

Gramin Sewa Sanstha vs State Of M.P. And Ors. on 16 September, 1986

Equivalent citations: 1986(2)SCALE682, 1986(SUPP)SCC578, AIRONLINE 1986 SC 81, AIRONLINE 1986 SC 108

Bench: P.N. Bhagwati, Ranganath Misra

ORDER

W.P. No. 529/86 :

1. We are informed that the Madhya Pradesh Legislature has enacted the Madhya Pradesh Project Displaced Persons (Resettlement) Act 1985 but unfortunately, the Hasdeo Bango Dam Project has not been brought under the coverage of this Act with the result that there is no statutory obligation on the Madhya Pradesh Government to provide resettlement and rehabilitation of the large number of tribals who will be uprooted as a result of implementation of this Project. If the object and purpose of the Act is to provide resettlement and rehabilitation to the tribals so uprooted as a result of which projects being undertaken by the State Govt., it is difficult to see why this large project of Hasdeo Bango Dam has not yet been brought within the Act. We adjourn the Writ Petition for two weeks in order to enable the State Govt to consider whether the Hasdeo Bango Dam project should be brought within the coverage of the Act so that the Act may not remain merely a paper legislation with cosmetic effect but becomes really meaningful and effective to provide the resettlement and rehabilitation to the large number of tribals effected by this Project.

2. We are also informed that though land in 10 villages mentioned in paragraph 7 of the additional counter reply filed on behalf of the State Govt, to the writ petition has been earmarked by the State Govt. for resettlement of the displaced tribals. Such land is not available because it is already occupied by other persons who themselves be uprooted if such land is acquired and made available for the tribals displaced on account of the Hasdeo Bango Dam Project. If this is true, the remedy might be worse than the disease because in order to resettle one set of displaced persons the State Govt. would be displacing another set of persons. We would, therefore direct the State Govt. to consider in the ! meanwhile as to whether the cultivable land at any other place or places can be made available for the tribals who are displaced on account of the present project. The State Govt, will also bear in mind that the problem of rehabilitation and resettlement of tribals' communities settled in the land which is sought to be acquired for the project and it is therefore necessary that the provision for resettlement which is made for them must be a provision which does not affect their homogeneity or communal life. There are guide lines for resettlement and rehabilitation of tribals which have laid down in various reports and particularly

in the report of the World Bank in regard to : the Dams which are being constructed in Gujarat and those guidelines may serve as useful indicator for the purpose of considering what provisions can be made for resettlement and rehabilitation of the tribals who would be displaced on account of the present project.

3. The Writ Petition is adjourned to 1.10.1986. W.P. No. 522/86 :

4. Miss Nandita Haksar, learned Counsel appearing on behalf of the petitioner states that though Section 14 Sub-Section (2) of the Coal Bearing Areas (Acquisition and Development) Act 1957 provides for the Constitution of a Tribunal by the Central Government for the purpose of determining the amount of compensation payable under that Act. Whether any such Tribunal has been constituted by the Central Government in so far as area in question is concerned The learned Counsel appearing on behalf of the State Govt. draws our attention to paragraph 3 of the counter reply filed on behalf of the Land Acquisition Officer, Bilaspur M.P. "to the knowledge of the answering respondent, such tribunal has been constituted by Respondent No. 1". It seems from this averment that the Land Acquisition Officer, Bilaspur has knowledge that the Tribunal has been constituted by the Central Govt. for the area in question under Section 14 of Sub-section (2) of the Act. Having regard to this positive averment made by the Land Acquisition Officer we asked the learned Counsel for the State Govt. to tell us as to where the Tribunal is located and who is the officer presiding over the Tribunal but the learned Counsel has not been able to give this information since he has no instruction nor is there anyone on behalf of the State Govt. to give any instruction. We asked learned Counsel appearing on behalf of the Union of India and he also choses to be in unenviable position. We are, therefore, constrained to adjourn the writ petition for one week in order to enable learned counsel for the Union of India and the State of M.P. to obtain necessary instructions but if the Tribunal has been constituted under Section 14 of Sub-section (2) having jurisdiction over the area in question, claims for compensation would have to be filed by the displaced persons before the said Tribunal. 4. The Writ Petition is adjourned for one week.