

Annexure A: List of villages/ rehabilitation sites represented at the Public Hearings

September 6, 2004: Hearing at village Khaparkheda

From district Dhar:

Khaparkheda, Kadmal, Bhavariya, Nissarpur, Chikhaldal, Bhilkheda, Bajrikheda, Ekkalbara, Kavti, Gopalpura, Bodhwada, Bada Barda.

From district Badwani:

Kharya Bhadal, Picchodi, Borkhedi, Morkhatta, Sondul, Avalda, Bagud, Piplud, Pipri, Chota Barda, Choti Kasravad.

From district Khargone:

Dharampuri, Nimola.

September 7, 2004: Hearing at village Nimgavhan

From district Nandurbar, Maharashtra:

Nimgavhan, Dhomkhedi, Surung, Sikka, Mal, Khardi, Bhilgaon, Savariya Diggar, Atti, Keli, Thuwani, Bharad, Bhadal, Urdya, Manibeli, Chimalkhedi, Dhankhedi, Danel

From Madhya Pradesh:

Jalsindhi

September 7, 2004: Hearing at Parvetta-2 R&R site

R&R sites represented:

Parvetta-1, Parvetta-2, Khokhra, Krishnapura, Lunadra-2, Agar, Baroli, Dabhoi Nada, Dharampuri, Dhepa, Gora, Kachata, Kamboiakuan, Karnet-1, Karnet-2, Khandpura, Kanteshwar, Malu, Mokhdi, Pancholi, Vadadhla, Vaviyara, Vadaj-2, Savli, Satti Ambli, Kukad, Sarsinda, Vasna

Annexure B: Directions of the Supreme Court in the case of Narmada Bachao Andolan versus the Union of India and Others, 319 of 1994

The Judgments

The Order of Supreme Court is in two parts. The majority judgment, by Justice Kirpal and Justice Anand (Chief Justice) is the operative judgment and the one that will be followed. It is 183 pages long. The minority judgment, by Justice Bharucha, running into 32 pages, will not be operative. However, in spite of this, the judgment by Justice Bharucha is a very significant one.

The importance of Justice Bharucha's judgment is that it shows that the highest court of the land has not rejected the main issues and concerns raised by NBA. One judge, from the bench of three judges has taken cognizance of the arguments and has ordered a de facto review of the project by calling for the project to seek fresh environmental clearance.

Directions of Majority Judgment

Kirpal, J. Pages: 180-183

While issuing directions and disposing of this case, two conditions have to be kept in mind, (i) the completion of the project at the earliest and (ii) ensuring compliance with conditions on which clearance of the project was given including completion of relief and rehabilitation work and taking of ameliorative and compensatory measures for environmental protection in compliance with the scheme framed by the Government thereby protecting the rights under Article 21 of the Constitution. Keeping these principles in view, we issue the following directions.

1. Construction of the dam will continue as per the Award of the Tribunal.
2. As the Relief and Rehabilitation Sub-Group have cleared the construction up to 90 meters, the same can be undertaken immediately. Further raising of the height will be only pari passu with the implementation of the relief and rehabilitation and on the clearance by the Relief and Rehabilitation Sub-group. The Relief and Rehabilitation Sub-group will give clearance of further construction after consulting the three Grievances Redressal Authorities.

