



International Environmental
Law Research Centre

NARMADA CONTROL AUTHORITY RESETTLEMENT AND REHABILITATION SUB-GROUP

CLEARANCE FOR CONSTRUCTION UP TO 121.92 METRES, MARCH 2006

**Narmada Control Authority, Resettlement and Rehabilitation Sub-group,
Minutes of the 63rd Meeting, Item No. LXIII-2 (345), 8 March 2006**

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REVIEW OF STATUS OF R&R AT DAM HEIGHT EL 121.92 M OF THE SARDAR SAROVAR PROJECT (SSP)

The Chairperson, R&R Sub-group of NCA informed that the permission to raise the dam height upto EL 110.64 m was accorded by NCA after following the procedure evolved by Hon'ble Supreme Court by its judgment dated 18.10.2000 and accordingly the dam height was raised to EL 110.64 m by the end of June 2004. Thereafter, the Hon'ble Supreme Court in a Interlocutory Application (IA) in the Writ Petition (Civil) 328 of 2002 filed by the PAFs of 2 submergence villages of Madhya Pradesh gave two important directions that major sons of the landed PAFs who are losing more than 25 percent of their land are also entitled for the land allotment and no distinction should be made between the permanently and temporarily affected Project Affected Families (PAFs) due to the raising of the height of the dam. In view of this judgment, more PAFs of above category upto EL 110.64 m and beyond had to be resettled before rehabilitation could be considered as complete.

The Chairperson mentioned that the R&R Progress was reviewed in the 62nd R&R Sub-group Meeting held on 12.09.2005 and 75th NCA meeting held on 29.11.2005 wherein party states were requested to submit Action Taken Reports (ATRs)/progress reports for completion of R&R works upto the dam height EL 121.92 m by 31.12.2005. She stated that the States have submitted ATRs/progress reports and the same has been monitored/verified on sample basis in the field and consultations with the GRAs of three state governments is over.

Thereafter, Chairperson requested Director (IA&R), NCA to present the status of R&R at dam height EL 121.92 m based on the Action Taken Reports (ATRs)/Progress Report furnished by the states and consultation with the Grievances Redressal Authorities (GRAs).

Director (IA&R), NCA has made a presentation highlighting the procedure of clearance for raising the Sardar Sarovar Dam by R&R Sub-group of NCA, the status of R&R between dam height EL 110.64 m and EL 121.92 m as reported by the states, the details about the verification/monitoring findings of ATRs, the 'opinion' of the GRAs based on the consultations, the committee of R&R Sub-group of NCA had with them.

Thereafter, Chairperson, R&R Sub-group of NCA requested representatives of state governments to inform on the progress of R&R in their states corresponding to the dam height EL 121.92 m and their views thereon. The R&R status as reported by the representative of the State Governments are as follows:

A. Gujarat

A.1. The representative of Government of Gujarat (GoG) informed the Sub-group that they have submitted the ATRs/clarifications/progress reports on completion of the R&R works related to the PAFs of Madhya Pradesh, Maharashtra and their home State to the NCA Secretariat and GRA. The ATR/progress reports present a clear picture of resettlement of 3,432 PAFs (1,148 PAFs of Gujarat; 46 PAFs of Maharashtra and 2,238 PAFs of Madhya Pradesh) between dam height EL 110.64 m and EL 121.92 m. The PAFs in between the dam height EL 110.64 m and EL 121.92 m have been resettled at 75 R&R sites (Gujarat PAFs in Gujarat), 97 R&R sites (Madhya Pradesh PAFs in Gujarat) and 12 R&R Sites (Maharashtra PAFs in Gujarat) having all civic amenities as mandated by the NWDT Award and the policy of the state government. The detailed account of R&R facilities/packages viz. allotment of agricultural land, house plots, civic amenities, etc. extended to the PAFs as per the NWDT Award stipulations and liberalised policy of the States have also been presented in the ATR.

A.2. The consultation with GRA-Gujarat were held on 08.02.2005 at Ahmedabad. The 'opinion' of the GRA is as follows:

After a judicious evaluation of the relevant information generated by the detailed and comprehensive site survey, GRA is of the considered opinion that in the resettlement and rehabilitation of the PAFs affected/likely to be affected between EL (>) 110.64 m and 121.92 m in Gujarat, there has been substantial compliance of the provision contained in the NWDT Award and relevant Government of Gujarat Resolutions on R&R. GRA is also satisfied with the provision of basic civic amenities and social infrastructure for the PAFs resettled in the R&R sites surveyed. On this basis, therefore, it can be reasonably presumed that the PAFs affected/likely to be affected between EL (>) 110.64 m and 121.92 m have been properly and adequately resettled and rehabilitated.

