the compensation payable to the oustee family for the land acquired from it will be set off as an initial instalment of payment. The balance cost of the allotted land shall be recovered from the allottee in 20 yearly instalments free of interest. Where land is allotted in Madhya Pradesh or Maharashtra, Gujarat having paid for it vide Clause IV(6)(i) supra, all recoveries for the allotted land shall be credited to Gujarat.

IV(8): Any dispute between the States in respect of Clauses IV(1) to (7) of these directions shall be referred to and determined by arbitration in the manner provided in Clause III(2) of these directions.

Sub-Clause V: Programme for Payment to be Made by Gujarat to Madhya Pradesh and Maharashtra

V(1): As soon as practicable after the publication of the decision of the Tribunal in the Official Gazette, Gujarat shall prepare and furnish to the other party States, a fresh estimate of sub-head B-Land for the Sardar Sarovar Project as permitted by the Tribunal including in particular, costs of acquisition of lands in Madhya Pradesh and Maharashtra and of rehabilitation of oustee families in Madhya Pradesh and Maharashtra.

V(2)(i): As soon as practicable after the publication of the decision of the Tribunal in the Official Gazette and in any case before expiry of three months thereafter, both Madhya Pradesh and Maharashtra shall furnish to Gujarat three sets of Majmuli/Taluka maps of all talukas in their respective territories likely to be submerged wholly or partly under Sardar Sarovar. These maps shall indicate village boundaries. Within three months after the receipt of the Majmuli/Taluka maps Gujarat shall mark thereon the boundary of the area situated below the FRL as also that between FRL and MWL including the area affected by back water resulting from MWL and shall return one respective set so marked to Madhya Pradesh and Maharashtra.

V(2)(ii): As soon as practicable after the receipt of one set of the Majmuli/Taluka maps marked as aforesaid and in any case within six months thereof, the Governments of Madhya Pradesh and Maharashtra shall publish notifications under Sub-section (1) of Section 4 of the Act notifying that the lands in their respective territories situated below the FRL and buildings with their appurtenant lands between FRL and MWL, as also those affected by the back water effect resulting from MWL (to be specified in the notifications) are likely to be needed for the Sardar Sarovar Project.

V(2)(iii): As soon as practicable after publication of the decision of the Tribunal in the Official Gazette as hereinbefore referred to and in any case within one year thereof, Gujarat shall intimate to Madhya Pradesh and Maharashtra yearwise programme of construction of the dam.

V(2)(iv): Objections, if any, received against the proposed acquisition of lands as notified under Section 4 of the Act shall be heard and disposed of and any reports to the State Governments as contemplated by Sub-section (2) of Section 5A of the Act shall be made with utmost expedition. The Governments of Madhya Pradesh and Maharashtra shall issue requisite notifications under Section 6 of the Act with utmost expedition and in any case before the expiry of three years from the dates of publication of the respective notifications under Sub-section (1) of Section 4 of the Act.

V(2)(v): As soon as practicable after receipt of the yearwise programme of construction of the Sardar Sarovar dam from Gujarat both Madhya Pradesh and Maharashtra in consultation with Gujarat shall finalise their respective yearwise programme of completing the proceedings for compulsory acquisition of lands in their respective territories upto the stages of making awards under Section 11 of the Act of taking possession of the lands under Section 16 of the Act.

V(3)(i): Gujarat is required to pay to Madhya Pradesh and Maharashtra compensation for compulsory acquisition of lands, market value of Government lands to be conveyed to Gujarat and expenditure to be incurred in connection with the rehabilitation of oustee families to be rehabilitated in Madhya Pradesh and Maharashtra as hereinbefore provided. Madhya Pradesh and Maharashtra shall on or before 30<sup>th</sup> September of each year intimate to Gujarat the amounts required to be paid by Gujarat to Madhya Pradesh and Maharashtra respectively having regard to (a) the extent of lands in Madhya Pradesh and Maharashtra in respect of which awards are likely to be made under Section 11 of the Act (b) the extent of Government lands likely to be conveyed by Madhya Pradesh and Maharashtra to Gujarat during the next financial year and (c) the expenditure likely to be incurred by Madhya Pradesh and Maharashtra in connection with rehabilitation of oustee families in Madhya Pradesh and Maharashtra during the next financial year. In arriving at these estimates for the next financial year, Madhya Pradesh and Maharashtra shall also take into account the differences, if any, between the payments made by Gujarat in pursuance of this clause for the current financial year and the amount actually payable during the said financial year.