3. The Environment Sub-group under the Secretary, Ministry of Environment and Forests, Government of India will consider and give, at each stage of the construction of the dam, environment clearance before further construction beyond 90 meters can be undertaken.
4. The permission to raise the dam height beyond 90 meters will be given by the Narmada Control Authority, from time to time, after it obtains the above-mentioned clearances from the Relief and Rehabilitation Sub-group and the Environment Sub-group.
5. The reports of the Grievances Redressal Authorities, and of Madhya Pradesh in particular, shows that there is a considerable slackness in the work of identification of land, acquisition of suitable land and the consequent steps necessary to be taken to rehabilitate the project oustees. We direct the State of Madhya Pradesh, Maharashtra and Gujarat to implement the Award and given relief and rehabilitation to the oustees in terms of the packages offered by them and these States shall comply with any direction in this regard which is given either by the NCA or the Review Committee or the Grievances Redressal Authorities.
6. Even though there has been substantial compliance with the conditions imposed under the environment clearance the NCA and the Environment Sub-group will continue to monitor and ensure that all steps are taken not only to protect but to restore and improve the environment.
7. The NCA will within four weeks from today draw up an Action Plan in relation to further construction and the relief and rehabilitation work to be undertaken. Such as Action Plan will fix a time frame so as to ensure relief and rehabilitation pari passu with the increase in the height of the dam. Each State shall abide by the terms of the action plan so prepared by the NCA and in the event of any dispute or difficulty arising, representation may be made to the Review Committee. However, each State shall be bound to comply with the directions of the NCA with regard to the acquisition of land for the purpose of relief and rehabilitation to the extent and within the period specified by the NCA.
8. The Review Committee shall meet whenever required to do so in the event of there being any un-resolved dispute on an issue which is before the NCA. In any event the Review Committee shall meet at least once in three months so as to oversee the progress of construction of the dam and implementation of the R&R programmes. If for any reason serious differences in implementation of the Award arise and the same

cannot be resolved in the Review Committee, the Committee may refer the same to the Prime Minister whose decision, in respect thereof, shall be final and binding on all concerned.

9. The Grievances Redressal Authorities will be at liberty, in case the need arises, to issue appropriate directions to the respective States for due implementation of the R&R programmes and in case of non-implementation of its directions, the GRAs will be at liberty to approach the Review Committee for appropriate orders.
10. Every endeavour shall be made to see that the project is completed as expeditiously as possible.

This and connected petitions are disposed off in the aforesaid terms.

CJI (A.S. ANAND)

J (B.N.KIRPAL)

New Delhi,

October 18, 2000.

Directions of Minority Judgment

Bharucha, J. Pages: 30-32

I should not be deemed to have agreed to anything stated in Brother Kirpal's judgement for the reason that I have not traversed it in the course of what I have stated.

In the premises,

1. The Environment Impact Agency of the Ministry of Environment and Forests of the Union of India shall forthwith appoint a Committee of Experts in the fields mentioned in Schedule III of the notification dated 27th January, 1994, called the Environmental Impact Assessment Notification, 1994.
2. The Committee of Experts shall gather all necessary data on the environmental impact of the Project. They shall be free to commission or carry out such surveys and studies and the like, as they deem necessary. They shall also consider such surveys and studies as have already been carried out.
3. Upon such data, the Committee of Experts shall assess the environmental impact of the Project and decide if environmental clearance to the Project can be given and, if it can, what environmental safeguard measures must be adopted, and their cost.

4. In so doing, the Committee of Experts shall take into consideration the fact that the construction of the dam and other work on the Project has already commenced.
5. Until environmental clearance to the Project is accorded by the Committee of Experts as aforesaid, further construction work on the dam shall cease.
6. The Grievance Redressal Authorities of the States of Gujarat, Madhya Pradesh and Maharashtra shall ensure that those ousted by reason of the Project are given relief and rehabilitation in due measure.
7. When the Project obtains environmental clearance, assuming that it does, each of the Grievance Redressal Authorities of the States of Gujarat, Madhya Pradesh and Maharashtra shall, after such inspection, certify, before work on the further construction of the dam can begin, that all those ousted by reason of the increase in the height of the dam by 5 meters from its present level have already been satisfactorily rehabilitated and also that suitable vacant land for rehabilitating all those who will be ousted by the increase in the height of the dam by another 5 meters is already in the possession of the respective States.
8. This process shall be repeated for every successive proposed 5 meter increase in the dam height.
9. If for any reason the work on the Project, now or at any time in the future, cannot proceed and the Project is not completed, all oustees who have been rehabilitated shall have the option to continue to reside where they have been rehabilitated or to return to where they were ousted from, provided such place remains habitable, and they shall not be made at all liable in monetary or other terms on this account.

The writ petition is allowed in the aforementioned terms. The connected matters are disposed of in the same terms.

No order as to costs.

