

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 5575 of 2008

Gangrel Bandh Prabhavit Jankalyan Samiti, Village Gangrel, Dhamtari through: Its President, Mahendra Kumar Ueke, S/o Late Prem Singh , aged abtou 39 years, Office of Villae- Gangrel, Post Gangrel, Block and Tahsil Dhamtari, District Dhamtari (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department of Revenue DKS Bhawan, Raipur (CG)
2. The State of Chhattisgarh through :Secretariat of Chief Minister, DKS Bhawan, Raipur (CG)
3. State of Chhattisgarh, through: Secretary, Water Resources Department, DKS Bhawan Raipur (CG)
4. The Collector, Dhamtari, District Dhamtari (CG)

---- Respondents

And

WPC No. 3055 of 2016

1. Atma Ram S/o Shambhu Ram Gond, Aged About 52 Years R/o. Village Madvapapara, Post Shantipur, P. S. Rudri, District Dhamtari Chhattisgarh, Chhattisgarh
2. Sagram S/o Jaganu Gond, Aged About 50 Years R/o. Village Tasi, Post Bhilai, P. S. Charama District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
3. Amarchandra, S/o Jagan Gond, Aged About 44 Years R/o. Village Jhansi, Post Bhilai, P. S. Charama, District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
4. Kunwar Singh, S/o Birjhu Ram Kewat, Aged About 57 Years R/o. Village Tasi, Post Bhilai, P. S. Charama District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
5. Pancham S/o Fagwa Ram, Aged About 60 Years R/o. Village Tasi, Post Bhilai, P. S. Charama District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
6. Indal S/o Itwari Gond, Aged About 49 Years R/o. Baldighak, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
7. Radheshyam S/o Ramnath Kewat, Aged About 46 Years R/o. Village Tirri,

- Post Koliyari, P. S. Arjuni, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
8. Vishnu S/o Gopal Gond, Aged About 43 Years R/o. Village Furur, Post Chirod, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
 9. Chunnu Ram, S/o Hariram Kanwar, Aged About 48 Years R/o. Village Tirri, Post Koliyari, P. S. Arjuni, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
 10. Sahdev Ram S/o Hira Ram Sahu, Aged About 50 Years R/o. Village Bhothali, P. S. Arjuni, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
 11. Pratap S/o Jahur Singh Gond, Aged About 51 Years R/o. Villae Bodara, Post Dahi, P. S. Kurur, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
 12. Chandrahas S/o Rameshwar Gond, Aged About 40 Years R/o. Village And Post Puri, P. S. Arjuni, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
 13. Santosh S/o Shivcharan Gond, Aged About 34 Years R/o. Village And Post Puri, P. S. Arjuni, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
 14. Taturam S/o Jhururam Gond, Aged About 65 Years R/o. Boridkala, Post Shantipur, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
 15. Jagatram S/o Derharam Kewat, Aged About 51 Years R/o. Village Potgaon, P. S. Korar, District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
 16. Peela Bai D/o. Gulal, Aged About 70 Years R/o. Villae Bishrampur, Post Shantipur, P. S. Rudri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
 17. Ramadhin S/o Chheraku Kewat, Aged About 72 Years R/o. Village Bishrampur, Post Shantipur, P. S. Rudri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
 18. Bhojram S/o Krishna Dhimar, Aged About 38 Years R/o. Village Boridkala, Post Shantipur, P. S. Rudri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
 19. Dhan Singh S/o Bhaiya Ram Gond, Aged About 52 Years R/o. Village And Post Koliyari, P. S. Arjun, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
 20. Tribhuvan S/o Pyarelal Yadu, Aged About 43 Years R/o. Village And Post Balodgahak, P. S. Guru, District Balod Chhattisgarh, District : Balod,

Chhattisgarh

21. Deman S/o Sukhnandan Gond, Aged About 44 Years R/o. Village Koliyari, P. S. Arjuni, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
22. Nanki Bai D/o. Shankar Gond, Aged About 60 Years R/o. Village And Post Naragaon, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
23. Mansha S/o Sukalu Ram Lohar, Aged About 38 Years R/o. Village Balodgahak, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
24. Chandrahas S/o Jhumuk, Aged About 46 Years R/o. Village Bhadwapathara, Post Shantipur, P. S. Rudri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
25. Tulsiram S/o Banshi Ram Gond, Aged About 46 Years R/o. Village Dargahak, Post Bhorwa, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
26. Suresh Nai S/o Ganesh Ram Nai, Aged About 40 Years R/o. Village And Post Balodgahak, P. S. Guru, District Balod Chhattisgarh, District : Balod, Chhattisgarh
27. Bhaiyaram S/o Bihad Ram Gond, Aged About 60 Years R/o. Village And Post Balodgahak, P. S. Guru, District Balod Chhattisgarh, District : Balod, Chhattisgarh
28. Shiv Lal S/o Anjori Gond, Aged About 45 Years R/o. Vishrampur, Post Bhatgaon, P. S. Rudri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
29. Jailal S/o Ramchandra Gond, Aged About 59 Years R/o. Village Jagatara, Post Balodgahak, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
30. Chitra Rekha D/o. Ramadhar Gond, Aged About 53 Years R/o. Village Bodara, Post Dahi, P. S. Kurud, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
31. Hariram S/o Siyaram Gond, Aged About 43 Years R/o. Village And Post Balodgahak, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
32. Kripa Ram S/o Gangadhar Kalar, Aged About 70 Years R/o. Village And Post Bhatgaon, P. S. Rudri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
33. Gend Lal S/o Mehtaru Gond, Aged About 70 Years R/o Village Vishrampur, Post Bhatgaon, P. S. Rudri, District Dhamtari Chhattisgarh, District :

