

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).935/2007

(From the judgement and order dated 08/09/2006 in WP No.3022/2005 of The HIGH COURT OF M.P AT JABALPUR)

NARMADA BACHAO ANDOLAN Petitioner(s)

VERSUS

NARMADA HYDRO ELEC. DEVE. CORPN. & ORS. Respondent(s)

(With appln(s) for permission to file lengthy list of dates and bring on record subsequent event and exemption from filing O.T. and permission to file additional affidavit and with prayer for interim relief and office report)
(For final disposal)

With SLP(C) No.32031 of 2009 (With prayer for interim relief and office report)
SLP(C) No.32032 of 2009 (With office report)

Date: 24/07/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK VERMA
HON'BLE MR. JUSTICE B. S. CHAUHAN
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Petitioner(s) Ms. Chitraroopa Palit, Petitioner-In-Person

Mr. Ravi Shankar Prasad, Sr. Adv.
Mr. P.S. Patwalia, Sr. Adv.
Mr. C. D. Singh, Adv.

Ms. Suparna Srivastava, Adv.
Mr. Ram Swarup Sharma, Adv.

For Respondent(s) Mr. T.S. Doabia, Sr. Adv.
Ms. Indira Sawhney, Adv.
Ms. Sushma Suri, Adv.

UPON hearing counsel the Court made the following
O R D E R

SLP (C) No. 935 of 2007

1. This petition has been filed against the judgment of the High Court of Madhya Pradesh at Jabalpur in W.P. No. 3022 of 2005 by which the High Court while disposing of the writ petition (PIL) had mainly issued the following directions:

- a)
- b)
- c) The award passed by the Narmada Water Disputes Tribunal is not applicable to the Indira Sagar Project except what has been

stated therein and what has been clarified hereinbefore.

- d) The Narmada Control Authority has fundamentally no role vis-à-vis Indira Sagar Project. In any case the same has paled and melted into insignificance because of the interlocutory orders passed by this court from time to time ascribing the role to the said authority and the Sub-Group of the same.
- e) The awards passed by the Land Acquisition Officers are not nullities and have been passed by the competent officers under the Land Acquisition Act, 1894.
- f) The persons who have not filed the applications under Section 18 of the Land Acquisition Act seeking reference would be entitled to the benefit as engrafted under Section 28-A of the aforesaid Act.
- g) The policy evolved by the State Government from time to time is constitutionally valid.
- h) The Hindi version of letter dated 20.5.2000 would prevail and the same should be followed in letter and spirit.
- i) The adult sons and the adult unmarried daughters would be treated as separate units for grant of R&R and Special Rehabilitation Grant and other benefits provided under the policy.
- j) The encroachers who have been there prior to the cut off date shall be extended all the benefits under the policy. The State shall endeavour to create a further land bank to provide the benefit of land for land as far as possible.
- k) The persons who have not accepted the compensation in lieu of land would be at liberty to ask the authorities to grant land for land and the same shall be adhered to in terms of the policy.
- l) The sites which have been demarcated by the respondent Nos. 1 and 2 should be developed so that the civic amenities are available and the oustees live with dignity.
- m) The persons who are aggrieved by the awards under the Land Acquisition Act can prosecute their grievances under the provisions of the said statute.
- n) The State Government would not advance a plea before the Civil Court that as the SRG has been granted there should be no enhancement of the award passed by the Land Acquisition Officer if the same is permissible within the parameters of said enactment.

..... "

2. We have heard Ms. Chitraroopa Palit in person. She has submitted that most of the directions issued by the High Court are liable to be set aside as they are not in consonance with the law and judgments of this Court. The direction issued by the High Court that oustees may take the benefit of Section 28-A of the Land Acquisition Act, 1894 (hereinafter called the 'Act') is a futile exercise for the reason that application under the said provision can be filed by a person who has not filed an application to make reference under Section 18 of the Act and the Reference Court under Section 18 made an award in respect of the land covered by the same notification under Section 4 of the Act. She has submitted that not a single reference under Section 18 of the Act has been decided by the court, rather the claimants had been forced by the Government to withdraw their references and accept the award made by the Land Acquisition Collector(s) who had not been appointed in accordance with law.

3. Learned counsel for the respondents have submitted that all the issues involved in the case are covered by the earlier judgments of this Court, particularly Narmada Bachao Andolan v. State of Madhya Pradesh & Anr. - AIR 2011 SC 1989; Narmada Bachao Andolan v. State of Madhya Pradesh - AIR 2011 SC 3199; and State of Madhya Pradesh & Anr. v. Bheru Singh & Ors. - (2012) 3 SCC 287. Therefore, no further exercise is required.

4. The High Court while deciding the writ petition has recorded the following findings of fact:

"68. ...Almost 99% of the oustees have already taken the benefits of R&R, as per the stance of the State.

69. It is contended that rehabilitation and resettlement of PAFs of ISP began as early as in 1991-92 with the commencement of construction of the dam and the process of acquisition of properties likely to be submerged also began simultaneously. The rehabilitation of PAFs gathered momentum in the year 2000-2001 when respondent no.1 took over construction work of the dam. It is put forth that 250 villages had been identified as the affected villages to be rehabilitated as remaining 38 villages comprised of government land. It is set forth that a total number of 39,289 families have been resettled and rehabilitated as under:

Upto the Year 1999	239
Year 2000	191
Year 2001-02	3119
Year 2003	8573
Year 2004	19810
Year 2005	6915
Year 2006(upto 9.7.2006)	389
Total families Rehabilitated	 39236

70. It is asserted by the respondent that as on date, only 25 PAFs are remaining in 91 villages under consideration, who have been paid their full entitlements one year before, are to be evacuated from the affected areas. These 25 PAFs are, however, hard core supportees of the petitioner and hence they have chosen to stay in the affected areas even after getting their full compensation. Further, there are 28 PAFs staying in 2 villages (under FRL) who have come into notice by subsequent surveys. These families have also been paid full compensation and are in the process of shifting. It is submitted that in order to verify the ground situation, the administration has undertaken extensive field investigations by means of district wise teams comprising of revenue and other officers to verify the status of rehabilitation. Panchanamas for each village duly signed by public representative(s) have revealed that 46 encroachers are 53 oustees remain in FRL area.

.....
97. Apart from the above, an affidavit has been filed, 3900 awards have been passed and 9000 cases have been referred to the Reference Court on the basis of applications preferred under Section 18 of the Act. The Reference Court, as we have been apprised, more than 1800 cases have been disposed of. This facet we have highlighted only to show the things have proceeded and in a Public Interest Litigation it is difficult rather impossible to set aside the awards and the benefits availed by the persons."

5. In view of the above, we do not think that the matter requires

consideration by this Court. The petition is dismissed accordingly.

SLP(C) No.32031 of 2009 and SLP(C) No.32032 of 2009

1. As the first matter i.e. SLP(C) No.935 of 2007, was argued by Petitioner-in-person for a long time, these matters could not be heard. These matters are adjourned.
2. Office is directed to list these matters in due course.

	(Sanjay Kumar-II)	Court		(S.S.R. Krishna)	
Master		Court Master			