J. (S.P. Bharucha)

New Delhi,

October 18, 2000

Annexure C: Order of the Supreme Court in the case of B.D. Sharma versus the Union of India and Others, 1201 of 1990

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO 1201 OF 1990

B.D. Sharma		... Petitioner
	Versus	
Union of India & ors		... Respondents

ORDER

We have heard Mr. Sharma in person, Additional Solicitor General for Union of India and Counsel for the State of Gujarat, Madhya Pradesh and Maharashtra. Mr. Bagla, the present Commissioner who is present in Court has also been heard.

A letter received from Mr. Sharma, when he was in Office as Commissioner of Scheduled Castes and Scheduled Tribes has been treated as a Writ Petition under Article 32 of the Constitution. His letter essentially raised questions with reference to the relationship between the Commissioner and the Union of India as also the State Government, the effective nature of the reports made from time to time by the Commissioner; implementation and non-implementation of the recommendations and the consequences arising out of the same and the constitutional methods which should have been guaranteed for the purpose of treating the Scheduled Castes and Scheduled Tribes for the purpose of monitoring their welfare. That letter apparently appeared to raise constitutional issue of importance and, therefore we considered it appropriate that it should be examined. It is true that in the latter reference was made to certain institutions where according to Mr. Sharma, there was infraction of the obligation and, therefore, certain action should be taken.

The Interlocutory Application now filed is in relation to a question which perhaps requires more of regulation than constitutional questions to be looked into. We are told that Writ Petition already pending before the High Courts of Madhya Pradesh and Gujarat filed by people who are affected by the developments that are taking place in those areas in reference to the Sardar Sarovar. Apart from the fact that Writ Petitions are pending and the High Court had made certain interim orders; the nature or particulars are yet not known. It is really difficult for this Court to regulate the details of the working of a Scheme of this nature but we are of the view that rehabilitation of the oustee as a result of the Project coming up can be examined.

Counsel for the three States have supplied figures on the basis of which we find that in Maharashtra there will be 2468 oustees, in Gujarat the number would be 4500 and in Madhya Pradesh it would be 6800 or so. The award indicated certain figures but there has been a change in the position of the oustees.

From the Affidavit of the Gujarat Government we find that out of 4500 oustee families about 3100 families have already accepted rehabilitation. The remainder obviously is yet to be attended to. Mr. Sharma has also told us that in view of the fact that State of Gujarat has already been taking rehabilitatory steps, there is not much of agitation against the Scheme in Gujarat. We have been told that in the other two States there is some amount of agitation.

Sardar Sarovar is an inter-state project, the feeder being Narmada an inter-state river. This is financed by the World Bank and assistance is forthcoming from some of the foreign countries. As it is, completion is behind schedule. It is, therefore, difficult to look for enforcement of what had been contemplated wither in the agreement or in the Award. While we agree that the rehabilitation should be done as far as possible in a methodical and meticulous way, to enforce terms and conditions stipulated in the agreement such as eighteen months notice before effecting evacuation in terms may be difficult and may not be beneficial for the ultimate purpose. We understand that there is a committee headed by the Secretary, Social Welfare, as a Sub-committee under Narmada Control Authority. We would require this committee where the Secretary, Social Welfare is the Chairman, to be activated so as to ensure rehabilitation. We would direct that this committee would move in the areas where there is rehabilitation to be undertaken and directly ensure that rehabilitatory process is undertaken. The rainy season is on but within a month or six weeks the weather would improve. We would, therefore, require rehabilitation to be personally supervised at intervals by the Committee in all the areas likely to be submerged when water is stored.

It was submitted to us that the first storage of water in Gujarat area is to be done in 1993, and in two years it would be done in the State of Madhya Pradesh. It is, therefore, necessary that before April, 1992, rehabilitation should be effected in regard to the oustees who are said to be the remainder of 4500. Rehabilitation should be so done that at least six months before area is likely to be submerged, rehabilitation should be complete and should be in respect of home-stead, substitution of agricultural property and such other arrangements which are contemplated under the rehabilitation scheme. This Court would require a Report to be furnished of the developments and progress made in the matter of rehabilitation once in every month. We would, therefore,

suggest to the committee to meet at least once after they have visited the areas which they consider necessary, give their views with particular details of rehabilitation to be placed before the Court for direction.