V(3)(ii): On the basis of these estimates, Gujarat shall on or before the 31<sup>st</sup> May of the following financial year make payments to Madhya Pradesh and Maharashtra of the amounts estimated as provided in Clause V(3)(i) above.

V(3)(iii): Gujarat shall at each successive stage of submergence intimate to Madhya Pradesh and Maharashtra the area coming under submergence at least 18 months in advance. The inhabitants of the area coming under the

respective stages of submergence will be entitled to occupy or use their properties without being required to pay anything for such occupation and use till a date to be notified by the State concerned which date shall not be less than six months before submergence. They must vacate the area by the notified date.

V(4)(i): On payment of the amounts to be paid each year by Gujarat as compensation for compulsory acquisition of lands as aforesaid, Madhya Pradesh and Maharashtra shall, as expeditiously as possible, complete the acquisition and transfer such lands to Gujarat so as to vest the lands in Gujarat to be used only for the purpose of submergence and subject to Clauses V(5) to (8) of these directions.

V(4)(ii): On payment of the market value of Government lands by Gujarat as hereinbefore provided Madhya Pradesh and Maharashtra and the Union of India shall convey such lands to Gujarat so as to vest in Gujarat to be used only for the purpose of submergence and subject to clauses V(5) to (8) of these directions.

V(5): Gujarat shall pay to Madhya Pradesh and Maharashtra in accordance with the respective Land Revenue Codes, the amount of land revenue payable every year for the lands in their respective territories acquired for Gujarat or conveyed to it, at the rates prevailing in Madhya Pradesh and Maharashtra respectively from time to time.

V(6): Madhya Pradesh and Maharashtra, as the case may be, shall remit, each year to Gujarat any revenue which they may derive from the cultivation of lands which get periodically exposed in Sardar Sarovar, after deducting collection charges for the same.

V(7): Notwithstanding vesting in Gujarat of the lands coming under submergence, Madhya Pradesh and Maharashtra shall continue to enjoy all rights of sovereignty intact over the submerged area in the respective States.

V(8): Madhya Pradesh and Maharashtra respectively shall be exclusively entitled to all rights of fishing, boating and water transportation over the part of lake over the submerged land within Madhya Pradesh and Maharashtra respectively, provided, however, that such right is not exercised to the prejudice of any utilities of the Sardar Sarovar Project or cause hindrance in the legitimate performance of their duties by the project personnel.

V(9): All residual rights not specifically transferred to Gujarat in respect of the lands coming under submergence shall continue to vest in the Government in whose territory they are situated.

V(10): In the event of the said lands not being used for the purpose of submergence for which it is acquired, the State of Gujarat shall retransfer such land to Madhya Pradesh or Maharashtra as the case may be, subject to the condition that Madhya Pradesh and Maharashtra refund to Gujarat the amount of compensation received from Gujarat in respect of such land.

V(11): In the event of any land acquired for rehabilitation of oustee families is not used for the purpose, it shall be returned to the original owner on payment, where feasible or otherwise disposed of and due credit given to Gujarat.

V(12): All costs incurred by Gujarat on acquisition of land and rehabilitation of oustees in respect of Sardar Sarovar shall be charged to Sardar Sarovar Project estimate, Unit I – Dam and Appurtenant Works.

#### Sub-clause VI

Nothing contained in Clause XI shall prevent the alteration, amendment and modification of all or any of the foregoing clauses by agreement between all the party States.

### **Clause XII: Allocation of Cost of Sardar Sarovar Project between Irrigation and Power**

We determine that the cost of Unit I – Dam and Appurtenant Works – should be apportioned between Irrigation and Power as follows:

- |              |               |
|--------------|---------------|
| - Irrigation | 43.9 per cent |
| - Power      | 56.1 per cent |

### **Clause XIII: Allocation of Irrigation Component of Cost of Sardar Sarovar Project and between Gujarat and Rajasthan**

(a)(i) The irrigation component of the cost of Unit I of Sardar Sarovar Project (Dam and Appurtenant Works) should be shared by Gujarat and Rajasthan in the ratio of 18:1.