B. Madhya Pradesh

B.1. The representative of Government of Madhya Pradesh (GoMP) informed that they have submitted the ATRs/clarifications on completion of the R&R works related to the PAFs of MP in December 2005 and January 2006 to the NCA & GRA. According to the GoMP representative, 16,156 PAFs including backlog after the judgment of the Hon'ble Supreme Court dated 15.03.2005 are likely to be affected in between the dam height EL 110.64 m and EL 121.92 m. Out of this 16,156 PAFs, 2,238 PAFs have been resettled in Gujarat and 13,918 PAFs in home State at 89 R&R sites.

B.2. The Chairperson requested Director (IA&R), NCA to present the outcome of the consultation meetings, the Committee of the R&R Sub-group of NCA had with the GRA-MP

B.2.1. Director (IA&R), NCA submitted that the GoMP has submitted ATRs/clarifications on 29/30 December 2005 and 9/12/16 January 2006 to the NCA Secretariat. The sample field verification/monitoring by NCA officials has been carried out by undertaking field visits to submergence villages/R&R sites on 9-11, 19-21 January 2006 and 1-3 February 2006 to assess the status of the R&R package extended to the PAFs and civic amenities at the R&R sites established for the aforesaid affected PAFs. The sample monitoring/verification of ATRs for assessment of status of the R&R package covers 28 villages, out of 177 submergence villages. 89 R&R sites have been planned for dam height upto EL 121.92 m.; 86 R&R sites had been visited earlier i.e. during 2004 and 2005 by NCA officers and it was noticed that the developmental works were still in progress at 10 old R&R sites. Therefore, this time these 10 R&R sites and 6 new R&R sites were verified which includes 3 sites upto FRL also. The participation of the Sarpanch, Deputy Sarpanch and Panch have been ensured wherever they were available.

B.2.2. Director (IA&R), NCA further informed that the sample verification/monitoring of ATRs indicate that out of 7 tehsils, in one tehsil i.e. Barwani, the R&R progress was slow. Besides, civic amenities at 6 R&R sites namely; Nimbola, Khujawan, Khajuri, Morgari, Dharampuri, and Jalkoti were under various stages of development. According to the monitoring report, out of 13,918 PAFs resettled in home State, 4,262 PAFs (includes 1,722 major sons of landed PAFs) are entitled for land. Out of these, 4,262 PAFs, 3,834 PAFs have opted for Special Rehabilitation Package (SRP) and 428 PAFs have been allotted government land.

B.2.3. Director (IA&R), NCA submitted that initially the ATRs were examined and clarifications sought on different points from the GoMP vide NCA's letter dated 25.01.2006. The Commissioner (R/Field), NVDA vide letter dated 03.02.2006 has submitted compliance/clarifications. The monitoring/verifications reports were forwarded to Commissioner (R), NVDA with a copy to GRA-MP vide letters dated 20 & 21 February 2006 by NCA for obtaining necessary compliance on the observations from Government of Madhya Pradesh. The Commissioner(R), NVDA vide letter dated 25.02.2006 has submitted compliance/clarifications/assurance to NCA Secretariat.

B.2.4. Director (IA&R), NCA stated that the first consultation meeting with the GRA-MP was held by the Committee of R&R Sub-group of NCA on 14.03.2005 but due to the judgment of the Hon'ble Supreme Court dated 15.03.2005, the GRA in his opinion delivered on 22.03.2005 has held that a revised ATR is required to be submitted by GoMP in the light of the aforesaid judgment of the Hon'ble Supreme Court, the NCA need to verify the correctness of the entries in ATRs and then the Committee may have another meeting with GRA.

B.2.5. The Committee of the R&R Sub-group of NCA had the second consultation meeting with the GRA on 08.06.2005 for an interim dam height EL 112.0 m wherein the GRA opined that the permission to increase the dam height further cannot be granted till the backlog is cleared.

B.2.6. The Committee of the R&R Sub-group of NCA held the third consultation meeting with the GRA on 23.02.2006 regarding completion of the R&R works upto EL 121.92 m. The GRA has held views as follows:

- Hon'ble Chairman, GRA appreciated the systematic approach and the sample verification done by NCA officials.
- The Hon'ble Chairman, GRA with regard to the implementation of Special Rehabilitation Package (SRP), opined that the introduction of SRP is to secure compliance with that provision of the Award which lays down allotment of agricultural land to eligible oustees. It is merely a step taken to secure compliance with the provisions of the Award and therefore SRP does not violate any provisions of the Award or any direction of the Supreme Court. According to him the SRP has been in force for quite some time but no grievance has been made before the GRA by the PAFs against the use of SRP.