We make it clear that it is not our intention to hold up the progress of the work. On the other hand we would like it to be completed expeditiously so that the time gap may not affect the progress of the project.

Mr. Bagla wanted to make out a point about his difficulties in functioning. To meet it, learned Additional Solicitor General made a statement that Government had decided to set up the National Commission before the end of September, 1991.

List the matter on 20th September, 1991.

Sd/-

.....CJI

Sd/-

.....J

(M.H.KANIA)

Sd/-

.....J

(KULDIP SINGH)

New Delhi

August 9, 1991.

Annexure D: NCA Table showing status of R&R as in August 2004

SARDAR SAROVAR PROJECT													
RESETTLEMENT AND REHABILITATION (R&R) AT VARIOUS ELEVATION OF SARDAR SAROVAR DAM													
As on 26.8.2004													
State	PAFs upto 100.0m			PAFs between 100.0m to 110.64m			PAFs between 110.64m to 121.92m			PAFs between 121.92m to 138.68m			Grand Total
	Resettle d	Balance	Total	Resettle d	Balance	Total	Resettle d	Balance	Total	Resettle d	Balance	Total	
Gujarat	2767	0	2767	811	0	811	1148	0	1148*	0	2	2	4728
Maharashtra	1934	0	1934	729	0	729	433	266	699*	193	143	336**	3698
Madhya Pradesh	3692	0	3692	5168	0	5168	865	12005	12870*	4727	6557	11284***	33014
Total:	8393	0	8393	6708	0	6708	2446	12271	14717	4920	6702	11622	41440

*The figures are tentative as reported by the Party States in 60th R&R sub-group meeting held on 26.8.2004, final figures shall be reported in the ATRs.

** This number may increase due to addition of genuine PAFs to be declared by GRA and State Government.

*** This number may change after declaration of Land Acquisition Award and addition of genuine PAFs to be declared by GRA.

ANNEXURE E: Interim Order of the Supreme Court of India in the case of I.A. No. 4 and 7

Item No 301

Court No 6
A/N Matter

Section PIL

I.A. No. 10 IN I.A. NO. 4 IN Writ Petition (Civil) No. 328/2002

NARMADA BACHAO ANDOLAN.....Petitioner (s)

VERSUS

UNION OF INDIA AND ORS..... Respondent (s)

(for directions and office report)

WITH

I.A. NO. 11 IN I.A. NO. 7 IN W.P. (C) 328/2002

(For directions)

Date: 16/04/2004 These Petitions were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE S.B. SINHA

For Petitioner (s)

For the applicants in I.A 10

Mr. Sanjay Parikh, Adv.,
Ms. Anitha Shenoy, Adv.,
Mr. A.N. Singh, Adv.,
Mr. Bishwajyoti Pathak, Adv.
Mr. S. Muralidhar, Adv.

For the applicants in I.A. 11

For Respondent (s)

For Union of India and
Narmada Control Authority

Mr. Kirit N. Rawal, SG
Mr. Mukul Rohtagi, ASG
Mr. Syed Naqis, Adv.,
Mr. P. Parmeswara, Adv.,
Mr. S.N. Terdol, Adv.

For State of M.P.

Mr. C.S. Vaidyanathan, ASG
Mr. Satish K. Agnihotri, Adv.,
Mr. Rohit K Singh, Adv.,
Mr. Pradeep Tiwari, Adv.

For State of Maharashtra:

Dr. R.B. Masodkar, Adv.,
Mr. S.S. Shinde, Adv.,
Mr Naresh Kumar, Adv.
Mr. Ashok H. Desai, Sr. Adv.,
Mr. Kamal Trivedi, AAG
Ms. Hemantika Wahni, Adv.

Mr. Aruneshwar Gupta, AAG
Mr. Jog Singh, Adv.,
Mr. Amarjit Singh Bedi, Adv.

Ms Sandhya Goswami, Adv.

Mr. Prashant Bhushan, Adv.
Mr. Narinder Verma, Adv.,
Mr. Vishal Gupta, Adv.,
Mr. Rohit Singh, Adv.

UPON hearing counsel the Court made the following

I.A. Nos. 10 & 11. The prayer in this application is to direct the respondents not to proceed with further construction of Narmada Dam by raising its height to 110 meters till all affected people are rehabilitated. The main grievance of the applicants is the subject matter of two I.A.s. (I.A. Nos 4 & 7).