(a)(ii) Madhya Pradesh and Maharashtra shall contribute a pro rata share to the irrigation component of the cost of Sardar Sarovar Dam as also towards its operation and annual maintenance, for water drawn from Sardar Sarovar for use in their territory. The pro rata share shall be in proportion of the quantity of water so drawn to 9.5 MAF. The amount so contributed shall be credited to Gujarat and Rajasthan in the ratio of 18:1.

(b) The cost of Navagam Canal with its design approved by Narmada Control Authority shall be shared by the two States as under:

(i) The cost differential in respect of land, earth work and lining for the gradients proposed by Gujarat and that now prescribed, to be borne by Rajasthan in full.

(ii) The actual cost of the canal less (i) above to be shared on cusec-mile basis.

The actual cost should be shared by Gujarat and Rajasthan on cusec-mile basis on the first instance and on completion of the work the share cost shall be adjusted as indicated above. Rajasthan shall credit its share cost each year initially on the basis of budget allotment. This should then be adjusted at the end of the year to actual expenditure. The post-construction expenditure on maintenance is not to be considered as cost of construction.

Should any difference arise between Rajasthan and Gujarat on figures of cost in respect of Navagam Main Canal for purposes of sharing the cost, the matter shall be referred to the Narmada Control Authority and on such a reference its decision shall be final and binding.

#### **Clause XIV: Setting up of Machinery for Implementing the Decision of the Tribunal**

We make the following orders with regard to setting up of machinery for implementing the decision of the Tribunal:

##### Sub-clause I: Constitution of the Authority.

1(1): An inter-State, administrative authority to be called Narmada Control Authority (hereinafter referred to as the 'Authority') shall be established for the purpose of securing compliance with and implementation of the decision and directions of the Narmada Water Disputes Tribunal (herein referred as the 'Orders').

1(2): The Authority shall consist of seven high-ranking engineer members, of whom one each shall be of the rank of Engineer-in-Chief, Chief Engineer, or Additional Chief Engineer of the Irrigation Department, Power Department or the State Electricity Board appointed by the Government of each of the States of Madhya Pradesh, Gujarat, Maharashtra and Rajasthan and three other eminent Engineers of a rank not less than that of a Chief Engineer to be appointed by the Central Government in consultation with the party States. One of the three independent members shall be nominated by the Central Government, as the Chairman of the Authority with a deliberative vote at meetings where decisions are taken on any matter affecting the interest of more than one State and he will be in charge of the administrative work of the Authority. The Central or State Government, as the case may be, shall have the power to remove or suspend from the Authority any member who, in its opinion, is not suitable to continue as member.

1(3): Each independent member shall be a full-time member and be appointed for a term not exceeding five years. The members appointed by the State Governments shall be part-time members. The appointing authority for independent member or that for part-time member, as the case may be, shall determine the terms and conditions of appointment in each case. As far as practicable, the first appointment of the seven members of the Authority shall be made within three months from the date of publication of the decision of the Tribunal in the Official Gazette.

1(4): Vacancies of members – On any vacancy occurring in the offices of the three independent members, the Central Government shall appoint a person to such vacant office, and on any vacancy occurring in the office of the four members other than the independent members, the State Government by whom the member whose office falls vacant was appointed shall appoint a person to the vacant office.

In case of illness or absence for any cause whatever of a member, the Central Government or State Government by whom he was appointed (as the case may be) may appoint a person as an acting member during such illness or absence and such acting member shall, while so acting have all the powers and perform all the duties and be entitled to the indemnities of the member (vide Sub-clause 5) in whose stead he so acts, save and except that the next senior independent member appointed by the Central Government and not the acting member shall act as Chairman at business meeting of the Authority or as the Chairman of the Authority in the event of illness or absence of the Chairman of the Authority.

#### Sub-clause 2: Secretary of the Authority

The Authority shall employ a Secretary, who shall be an Engineer. He shall not be a member of the Authority.

#### Sub-clause 3: Quorum and Voting

Five members shall be a quorum and the concurrence of the majority shall be necessary for the transaction of the business of the Authority except such business as the Authority may from time to time prescribe as routine. The Authority shall not prescribe as routine any business in which the interests of any two of the States are likely to be in conflict. For the transaction of routine business three members shall be a quorum and in the absence of the Chairman of the Authority, the Chairman elected at the meeting shall have a deliberative vote and in the event of an equality of votes a casting vote also. Subject as aforesaid the members shall have equal powers.

