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Case Comment on Narmada Bachao Andolan vs Union of India and Ors AIR 2000 SC 3751

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ABSTRACT

The Narmada Bachao Andolan v. Union of India (AIR 2000 SC 3751) case is a major judgment that illuminates the intricate nexus between economic growth, protection of the environment, and human rights in India. The controversy was triggered by the construction of the Sardar Sarovar Dam on the Narmada River to supply water for irrigation, drinking water, and hydroelectric power to several states. Medha Patkar-led Narmada Bachao Andolan objected to the project on the basis that it was infringing on the basic rights of the displaced tribal and rural populations under Articles 14 and 21 of the Indian Constitution. The NBA objected on the basis that there was no adequate environmental impact assessment of the project and that the rehabilitation of displaced families was insufficient. In a majority 2:1 verdict, the Supreme Court favored the government, upholding the continuing construction of the dam while directing rehabilitation and protection of the environment to be executed concurrently ("pari passu"). The ruling highlighted the centrality of large infrastructure projects in national development but underlined the necessity of balancing economic progress with environmental concerns and human rights protection. The judgment reinforced the limited role of the judiciary in making policy choices, upholding the separation of powers doctrine while holding the executive accountable to rehabilitation and environmental protection.

Keywords: Human right, Rehabilitation, Narmada Bachao Andolan, Tribale community.

I. INTRODUCTION

The Narmada Bachao Andolan v. Union of India³ The Sardar Sarovar Dam case is one of the most important legal struggles on the issues of environmental law, human rights, and development in India. It concerns the building of the Sardar Sarovar Dam across the Narmada River as part of the larger Narmada Valley Development Plan. The case brought into sharp focus the conflicts between economic development, environmental protection, and the rights of

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³ Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664 (India).

indigenous peoples.

The project was conceived as a way of supplying water for irrigation, drinking, and hydroelectric power generation to the states of Gujarat, Madhya Pradesh, Maharashtra, and Rajasthan. However, the building of the dam threatened the displacement of thousands of families, especially tribal and rural communities, and raised serious environmental issues. This case was a landmark judicial struggle between the government's development agenda and the constitutional rights of the people affected.

The Narmada Bachao Andolan (NBA), led by activist Medha Patkar, opposed the project in the Supreme Court on grounds of violations of fundamental rights under Articles 14 and 21 of the Constitution of India.⁴ The NBA contended that the project had not been subject to proper environmental impact assessments and that rehabilitation proposals for the displaced were inadequate. The case eventually resulted in a Supreme Court decision weighing the importance of economic development against the necessity of sustainability and human rights.

II. FACTS OF THIS CASE

Narmada Valley Development Project (NVDP) is a gigantic water resource development scheme in India that is intended to develop a chain of giant dams across the Narmada River. Among them, the Sardar Sarovar Project (SSP) is one of the most substantial projects, envisaged to irrigate, drink, and produce hydroelectricity for the states of Gujarat, Madhya Pradesh, Maharashtra, and Rajasthan. The project was envisaged as a way to promote agricultural productivity, supply drinking water to arid areas, and produce electricity to promote economic development.

Despite its huge ambitions, SSP has been exceedingly controversial and oppositional in many quarters, perhaps most notably, the Narmada Bachao Andolan (NBA). The NBA, a grassroots movement spearheaded by activist Medha Patkar, raised serious social-environmental concerns regarding the project. The community insisted that the dam's construction would cause vast areas of land to be submerged, resulting in the displacement of thousands of people, mostly from rural and tribal societies. The NBA insisted that the government's rehabilitation and resettlement processes were defective and that there was no proper environmental impact assessment before the launching of the project.

The controversy gained a further boost when the NBA pursued a writ petition in the Supreme Court to stop the dam's construction. The petition was drafted on the ground that the

⁴ INDIA CONST. art. 14, 21.

displacement of individuals without appropriate resettlement was against their basic rights under Articles 14 (right to equality) and 21 (right to life and livelihood) of the Indian Constitution.⁵ The NBA also insisted on a critical appraisal of the feasibility of the project and its long-term environmental impacts, such as deforestation, loss of biological diversity, and alteration of river ecology.

Conversely, the Union of India and the Government of Gujarat supported the project, citing its importance in terms of water and energy security in several states. They argued that the project had received the necessary environmental approvals and that there were rehabilitation policies to benefit the affected people. They argued that the project was important in helping to tackle water scarcity, enhancing agricultural production, and facilitating economic growth in the region.

First, the Planning Commission only provisionally sanctioned the project, subject to the receipt of environmental clearance. In 1987, the Ministry of Environment and Forests finally cleared the project; however, it was claimed that the required environmental studies were not properly carried out before approval. Critics noted that serious issues regarding deforestation, ecological disturbance, and mass displacement were not adequately addressed before embarking on construction.

The intervention of the Supreme Court in the case was crucial. In its judgment of 2000, the Court permitted the building of the dam to proceed, holding that the project was necessary for national development.⁶ But the Court also directed that rehabilitation and resettlement should be undertaken as per the guidelines set down by the Narmada Water Disputes Tribunal (NWDT). This ruling was followed by diverging reactions, where supporters welcomed it as a development triumph, but opponents regarded it as a human rights and environment setback.