Having heard learned counsel for the parties at considerable length, we are of the view that for the present, no case has been made out to stop the ongoing construction raising the height of the dam. At the same time, it is necessary to note that the matter relating to rehabilitation of oustees is required to be examined by all concerned and implemented in terms of the award made by the Narmada Water Disputes Tribunal, orders and directions issued by this Court from time to time, the orders and directions of Narmada Control Authority and that of Grievance Redressal Authorities of the state concerned. Further it has been brought to our notice by the learned counsel appearing for the applicants that the land in village Matanya, Tehsil Maheshwar and some of the other villages being proper cultivable land can be obtained/ acquired by the State Governments and given to the oustees as a rehabilitation measure. The applicants may give concrete suggestions in this respect to the respondent – State of Madhya Pradesh. On receipt of such suggestions, the matter shall be expeditiously examined by the State Government. In case, the applicants/ oustees are still not satisfied with the decision of the State Government, it would be open to them to approach the Grievance Redressal Authority. The said Authority shall also

examine the grievance of the oustees cannot be taken up or treated lightly. It may also be noticed that a positive approach has been adopted by the oustees that what they are concerned with is the proper rehabilitation and not the stoppage of the construction of the dam and they have approached this Court seeking stay of construction as they were not satisfied about the proper offer having been made to all affected parties for their rehabilitation and other related aspects of rehabilitation.

For the present having noticed aforesaid issues, we express no opinion. We however direct that these two applications along with I.A. Nos. 4 & 7 shall be listed for hearing in the 3rd week of July 2004. Mr. Muralidhar, learned counsel appearing for the applicants in IAs 7 & 11 shall file a brief synopsis on the reopening of the Court after vacation.

The matter is adjourned in the above terms.

Annexure F: MP's diminishing PAFs list, A Game of Numbers

Rehabilitation of Sardar Sarovar Project Affected Families

A Game of Numbers: MP's Diminishing PAF List

Status of R & R at Dam height EL 95 Mts of MP PAFs								
		Claimed as resettled			Option of Balance			
Date	Total no. of PAFs	In MP	In Guj.	Total	Balance	MP	Gujarat	Source of Information
Aug. 29, 2001	5397	1182	2385	3567	1830	1378	452	Agenda of 50 th Meeting of R & R Sub-Group
Nov. 11, 2001	5379	1394	2381	3775	1603	782	821	RCNCA (CMS' Meeting)
Dec. 08, 2001	5397	1399	2481	3817	1580	1217	363	Agenda of 50 th Meeting of R & R Sub-Group
Jan 07, 2002	5397	1466	2691	4157	1240	1150	90	Minutes of 51 st meeting of R & R Sub-Group
Feb. 08, 2002	5397	1466	2691	4157	1240	1150	90	Agenda of 52 nd Meeting of R & R Sub-Group
May 14, 2002	1883			1873	10			Minutes of 53 rd Meeting of R & R Sub-Group
June 31, 2002	1883*	967	916	1883	0	0	0	Quarterly Status Report, NCA
Dec 31, 2002	1883*	967	916	1883	0	0	0	Half yearly Status Report, NCA

* The GoMP has resettled only those PAFs (i) whose agricultural land is coming under permanent submergence and (ii) whose habitation is coming under permanent or temporary submergence due to a 1 in 100 year flood. (end notes are taken directly from NCA documents).