#### Sub-clause 4: Disposal of Business by the Authority

4(1): Subject to the provisions of Sub-clause 4(2) below, the Authority may dispose of any matter before it either by circulation or by holding a meeting. However, it will be open to any member of the Authority to require that a matter shall not be disposed of by circulation but at a meeting.

4(2): On the following matters the Authority shall record its decision by a Resolution at a meeting in which the Chairman and all the members from the party States are present:

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

However, if any particular item under this Sub-clause cannot be disposed of at two successive meetings owing to the absence of one or more members from the party States, it shall be disposed of under Sub-clause 3 of Clause XIV.

4(3): Subject to the foregoing provisions, the Authority shall frame its own Rules for the conduct of its business.

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

#### Sub-clause 5: Indemnity of Members

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

#### Sub-clause 6: Officers and Servants of the Authority

The Authority may from time to time appoint or employ such and so many officers and servants as it thinks fit and remove or dismiss them, under the rules and regulations applicable to the appointment, removal and dismissal of the Central Government officers and servants. All such officers and servants shall as such be subject to the sole control of the Authority. The scales of pay and other service conditions shall be as applicable to Central Government employees. Persons employed in the services of the four States may be appointed or employed by the Authority in such proportions as the Authority may deem fit. The Authority shall arrange with the State Governments to spare the services of the persons employed in the State Governments for whole-time employment with the Authority, or for the performance of any work or services for the Authority. The Authority may also make direct recruitment of any personnel or obtain the same from the Centre or other source as considered appropriate.

#### Sub-clause 7: Administrative & Field Organisation Costs

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

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

Sub-clause 8: Powers, Functions & Duties of the Authority

8(1): The role of the Authority will mainly comprise co-ordination and direction. Normally all bilateral matters should be dealt with mutually by the States concerned and referred to the Authority only if there is a dispute.

8(2): The Authority shall be charged with the power and shall be under a duty to do any or all things necessary, sufficient and expedient for the implementation of the Orders with respect to:

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

8(3): In particular and without prejudice to the generality of the foregoing functions, the Authority shall perform inter-alia the following functions:

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

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

(iii) The Authority shall obtain from the concerned States periodical progress reports both as to works and expenditure, and shall on receipt of such reports review the progress of construction of different units of the projects and whenever necessary advise the State concerned on the steps to be taken to expedite the work, except in respect of Unit I – Dam and Appurtenant Works and Unit III – Power Complex of Sardar Sarovar Project. The States shall submit, in respect of projects in Sub-clause 8(3)(i), completion reports to the Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

8(4): In the light of its experience, the Authority may modify or add to the functions enumerated hereinabove in Sub-clauses 8(3)(i) to (xvi) by a resolution.

8(5): All the concerned States shall submit to the Authority all the relevant information called for by the Authority in connection with the Narmada Valley Development expeditiously.

#### Sub-clause 9: Annual Report of the Authority

The Authority shall prepare and transmit to each of the four States as early as possible and in any case before the end of the current water year (1<sup>st</sup> July to 30<sup>th</sup> June) an annual report covering the activities of the Authority for the preceding year and to make available to each State on its request any information within its possession any time and always provide access to its record to the States and their representatives.

#### Sub-clause 10: Records of the Authority and their Location

The Authority shall keep a record of all meetings and proceedings, maintain regular accounts, and have a suitable office where documents, records, accounts and gauging data shall be kept open for inspection by the four States or their representatives at such times and under such regulations as the Authority may determine. The location of the central, regional and sub-regional offices of the Narmada Control Authority shall be determined by the Authority. The headquarters of the Authority shall be at New Delhi till such time as it decides on its permanent location.

#### Sub-clause 11: Contracts and Agreements

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

#### Sub-Clause 12: Financial Provisions

(1) All the capital and revenue expenditure required to be incurred by the Authority shall be borne by the four States of Madhya Pradesh, Gujarat, Maharashtra and Rajasthan equally. The Governments of the four States shall provide the necessary funds to the Authority to meet all capital and revenue expenditure required to be incurred by the Authority for the discharge of its functions.

(2) On the constitution of the Authority each of the Governments of the four States shall contribute Rs. 5,00,000 (Rupees five lakh) to the fund of the Authority in the first instance.

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

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

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

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

#### Sub-clause 13: Decision of the Authority

The decisions of the Authority on all matters covered under Sub-clause 8 shall be final and binding on the four party States. However, there shall be a Review Committee which may *suo motu* or on the application of any party State review any decision of the Authority. In urgent cases the Chairman of the Review Committee may, on the application of the party State, grant stay of any order of the Authority pending final decision on review.