The Narmada Valley Development Project remains among the most controversial infrastructural projects in India, representing the intricate conflict between development and environmental justice. Although the project has undoubtedly delivered water and energy gains to millions, it has also raised fundamental ethical and legal issues of displacement, sustainability, and the rights of marginalized peoples. The conflict over the SSP remains a case study in reconciling massive infrastructure development with environmental and social responsibility.

⁵Id

⁶ Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664 (India).

III. LITIGATION HISTORY

- The NBA had been objecting to the project since 1986, even prior to environmental clearance.
- In 1994, a writ petition was moved by the NBA to stop construction on grounds of insufficient rehabilitation measures and infringement of fundamental rights under Article 21⁷ of the Constitution.
- Several expert committees were constituted to scrutinize the impact of the project, but states and concerned authorities remained in disagreement.

IV. ISSUES RELATED TO THIS CASE

1. Whether the construction of the Sardar Sarovar Dam violate the fundamental rights of the affected people?
2. Whether proper rehabilitation and resettlement measures undertaken for the displaced persons?
3. Whether the environmental clearance granted to the project was valid?
4. Does judicial intervention in policy matters violate the doctrine of Separation of Powers?

V. ARGUMENTS OF THE PETITIONER

1. Inadequate Environmental Assessment:

The petitioners alleged that the environmental clearance obtained in 1987 was preceded by incomplete studies. They maintained that the environmental impacts, such as loss of biodiversity and displacement, were inadequately assessed.

2. Violation of Fundamental Rights:

The NBA asserted that the displacement of tribal people without adequate rehabilitation infringed on the right to life and livelihood under Article 21⁸ of the Constitution.

3. Absence of Adequate Rehabilitation Steps:

The petitioners highlighted that thousands of families were displaced without an effective rehabilitation strategy. They underlined that tribal communities were especially vulnerable and needed special protection under the law.

⁷ INDIA CONST. art. 21.

⁸ Id

4. Threat to Marginalized and Indigenous Communities:

The NBA claimed that the impacted tribal communities had coexisted with nature for generations, and their displacement would not only lead to economic losses but also erase their cultural heritage.

5. Overlooking Alternative Options:

The NBA had suggested that alternative options be found for conserving water and producing electricity, i.e., decentralized irrigation facilities or small dams, instead of a massive infrastructural facility whose irreversible impact might prove hazardous to the entire country.

6. Precedents from Domestic and Foreign Judgments:

International conventions as well as national precedents had specifically pointed towards upholding the rights of local dwellers and mandating overall environment impact assessment studies before starting massive projects.

VI. ARGUMENTS OF THE RESPONDENT

1. National Development and Economic Benefits:

The objectors contended that the Sardar Sarovar Dam was important for national development, supplying drinking water, irrigation, and hydroelectricity to several states. It would also prevent drought in Gujarat and Rajasthan, with ultimate economic and social benefits outweighing any adverse effects.

2. Rehabilitation and Resettlement Measures:

They stressed that the Narmada Water Disputes Tribunal (NWDT) Award (1979) had prescribed resettlement and compensation guidelines such that affected households were provided alternative land and improved living conditions. The Narmada Control Authority (NCA) enforced compliance with policy and legal action.

3. Environmental Clearance and Sustainability:

The respondents argued that the Ministry of Environment & Forests had given clearance in 1987 after due evaluation. They claimed that there were safeguards to reduce ecological harm, pointing to successful precedents such as Bhakra Nangal and Nagarjuna Sagar Dams. The NCA Environmental Sub-Group ensured adherence to mitigation measures.

4. Judicial Restraint in Policy Issues:

They argued that the judiciary should not get involved in matters of policy choice unless there was a blatant violation of the Constitution. The project had already undergone scrutiny by

technical bodies such as the NWDT and Planning Commission, hence the legislature and executive were best placed to gauge its feasibility.

5. Challenging the Motives of the Petitioners:

Finally, the respondents claimed that Narmada Bachao Andolan (NBA) wanted to stop the dam completely instead of enhancing rehabilitation. They contended that project suspension would drastically affect water security and economic development and asked the Court to permit construction under rigorous rehabilitation and environmental surveillance.

VII. JUDGMENT

The Supreme Court of India, in a 2:1 majority decision, ruled in favor of the Union of India in *Narmada Bachao Andolan v. Union of India* (2000), allowing the construction of the Sardar Sarovar Dam to continue. The Court emphasized that the project was of national importance, benefiting millions of people by providing drinking water, irrigation, and hydroelectric power. It held that large-scale development projects are necessary for economic progress, and their benefits outweigh the hardships caused by displacement, provided proper rehabilitation measures are implemented. The Court found that rehabilitation and resettlement (R&R) measures had been significantly improved, though some delays had occurred. It directed that construction of the dam could continue only if rehabilitation was carried out simultaneously ("*pari passu*"). The judgment stressed that affected families must be provided alternative land, compensation, and necessary amenities before submergence occurs. Strict monitoring of rehabilitation was ordered through the Narmada Control Authority (NCA) to ensure compliance.