- The GoMP should keep contingency plan in place to avoid any submergence during the forthcoming monsoon of 2006.
- GoMP should evolve mechanism to ensure that SRP is translated to purchase agricultural land only and submit the progress report on monthly basis to NCA Secretariat/GRA.

The GRA in his detailed opinion mentioned that in view of the material on record, clearance can be given by the R&R Sub-group to raise the height of the dam upto EL 121.92 m if:

(a) It is satisfied on the basis of verification by the NCA officials, that in the amended ATRs which were submitted on behalf of NVDA, MP and that the work at all the R&R sites would be substantially completed by June 2006, in accordance with the provisions of the NWDT Award relating to rehabilitation as regards PAFs whose rehabilitation would become necessary by virtue of increasing the height of the dam upto EL 121.92 m;

(b) That these PAFs have received all payments as required by the provisions of Sub-clause IV(6)(ii) of Clause XI of Chapter IX of the NWDT Award and;

(c) That arrangements have been made for rehabilitation of these PAFs in accordance with the directions given in the NWDT Award and intimated to these PAFs.

The representative of GoMP informed that the compliance assurance/clarifications on above points have been submitted to NCA Secretariat vide letters dated 3.2.2006 and 25.2.2006.

B.2.7. To a query from the Chairperson regarding payment of second instalment to the PAFs who opted for SRP, the work related to purchase of land by PAFs from SRP and compliance on the points contained in the 'opinion' of GRA, the Secretary to the Government of MP have given commitment in writing which is as follows:

In view of the concern expressed by R&R Sub-group of NCA over the completion of payment of second instalment to the PAFs who opted for SRP, the Government of MP categorically assured that the work related to purchase of land by PAFs and payment of the second instalment will be completed by 15.06.2006, i.e. before the onset of monsoon 2006. The Government of MP will ensure that all payment will be made under sub-Clause IV(6)(ii) of Clause XI of the NWDT Award to the PAFs by 15.06.2006. Within a week, Government of MP will prepare a monthly action plan. The Government of MP also agrees that the action plan will be reviewed by the sub-committee of the Sub-group on a monthly basis.

B.2.8. The Vice-Chairman, NVDA also informed that more than 75 percent of the PAF's who had been paid the first instalment had already obtained exemption from the registration fees for purchase of land.

B.3. The Sub-group on the basis of 'opinion' of GRA-MP and commitment/assurance of GoMP on the 'opinion' and monitoring/verification reports of NCA officials observed that R&R requirements have substantially been complied by GoMP and further directed the GoMP as follows:

1. The work in progress at six R&R sites should be completed expeditiously.
2. All the PAFs resettled in MP are provided R&R package for which they were entitled but still residing in the submergence villages should be shifted well before monsoon.
3. Mechanism should be evolved to ensure that SRP is translated to purchase of agricultural land only. Progress report to this effect should be submitted on monthly basis to NCA Secretariat/GRA.

C. Maharashtra

C.1. The Government of Maharashtra representative informed that 789 PAFs are likely to be affected between the dam height EL 110.64 m and EL 121.92 m. Out of this 789 PAFs, 46 PAFs have been allocated for R&R in Gujarat and the balance 743 PAFs in home State. All 789 PAFs had already been resettled i.e. 46 PAFs in Gujarat and 743 PAFs in Maharashtra at 9 R&R sites equipped with all civic amenities as mandated by NWDT Award and State Policy.

C.2. The Chairperson requested Director (IA&R), NCA to present the outcome of the consultation meeting the Committee of the R&R Sub-group of NCA had with the GRA-Maharashtra.

C.2.1. Director (IA&R), NCA submitted that the Government of Maharashtra has submitted ATR for 595 PAFs on 24.2.2005 and the progress reports for the 148 additional PAFs on 31.01.2006 and 28.02.2006 to the NCA & GRA. The field verification by NCA officials has been carried out on 24.02.2005, 31.12.2005 and 01.01.2006 and the findings have been reported during the consultation meetings and three follow-up meetings with the GRA. He informed that the consultation meeting with the GRA-Maharashtra was held by the Committee of R&R Sub-group of NCA on 16.03.2005 and thereafter 3 follow-up meetings were convened by the GRA on 10.06.2005, 13.07.2005 and 31.01.2006. The Hon'ble Chairman-GRA, in the consultation meeting convened on 16.03.2005 has held that the GoM should assess the implications of the judgment of the Hon'ble Supreme Court dated 15.03.2005 in Maharashtra and report the status of R&R including those PAFs declared by him upto EL 121.92 m. In view of this, GRA has not delivered 'opinion'.