#### Sub-clause 14: Review Committee

14(1): The Review Committee shall consist of five members including a Chairman as under:

(i) Union Minister for Irrigation as the	Chairman
(ii) Chief Minister of Madhya Pradesh	Member
(iii) Chief Minister of Gujarat	Member
(iv) Chief Minister of Maharashtra	Member
(v) Chief Minister of Rajasthan	Member

The Secretary of the Union Ministry of Agriculture and Irrigation, Department of Irrigation shall be the Convenor of the Review Committee but shall not have any voting right. In case there is President's rule in any of the States, the Governor of that State or his authorised representative will act as member of the Review Committee.

14(2): The Chief Ministers of the four States may nominate the respective Irrigation Ministers either generally or specially as the alternate member with full powers of voting, taking decisions etc.

14(3): The Review Committee may review the decision of the Authority at a meeting at which the Chairman and all the members of the Review Committee are present. It is expected that the decisions of the Review Committee will be by consensus. Failing consensus it shall be by majority of votes of members including the Chairman.

14(4): Advance notice of the proposed meeting of the Review Committee, its agenda and agenda notes will be forwarded by the Convenor to the party States.

14(5): The decision of the Review Committee shall be recorded in writing and shall be final and binding on all the States.

Sub-clause 15: Construction Outside Jurisdiction of the Authority

The planning and construction of the projects will be carried out by each State through its own agencies, save and except to the extent prescribed in Sub-clause 16 of Clause XIV.

Sub-clause 16: Supervisory Function of the Authority over Construction of Sardar Sarovar Project

(1) The four party States have financial commitment in respect of Unit I – Dam and Appurtenant Works of the Sardar Sarovar Project and three of them namely, Gujarat, Maharashtra and Madhya Pradesh have such commitment in respect of Unit III – Power Complex of the Project. With a view to ensuring efficient, economical and early execution of these Units of the Project, and taking into account the financial commitments of the party States, it is desirable and necessary that a Construction Advisory Committee should be constituted for the purpose. We, therefore, order that such an Advisory Committee to be called Sardar Sarovar Construction Advisory Committee should be set up within three months from the date of publication of the Decision of the Tribunal in the Official Gazette.

(2) The construction Advisory Committee shall have a whole-time Secretary of the rank of Chief Engineer to be appointed by Union of India and such other staff as may be necessary.

(3) The Committee shall comprise:

(i) The Secretary to the Government of India, in charge of Irrigation - Chairman.

(ii) Chairman, Central Water Commission (CWC), or a member of the CWC representing him in case the Chairman is unable to attend a meeting.

(iii) Chairman, Central Electricity Authority (CEA), or a member of the CEA representing him in case the Chairman is unable to attend a meeting.

(iv) Chairman, Narmada Control Authority (NCA) or an independent member of NCA representing him in case the Chairman is unable to attend a meeting.

(v) Joint Secretary (Financial Adviser) in the Union Ministry of Agriculture & Irrigation (Department of Irrigation).

(vi) Secretaries in charge of Finance Department of Governments of Madhya Pradesh, Gujarat, Maharashtra and Rajasthan.

(vii) Secretaries in charge of Irrigation Department of Governments of Gujarat and Rajasthan.

(viii) Secretaries in charge of Power Department of Madhya Pradesh, Maharashtra and Gujarat.

(ix) Secretaries in charge of Revenue Department or any other Department concerned with land acquisition of Madhya Pradesh, Maharashtra and Gujarat.

(x) General Manager or Chief Engineers of Gujarat in charge of the project and Chief Engineers of Madhya Pradesh, Maharashtra and Rajasthan concerned with the Project.

(xi) Chairman, State Electricity Boards of Madhya Pradesh, Maharashtra and Gujarat.

(xii) Financial Adviser, Sardar Sarovar Project.

The Chairman may co-opt any other member for any particular meeting.