Addressing environmental concerns, the Court dismissed the claim that the 1987 environmental clearance was flawed. It held that the required environmental impact assessments had been conducted, and the project's ecological effects were being monitored. The Court emphasized that environmental concerns should not indefinitely stall development, as long as proper safeguards were in place. The Environmental Sub-Group of the NCA was tasked with overseeing ongoing compliance with environmental standards.

The judgment also clarified the role of the judiciary in policy decisions, stating that courts should not interfere in executive and legislative matters unless there is a clear violation of constitutional rights. Since the project had undergone thorough scrutiny by expert bodies, judicial intervention was deemed unnecessary. The Court ruled that policy decisions regarding large infrastructure projects should primarily be left to the government, which is better equipped to assess national development needs.

Justice S.P. Bharucha dissented, contending that rehabilitation efforts were inadequate and that the rights of displaced persons were insufficiently protected. He believed that construction should not proceed until proper rehabilitation was ensured.⁹ Despite this dissent, the majority verdict allowed the dam's construction to continue, with strict conditions for monitoring R&R and environmental compliance. The ruling reaffirmed the balance between development and human rights, recognizing the government's authority in infrastructure projects while ensuring accountability.

VIII. ANALYSIS OF JUDGEMENT

In this case, the Supreme Court bridged the gap between the development of the nation and environmental protection, the court upheld the construction of the Sardar Sarovar dam stretching the importance of the large infrastructure project for national development. It also emphasizes the need for adequate rehabilitation and environmental protection. The decision established that economic development should not be stalled by environmental issues if there are proper precautions.

The Supreme Court, in its decision, dealt with the 1987 environmental clearance issues as per the pleadings of the petitioners. Whereas the Narmada Bachao Andolan (NBA) said that the clearance was issued at the expense of proper environmental impact studies, the Court held that proper assessments were done and environmental precautions were taken into account. It laid the thrust on large development projects not being prejudicially held up based on environmental concerns, provided necessary mitigation measures are undertaken.

The Court observed that the dam construction affected tribal and marginalized farmers by displacing them from their land and livelihood, violating their fundamental rights under Article 21 of the constitution.¹⁰

India is also a signatory to the International Labour Organization (ILO) Convention 107¹¹, which states that tribal populations should not be removed from their land without their free consent, except in cases of national security or economic development as per domestic law and Supreme Court in the case of Gramophone Co. of India Ltd. Vs. B.B. Pandey, 1984¹², PUCL Vs. Union of India, 1997¹³ And CERC Vs. Union of India, 1995¹⁴, established that the

⁹ *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664 (India).

¹⁰ INDIA CONST. art. 21.

¹¹ ILO Convention No. 107, Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, June 26, 1957, 328 U.N.T.S. 247.

¹² *Gramophone Co. of India Ltd. v. B.B. Pandey*, (1984) 2 SCC 534 (India).

¹³ *People's Union for Civil Liberties v. Union of India*, (1997) 1 SCC 301 (India).

¹⁴ *Central Electricity Regulatory Commission v. Union of India*, (1995) 3 SCC 42 (India).

International Treaty and Covenants could be read into the domestic law of the country and could be used by the court for the interpretation of the fundamental rights guaranteed by the constitution.

Because of this consideration, the court did not issue an absolute clearance for the dam it linked construction with simultaneous rehabilitation work (*Pari passu*) which guaranteed compensation for the displaced community before the submergence, and the court also constituted the Narmada Control Authority (NCA) which was tasked with close monitoring of the rehabilitation program and environment risk.

The court also established that the judiciary must not intervene in policy making unless there is a specific violation of constitutional rights it deferred the technical expertise of the government agencies and reasserted the doctrine of Separation of Power. Though Justice S.P. Bharucha dissented on the grounds that rehabilitation was insufficient and violated the rights of displaced individuals, the majority ruling upheld the project with stringent monitoring conditions for rehabilitation and environmental adherence.

IX. CONCLUSION

The Narmada Bachao Andolan v. Union of India case demonstrates the continued tension between mega-development projects and basic rights, especially of marginalized groups. Although the Supreme Court acknowledged the environmental and social issues raised by the petitioners, it finally decided in favor of the Sardar Sarovar Dam based on its national relevance in counteracting water scarcity, irrigation requirements, and power generation. But this was with stringent conditions—rehabilitation and environmental protection measures had to be put in place *pari passu* with the development of the project.

This ruling established an important precedent for striking a balance between economic growth and social and environmental responsibility. It reiterated that while development is required, it should not be achieved at the expense of human rights or ecological well-being. Second, the verdict reaffirmed the limited role of the judiciary in matters of policy, reinforcing the doctrine of separation of powers.

In the future, this case indicates the necessity for comprehensive planning, responsibility, and sustainable development, so that infrastructure projects do not compromise the well-being of affected communities. It is a reminder that while progress is necessary, it should be inclusive, fair, and eco-friendly.

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