C.2.2. Director (IA&R), NCA further informed that the GRA-Maharashtra has convened first follow-up meeting on 10.06.2005 of the consultation meeting and sought compliance on following points from GoM:

- PAFs as declared by GRA and their R&R status,
- Progress report on civic amenities,
- Status of Savariya Digar village and nearby villages which are likely to become marooned due to backwater of the Udy river, a tributary of the Narmada,
- Implication of the Hon'ble Supreme Court's judgment dated 15.03.2005 in Maharashtra.

The GRA, after taking into account the submission and assurance of GoM officials, expressed satisfaction on the substantial compliance made by GoM regarding R&R works. Regarding allotment of land to major sons of landed PAFs, he opined that matter could be discussed further at government level. No 'opinion' was delivered.

C.2.3. The GRA convened a second follow-up meeting of the consultation committee on 13.07.2005 and reviewed the status of compliance on the points emerged during the first follow-up meeting. The GoM have submitted the status report on R&R, the stand of GoM that the judgment of the Hon'ble Supreme Court dated 15.03.2005 is not applicable to GoM and the findings of a Task Committee of GoM that Savariya Digar and other nearby villages will not come under the category of Tapu land (island) and hence only access to these villages is required. The interim arrangements made for the access to these villages like barge, country boats etc. have also been reported.

C.2.4. The GRA convened a third and final follow-up meetings on 31.01.2006 of the consultation committee wherein GoM officials submitted detailed status of R&R upto EL 121.92 m, information on the proposal for the construction of flyover bridges for the proper access to village Savariya Digar and other nearby villages, schemes for irrigation and the plan for the economic development for the resettled PAFs etc. Thereafter, the GRA had opined as follows:

- The GoM has made substantial compliance on the points outlined in the consultation meeting and follow-up meetings.
- The Chairman, GRA-Maharashtra after taking into account submissions and assurance of GoM officials expressed satisfaction on the substantial compliance made by GoM regarding completion of R&R works upto dam height EL 121.92 m.

C.3. The Secretary (Relief & Rehabilitation), Government of Maharashtra has confirmed the above position as reported by Director (IA&R), NCA.

C.4. The Chairperson stated that she has received several representations from various NGOs and social activists claiming that large number of PAFs are still not resettled at dam heights EL 90 m, EL 100 m and EL 110.64 m. She desired to know the status in the light of the claims made by the above groups.

The representatives of the state governments namely, MP, Maharashtra and Gujarat had categorically submitted that R&R works upto dam height EL 110.64 m is complete. However, they unanimously were of the opinion that the mechanism to redress the grievances of the PAFs is already in place in all the three state governments where aggrieved persons may approach for the redressal of his/her grievances.

The Sub-group on the basis of above deliberations decided as follows:

- The Sub-group has examined and assessed the progress of R&R as reported by the officers of the three state governments during the meeting and also the reports related to sample monitoring/verification of the ATRs/ progress reports for the completion of R&R works pertaining to PAFs of dam height EL 121.92m in the states by NCA officials. It has also gone through the records/opinions of the consultations with three Grievance Redressal Authorities (GRAs) that a committee of the Sub-group has undertaken. The consultations with all three GRAs were satisfactory.
- Keeping in mind the reports submitted by the states, the progress on the ground and opinion of GRAs, the R&R Sub-group were of the view that raising of the dam height to EL 121.92 m would be in order while keeping in mind the principle that there will be no submergence without rehabilitation.
- In view of the concern expressed by R&R Sub-group of NCA over the completion of payment of second instalment to the PAFs who opted for SRP, the Government of Madhya Pradesh categorically assured that the work related to purchase of land by PAFs and payment of the second instalment will be completed by 15.06.2006, i.e. before the onset of monsoon 2006. Within a week, GoMP will prepare a monthly action plan.
- The Government of Madhya Pradesh also agrees that the action plan will be reviewed by the sub-committee of the Sub-group on a monthly basis. The Government of Madhya Pradesh will ensure that all payment will be made under Sub-clause IV(6)(ii) of Clause XI of the NWDT Award to the PAFs by 15.06.2006.
- The Sub-group reiterated the need for constant monitoring of rehabilitation works and asked the state governments to prepare a contingency plan to take care of any unforeseen event which could affect the PAFs during monsoon of 2006.
- With these conditions, the R&R Sub-group convey its clearance to NCA to consider giving permission for raising of the Sardar Sarovar dam height from existing EL 110.64 m to EL 121.92 m.

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