Dhamtari, Chhattisgarh

34. Shyam Lal S/o Mehtaru Gond, Aged About 60 Years R/o. Village Vishrampur, Post Bhatgaon, P. S. Rudri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
35. Than Singh S/o Ramji Gond, Aged About 54 Years R/o. Village Maritola, Post Dokma, P.S. Charama, District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
36. Dhanmat Bai D/o. Ramadhar Gond, Aged About 48 Years R/o. Village Vishrampur, Post Shantipur, P. S. Rudri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
37. Bhuneshwar S/o Bharat Gond, Aged About 50 Years R/o. Village Vishrampur, Post Shantipur, P. S. Rudri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
38. Pandoram S/o Dhaniram Gond, Aged About 50 Years R/o. Village And Post Koliyari, P. S. Arjuni, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
39. Narsingh, S/o Ramnath Gond, Aged About 46 Years R/o. Village And Post Bhilai, P. S. Charama, District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
40. Kumari Bai D/o. Mahar Singh Gond, Aged About 40 Years R/o. Village And Post Bhilai, P. S. Charama, District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
41. Shiv Narayan S/o Ram Lal Gond, Aged About 56 Years R/o. Village And Post Balodgahak, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
42. Punarad S/o Ram Prasad Teli, Aged About 60 Years R/o. Village And Post Usarwara, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh
43. Radhika Bai D/o. Dujram Marar, Aged About 50 Years R/o. Village And Post Bai Dhamtari, P. S. Dhamtari, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
44. Prem Singh S/o Tihari Ram Kewat, Aged About 44 Years R/o. Village And Post Bhilai, P. S. Charama, District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
45. Dhanpal S/o Brahma Ram Gond, Aged About 30 Years R/o. Village Tansi, Post Bhilai, P. S. Charama, District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
46. Sawant S/o Nohar Singh Gond, Aged About 46 Years R/o. Village And Post

Balodgahak, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh

47. Chaitu Ram S/o Dulara Singh Gond, Aged About 56 Years R/o. Village And Post Balodgahak, P. S. Gurur, District Balod Chhattisgarh, District : Balod, Chhattisgarh

48. Indra Kumar S/o Chandan Gond, Aged About 55 Years R/o. Villae Tansi, Post Bhilai, P. S. Charama, District Kanker Chhattisgarh, District : Kanker, Chhattisgarh

49. Gaya Prasad S/o Jahur Singh Gond, Aged About 42 Years R/o. Village Jawargaon, Post Aroud, P. S. Arjuni, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh

50. Firtu S/o Noharu Raut, Aged About 55 Years R/o. Village Tansi, Post Bhilai, P. S. Charama, District Kanker Chhattisgarh, District : Kanker, Chhattisgarh

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh, Chhattisgarh
2. The State Of Chhattisgarh, Through Secretariat Of Chief Minister, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. State Of Chhattisgarh, Through Secretary, Water Resources Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
4. The Collector, Dhamtari, District Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh
5. Sub Divisional Officer, Water Resource Management, Sub Division No. 9, Gengrel, Dhamtari, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh

---- **Respondents**

For Petitioners	:	Shri Sandep Dubey and Shri Keshav Prasad Gupta, Advocates
For State	:	Shri Alok Bakshi, Addl. Advocate General

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

CAV Order

16/12/2020

1. This order shall govern disposal of these two writ petitions. For brevity and convenience, the facts stated and documents annexed in WPC No.5575 of 2008 is being referred to.
2. By these petitions under Article 226/227 of the Constitution of India, the members of the petitioner-Society in WPC No.5575 of 2008 *and* petitioners in WPC No.3055 of 2016, claiming to be affected and displaced persons under the Gangrel Dam Project, have prayed for issuance of writ of mandamus to respondents for rehabilitating oustee families of Gangrel Dam.
3. The petitioners have filed this petition on the pleadings that towards construction of a dam known as Gangrel Dam under Ravishankar Jalashay Pariyojna for generation of power and for irrigation, 55 villages were acquired by the State Govt. and this affected large number of inhabitants of these villages and surrounding areas. Though compensation was given to some of them, compensation has not been paid to large number of such oustees. In the pleadings, it has been pleaded that time and again, various meetings were held by the officials of the Government, representative of people and also particularly representative of affected villages to work out scheme of rehabilitation by addressing the difficulties faced by the oustees as a result of construction of dam affecting large number of persons in about 55 villages.
4. The petitioner-Society has referred letter dated 29.7.1972 of the then Chief Minister, minutes of meetings dated 19.3.1978 & 11.11.1978, letter of MLA, various communications and correspondences made by other representative-Society and the petitioner-Society as also directions, instructions issued by the Collector and other administrative officials to make out a case that despite various resolutions passed and decisions taken, no effective steps were taken towards rehabilitation of the oustees though in course of time, 170 persons were allotted land towards

rehabilitation. The sum and substance of the case of the petitioners is that towards rehabilitation of oustee families who are members of the petitioner-Society in WPC No.5575 of 2008 and petitioners in WPC No.3055 of 2016, proper rehabilitation measures were not taken by the authority by allotting them land in various villages according to earlier resolution passed and direction issued from time to time. According to the pleadings made in the petition, efforts through representative Society had again started in the year 2004 followed by various representations to the authority.

