
(2011) 08 MP CK 0084

In the Madhya Pradesh High Court

Case No : Writ Petition No. 4457 of 2007

Narmada Bachao Andolan

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 19-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 340
Land Acquisition Act, 1894 — Section 4, 48

Citation : (2011) 08 MP CK 0084

Hon'ble Judges : K.K. Lahoti, J;Ajit Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Krishn Kumar Lahoti, J.—I.A. No. 10291 of 2011: An application for placing facts and material on record.

2. This application is filed by the Petitioner with a prayer that the list of oustees who have filed their cases, as per the rehabilitation and resettlement policy, before the Grievance Redressal Authority annexed as Annexure A-1 may be taken on record.

3. Learned Counsel for the Respondents submitted that they are not filing any reply to this application. However, they have submitted that the matter is concluded by an order dated 11.5.2011 by the Apex Court in Civil Appeals No. 2081/11, 2083-2097/2011, 2098-2012/11, Civil Appeal No. 2115/11 and 2116/11, so No. order is required on this application.

4. We have heard the parties.

5. From the perusal of the record we find that this Court passed an order dated 21.2.2008 in which various directions were issued by this Court. For ready reference we quote para 64 of the order, which reads thus:

64. In the result, we dispose of this writ petition with the following declarations

and directions:

(i) The displaced families and encroachers are entitled to allotment of agricultural land as far as possible in terms W.P. No. 4457 of 2007 Narmada Bachao Andolan State of M.P. and Ors. 19.08.2011 of paragraphs 3 and 5 of the R&R Policy of 1993 as amended in 2002, and we accordingly direct the Respondent No. 1 to locate Government land or private land and allot such land as far as possible, to the displaced families and encroachers, if they opt for such land and refund 50% of the compensation amount received by them to be retained towards the installments of price of land and if they also agree to other terms stipulated in paragraph 5 of the R&R policy of 1993.

(ii) Landless labourers are not entitled to allotment of agricultural land under the R&R Policy of 1993 and the conditions of the forest and environment clearances given by the Ministry of Environment and Forests and hence, No. writ/direction is issued to the Respondents to allot such agricultural land in their favour but it will be open for them to apply under any law, rule or policy of the Government for allotment of land as landless persons.

(iii) A son who has become major on or before the date of notification u/s 4 of the Land Acquisition Act, will be treated as a separate displaced family, if he was part of a bigger family from whom land was acquired and would be entitled to allotment of agricultural land as far as possible in accordance with paragraphs 3 and 5 of the R&R Policy of 1993, as amended in 2002 and he accordingly direct the Respondent No. 1 to locate government land or private land and allot such land as far as possible to such major sons if they opt for such land and also agree to the terms stipulated in paragraph 5 of the R&R Policy of 1993 but the extent of land to be allotted to them will be determine on the basis of their share in the land before acquisition as observed in this judgment.

(iv) Any oustee who has a grievance that he has not been given his entitlement as per the R&R Policy of 1993, as amended from time to time and as per the observations in this judgment, may lodge a grievance directly with the GRA by 31st March,2008 and the GRA will look into all pending grievances and such new grievances which may be filed by 31st March,2008 and will ensure that all grievances are redressed by 14th June,2008 and will submit a report in this Court by 14th June,2008 and the matter will be listed before the Court on 17th June,2008.

(v) On such a report being filed by the GRA and on the Court being satisfied that rehabilitation is complete, appropriate directions will be given for allowing submergence of the remaining 25 villages. The writ petition is allowed with cost of Rs. 10,000/-to be paid by the Respondents to the Petitioner within a month from today.

6. Against the aforesaid order the Petitioner Narmada Bachao Andolan, State of Madhya Pradesh and Narmada Hydro-Electric Development Corporation (NHDC) filed S.L.P.s before the Apex Court which were registered as quoted hereinabove.