(4) The Sardar Sarovar Construction Advisory Committee shall:

(i) scrutinise the project estimates prepared for these works, advise necessary modifications and recommend the estimates for the administrative approval of the concerned Governments;

(ii) examine and make recommendation on all proposals pertaining to technical features and designs as may be referred to it by any of the party States and where necessary consult experts for the purpose;

(iii) examine and make recommendation on the programme of construction of different parts of the project in a co-ordinated manner, keeping in view the funds available, the economics of the project and the desirability of obtaining quick results;

(iv) examine the requirement of funds for the construction of works and other purposes according to the approved programme and make necessary recommendations;

(v) examine and recommend, from time to time, the delegation of such powers, both technical and financial, as it may deem necessary for the efficient execution of the project, to the General Manager/Chief Engineers, Superintending Engineers, Executive Engineers and Sub-Divisional Officers engaged in the execution of the project;

(vi) examine and, where necessary, recommend specification for various classes of work;

(vii) examine and make recommendation on all sub-estimates and contracts, the cost of which exceeds the powers of sanction of the General Manager/Chief Engineers;

(viii) review progress reports, both for works and expenditure from the General Manager/Chief Engineers and recommend, where necessary, steps to be taken to expedite the work.

(5) The headquarters of the Construction Advisory Committee will be fixed by the Committee.

(6) The Construction Advisory Committee will frame rules regarding procedure and delegation of power for the purpose of carrying out its business.

(7) The recommendations of the Construction Advisory Committee shall be conveyed to the Governments concerned by the Committee and copies sent to the Review Committee and Narmada Control Authority for information.

(8) The recommendations of the Construction Advisory Committee shall normally be accepted by the State Governments concerned. In the event of any disagreement, the matter shall be referred to the Review Committee and the decision of the Review Committee shall be final and binding on all the concerned States.

In all matters relating to the construction of the Sardar Sarovar Dam and appurtenant works (Unit I), Power House and generating machinery (Unit III) and transmission lines to feed power to Madhya Pradesh, Maharashtra and Gujarat upto the next sub-station in each case, the Narmada Control Authority will carry out only such functions as do not specifically devolve upon the Construction Advisory Committee set up under Sub-clause 16, Clause XIV.

(9) The Construction Advisory Committee will be dissolved after three years of the completion of construction of Units I and III of the Sardar Sarovar Project. The post-construction management of Units I and III will be by Gujarat under the supervision of the Narmada Control Authority.

(10) The expenditure of the Construction Advisory committee will be borne by the four States of Madhya Pradesh, Gujarat, Maharashtra and Rajasthan equally.

#### Sub-clause 17

Nothing contained in this Order shall prevent the alteration, amendment or modification of all or any of the foregoing clauses by agreement between all the States concerned.

#### Sub-clause 18

The Union of India has consented to participate in the machinery to be established by the Order of the Tribunal, if so directed and to do its best to implement the decision of the Tribunal. Accordingly, we direct the Union of India to participate in the machinery set up by the Order of the Tribunal to implement the directions of the Tribunal specifically under Clauses 1 (2), 4, 12(6), 13,14 and generally to implement all the other directions so far as the Union of India is concerned.

### **Clause XV: Order as to Costs of Proceedings**

(i) The States of Gujarat, Madhya Pradesh, Maharashtra and Rajasthan shall bear their own costs of appearing before the Tribunal. The expenses of the Tribunal shall be borne and paid by the aforesaid four States in equal shares. These directions relate to the references under Section 5(1) of the Inter-State Water Disputes Act, 1956.

(ii) The States of Gujarat, Madhya Pradesh, Maharashtra and Rajasthan shall bear their own costs of appearing before the Tribunal in the references under Section 5(3) of the said Act. The expenses of the Tribunal in respect of the aforesaid references shall be borne and paid by the States of Gujarat, Madhya Pradesh, Maharashtra and Rajasthan in equal shares.

**Clause XVI: Period of Operation of Certain Clauses of the Final Order**

In addition to Clauses III and IV (mentioned in Clause V), our orders in Clause VII with regard to Full Reservoir Level and Maximum Water Level of the Sardar Sarovar Dam, Clause VIII with regard to Sharing of Costs and Benefits, Clause IX with regard to Regulated Releases to be made by Madhya Pradesh for the Requirement of Sardar Sarovar Project, Clause X with regard to payment to be made by Gujarat to Madhya Pradesh for such Regulated Releases, Clause XII with regard to Allocation of Costs of Sardar Sarovar Project between Irrigation and Power, Clause XIII with regard to Allocation of Irrigation Component of Cost of Sardar Sarovar Project between Gujarat and Rajasthan and Clause XIV as regards Machinery are all made subject to review at any time after a period of 45 years from the date of publication of the Decision of the Tribunal in the Official Gazette.

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