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NARMADA BACHAO ANDOLAN (PETITIONER)
VS.
UNION OF INDIA AND ORS. (RESPONDENTS)

**Supreme Court of India, Record of Proceedings,
Writ petition (civil) No. 319 of 1994**

CASE NO. 319 OF 1994

ORDER OF 18 FEB. 1999

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*In the Supreme Court of India
Civil Original Jurisdiction
Writ petition (civil) No. 319 of 1994*

*Narmada Bachao Andolan (Petitioner)
vs.
Union of India and Ors. (Respondents)*

(With Writ Petition (C) No.345/94, SLP(C) No.3608/85, C.A. No.6014/94, Writ Petition (C) No. 104/97 and Transferred Case (C) No.35/95).

ORDER

At an interim stage of these proceedings, on 5th May, 1995, Mr. Dipankar P. Gupta, the learned Solicitor General appearing for the Union of India made a statement in this Court to the effect that the effective height of the Dam would be maintained at RL 80.30 metres, which was the existing height between blocks 30 to 46, until further orders. This is the height at which the Dam remains till date. However, certain humps were permitted to be constructed to maintain the safety of the Dam subsequently.

Learned counsel for the State of Gujarat states that the State of Gujarat has now taken all Resettlement and Rehabilitation measures required by the Narmada Water Disputes Tribunal Award (NWD T Award) for resettlement of the oustees upto RL 90 metres. He is supported in this statement by learned counsel for the Union of India. Learned counsel have further submitted that the Narmada Control Authority (NCA) has allowed the level of the Dam to be increased to RL 90 metres. Mr. Shanti Bhushan, learned senior counsel appearing for the petitioner, however, joins issue and asserts that the assertion made by learned counsel for the State of Gujarat and Union of India regarding making provisions for Resettlement and Rehabilitation is not correct.

Mr. H.N. Salve, learned senior counsel appearing for the State of Gujarat, has placed before us copies of two Resolutions dated 16th February, 1999 and 17th February, 1999 and the Corrigendum dated 18th February, 1999. Vide Resolution dated 17th February, 1999, the Government of Gujarat has constituted an Independent Grievance Redressal Authority (hereinafter 'the Authority') for redressing the grievances in the work of Resettlement and Rehabilitation under the Sardar Sarovar Project. The Authority has Mr. Justice P. D. Desai, retired Chief Justice, as the Chairman. The powers, terms and conditions of the Authority have also been detailed in the resolutions.

Since the main concern of this Court in this Writ Petition has been with regard to provision of Resettlement and Rehabilitation to the oustees (PAFs and PAPs), we are of the view that before we proceed further to hear the Writ Petition, the Authority be requested to survey the Rehabilitation Sites which have been established by the State of Gujarat for the oustees from the States of Madhya Pradesh and Maharashtra as also of the State of Gujarat itself, to find out whether the Resettlement and Rehabilitation measures as mandated by the NWD T Award (including providing of civic amenities) have been substantially complied with so as to accommodate the oustees from the afore-mentioned States upto the height of RL 90 metres. We, therefore, request the Authority to ascertain the ground realities with regard to provision for Resettlement and Rehabilitation and in the first instance make an interim Report to this Court with regards to its findings concerning Resettlement & Rehabilitation measures. This may be done on or before 9th April, 1999.

The request of Mr. H.N. Salve, learned senior counsel, for the State of Gujarat, which is supported by the Union of India and the State of Maharashtra also, to permit the State of Gujarat to raise the height of the Dam to RL 90 metres shall be considered after 9th April, 1999 after examining the interim report of the Authority. At this stage, however, we permit the State of Gujarat, to raise the level of the Dam to RL 85 metres, excluding the humps necessary for maintenance of the safety of the Dam.

We would like to emphasise that the oustees affected by the raising of the Dam height upto RL 85 metres should be rehabilitated by the State of Gujarat as required by the NDWT Award, if not already done. The Government of Gujarat shall file an affidavit on or before 9th April, 1999, disclosing the status of Resettlement and Rehabilitation work concerning the PAFs affected by raising the height upto RL 85 metres. The State shall also disclose what further Resettlement and Rehabilitation measures are being undertaken for the prospective oustees after RL 85 metres.

List the matters on 14th April, 1999 at 2 P.M. for directions.

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CJI

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(S.P. BHARUCHA) J

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(B.N. KIRPAL) J

New Delhi,
February 18, 1999.

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