The Apex Court vide order dated 11.5.2011 decided the matter. For ready reference we quote para 160 of the order which reads as under:

160. CONCLUSIONS/RESULT:

(i) Civil Appeal Nos. 2115 -2116/2011 filed by the State of M.P. and NHDC

These appeals involved two issues namely, (i) allotment of land in lieu of land acquired; and (ii) entitlement of major son to get the allotment of land as a separate family. So far as the first issue is concerned, in respect of the same, we hold that in view of the provisions contained in R & R Policy, the State Authorities are under an obligation to allot the land to the oustees "as far as possible". In case an oustee has not accepted the compensation/SRG or has any grievance in respect of area/quality/location of land allotted or for any of the entitlement, he may approach the GRA and the GRA will adjudicate upon the issue and pass an appropriate order in individual cases after giving an opportunity of hearing to all the parties concerned. Needless to say, the person aggrieved by the order of GRA shall be entitled to approach the High Court for appropriate relief. However, in case of private person, the application/petition would be in the name of that individual person duly supported by his affidavit.

So far as the issue of entitlement of major son for allotment of land as a separate family is concerned, our conclusion is in the negative. In other words, there is No. such entitlement.

(ii) Civil Appeal No. 2082/2011 filed by NBA This appeal involved three issues namely (i) entitlement of land to the landless labourers; (ii) applicability of NWDT Award in the Omkareshwar dam project; and (iii) entitlement of allotment of land to the oustees of five villages already submerged. Our conclusion in respect of Issue Nos. (i) & (ii) is in the negative. However, on Issue No. (iii), the oustees shall be entitled for the relief as given to the oustees on Issue No. (i) in Civil Appeal Nos. 2115-2116/2011.

(iii) Civil Appeal Nos. 2083 -2097/2011 and 2098 -2112/2011 These appeals have been preferred by the State of M.P. and NHDC in respect of acquisition of land of five villages, wherein the State wants to withdraw the acquisition proceedings. Our conclusion is that in the fact-situation of the case, the State is entitled to abandon the land acquisition proceedings in exercise of its power u/s 48 of the Act 1894. However, it shall not apply to 167 dwelling units on the said land. Such persons whose dwelling units are acquired shall be entitled for the benefit of R & R Policy to the extent provided therein. The State shall establish the roads etc. after raising the height of the Bandh as proposed by the Authorities.

(iv) The IA. Nos. 196 -210, 211-225, 241-255 of 2011 and 226-240 of 2011 filed by both the parties u/s 340 Code of Criminal Procedure, do not require to be dealt with in view of our observations made in para 146 of this judgment. All the appeals and IAs. stand disposed of accordingly. No order as to costs.

7. Ms. Palit submitted that so far as the directions as contained in para 64 (4)(5)

are concerned, the Apex Court hasnot issued any direction and the aforesaid directions can beenforced. Apart from this, 300 families had filed applications before the G.R.A. and the G.R.A. had forwarded the said applications to the Collector, Khandwa. The Collector, Khandwa decided all the applications against the oustees without extending an opportunity of hearing to them and some cognizance may be taken in this regard. It is also submitted by Ms. Palit that the State Government may take a decision to the increased water level of the Dam and in this regard some directions may be issued to the State to await for a period of 15 days so that she may approach to the Apex Court.

8. As the matter has been concluded by the Apex Court, we do not find any reason to consider and decide the contention of the Petitioner. If the Petitioner feels aggrieved by the aforesaid action, she may approach to the Apex Court for the ventilation of the grievances, because by the aforesaid order, the Apex Court has decided the matter finally and No. remand order was passed to consider and decide any subsequent application. In view of the aforesaid, No. order is required on I.A.10291/11 filed by the Petitioner. So far as the grievances of the affected persons are concerned, the Apex Court specifically directed that the persons aggrieved by the order of the G.R.A. would be entitled to approach the High Court for appropriate relief. So in case any person feels aggrieved by the order of the GRA, shall be entitled to approach this Court by filing an appropriate petition. As No. directions have been issued by the Apex Court to hear the matter further or to reopen the proceedings, we do not find it appropriate to proceed further in the matter.

9. Proceeding of this petition are closed. This petition be confined to record room. C.C.as per rules.