Status of R & R at Dam height EL 100 Mts of MP PAFs									
		Claimed as resettled					Option of Balance		
<u>Date</u>	<u>Total no. of PAFs</u>	In MP	In Guj.	Total	Balance	MP	Gujarat	<u>Source of Information</u>	
Aug. 29, 2001	7913	1327	2584	3911	4002	2554	1448	Agenda of 50 th Meeting of R & R Sub-Group	
Nov. 11, 2001	7913	1587	2684	4271	3570	1902	1668	RCNCA (CMS' Meeting	
Jan 07, 2002	7913	1670	3360	5030	2883	2693	190	Minutes of 51 st meeting of R & R Sub-Group	
Feb. 08, 2002	7913	1670	3360	5030	2883	2693	190	Agenda of 52 nd Meeting of R & R Sub-Group	
June 31, 2002	3071*	1990	1036	3026	45	45	0	Quarterly Status Report, NCA	
Nov. 14, 2002	3710*	2443	1198	3641	69	69	0	Minutes of 54 th meeting of R & R Sub-Group	
Dec 31, 2002	3710*	2443	1243	3686	24	24	0	Half yearly Status Report, NCA	
May 13, 2003	3692*	2434	1258	3692	0	0	0	Minutes of 55 th meeting of R & R Sub-Group	
June 31, 2003	3692*	2434	1256	3692	0	0	0	Half yearly Status Report, NCA	

* PAFs whose lands are temporarily under submergence due to 1 in 100 flood have not been consider for R&R

Status of R & R at Dam height EL 95 Mts of MP PAFs									
		Claimed as resettled					Option of Balance		
<u>Date</u>	<u>Total no. of PAFs</u>	In MP	In Guj.	Total	Balance	MP	Gujarat	<u>Source of Information</u>	
Aug. 29, 2001	12681	1809	2802	4611	8070	5489	2581	Agenda of 50 th Meeting of R & R Sub-Group	
Nov. 11, 2001	12681	2005	2896	4901	7708	5288	2420	RCNCA (CMs') Meeting	
Feb. 08, 2002	12681	2079	3653	5732	6949	5219	1730	Agenda Notes of 52 th Meeting of R & R Sub-Group	
Nov. 14, 2002	12681	2175	3628	5803	6878	5425	1453	Minutes of 54 th meeting of R & R Sub-Group	
May 13, 2003	5607							Minutes of 55 th Meeting of R & R Sub-Group	
June 31, 2003	8406	5893	2016	7909	497	291	206	Half yearly Status Report, NCA	

* "This number may change after declaration of LAQ awards. PAFs whose lands are temporarily submerged due to 1 in 100 year flood have not been considered for R&R"

** "tentative"

*** This number may change due to addition of genuine PAFs likely to be included after declaration by GRA and passing of land acquisition award."

Annexure G: List of Government Officials Invited for Hearings

Mr. Priyaranjan Dasmunshi
Ministry of Water Resources
Shramshakti Bhavan
Rafi Marg,
(opp. Parliament street)
New Delhi

Mr. S. Vatsa
Principal Secretary, Rehabilitation
Rehabilitation Ministry
Government of Maharashtra Mantralaya
Mumbai

Mr. Patangrao Kadam
Minister for Rehabilitation
Government of Maharashtra Mantralaya
Mumbai

Mr. Pradeep Bhargava,
Vice – Chairman, Narmada Valley Development Authority (NVDA) and Principal Secretary, Narmada Valley
Development Department (NVDD)
Narmada Bhavan,
Tulsi Nagar
Bhopal – 462003

Mr. Rajneesh Vaish
Commissioner, Rehabilitation, NVDA
E 2/1 Narmada Colony Scheme 78,
Vijay Nagar,
Indore

Mr. Afroze Ahmed
Director Rehabilitation
Narmada Control Authority
Scheme No. 74 – C,
Building No 113
Vijaya Nagar
Indore

Chairman
National Commission for Scheduled Castes
5th Floor,
Lok Nayak Bhavan,
Khan Market
New Delhi – 3

Mr. Sagar
Tribal Development Commissioner,
Tribal development Corporation,
Adivasi Vikas Bhavan,
Near Circuit house,
Nasik,
Maharashtra

Mr Padmasingh Patil
Ministry of Irrigation,
Government of Maharashtra Mantralaya,
Mumbai

Mr. A.K.Bhatt,
Collector
Collector's Office
Jhabua District
Madhya Pradesh

Ms. Anjusingh Baghel
Collector
Badwani District
Madhya Pradesh

Mr. Gautam
Collector
Dhar District
Madhya Pradesh

Divisional Commissioner's Office
Nasik Road,
District Nasik
Maharashtra

Mr. Rawat
Divisional Forest Officer
Forest Office,
Badwani
District Badwani,
Madhya Pradesh