5. In the reply filed by the respondent-State, the relief sought by the petitioner is opposed mainly on the ground that the petitioner-Society has filed petition after inordinate delay of many decades, in the year 2008, seeking direction for rehabilitation in respect of displaced persons of a Project of the year 1978. According to pleadings made in the return, compensation has been paid to all the owners of the land and except one namely Manglu, no one came forward raising any grievance in the matter of compensation. Manglu filed writ petition in the High Court of Madhya Pradesh in the year 1986 and the directions issued by the Court were complied with. It has been further pleaded that there was no policy for providing employment to land losers or rehabilitate them in any other place till 2007 and for the first time in 2007, the Government had come out with the scheme of rehabilitation under Gangrel Dam Project of 1972 to 1978. At that time, whatever compensation was found payable to land owners was duly granted. It has also been pleaded that though the policy of 2007 was not applicable, yet the Govt. extended all this benefits which could be extended to land losers and for this purpose, a committee was constituted on whose recommendation, various benefits of Policy of 2007 were extended to the land losers who owned land in and around Gangrel Dam. It has been further pleaded that the affected villagers of 55 villages have already been paid compensation and they have purchased land in another village and shifted and settled.
6. By way of rejoinder to the return, while replying to the preliminary objection with regard to *locus standi* of the petitioner and the aspect of delay, it has been pleaded that in addition to payment of compensation,

some of the displaced families have been re-settled in village- Jogidih, but, thousand of other similarly placed persons are awaiting re-settlement.

7. The petitioner-Society has placed on record documents D-1 to D-4 along with an application for taking document on record that number of persons have been allotted land. The petitioners have also placed on record various information received under RTI regarding applications made, number of persons allotted land, availability of land, pendency of applications etc.

Pursuant to direction issued by this Court on 26.07.2011, the State also moved an application for taking documents on record as Annexure-A, Annexure-B, Annexure-C and Annexure-D regarding details of the affected persons who have been paid compensation in Dhamtari, Durg and Kanker districts. It has also given list of 41 affected land owners who have not taken their compensation.

Pursuant to another direction issued by this Court on 9.1.2012, the Secretary, Department of Revenue, Government of Chhattisgarh has filed an affidavit, in which, it has been stated that at the time when the Gangrel Dam Project was undertaken and lands were acquired i.e. in the year 1972 to 1978, no rehabilitation policy was available except payment of adequate compensation to the land oustees under the provision of the Land Acquisition Act, 1894 and the compensation was paid to all the land owners. Some of the affected persons had taken recourse to remedy available under Section 8 of the Land Acquisition Act and on reference made, adequate compensation was also paid. It has also been stated that at the time when the land acquisition had taken place towards construction of Gangrel Dam, a Notification dated 29.1.1976 issued by the then Govt. of Madhya Pradesh, Department of Revenue was in existence which provided that if any agricultural land is required for the purpose of irrigation, then, affected land oustees shall be given agricultural land as far as possible and on the basis of this circular, in the year 1979-80, as many as 99 land oustees were given agricultural land as per the availability of agricultural land on demand made by such oustee. Other land oustees after having received compensation, shifted to other places and settled and during this period till 2004-05, there was no demand for land by any oustee. It is

further stated that 71 persons have been allotted land from the year 2004-05 to 2009-10 by the Revenue Officials which is a matter of enquiry as ordered by the Govt. vide order dated 9.5.2012 and report is still awaited.

8. During pendency of this petition, a meeting was organized under the Chairmanship of Collector- Dhamtari in which representative of the petitioner-Society and other Govt. officials were present. Minutes of that meeting have also been placed on record as Annexure A-2 along with an application for appropriate direction for releasing the unpaid compensation to affected persons of Gangrel Dam Project with bank interest rate and also issuance of direction to start procedure for allotment of land to the oustee families of Gangrel Dam.
9. On 19.12.2014, this Court had issued direction to the Commissioner, Raipur Division to submit a detailed report before the Court containing number of land holders and landless persons affected under the Project and also steps so far taken to rehabilitate them along with list of beneficiaries / rehabilitated persons, the steps so far taken for rehabilitating left over persons.

In compliance of the aforesaid direction, a detailed report has been filed by the Commissioner, Raipur.

10. On the preliminary objection with regard to maintainability of petition that petition has not been duly constituted and that it is belatedly filed, learned counsel for the petitioner argued that the petition has been filed by representative -Society duly registered with the Registrar, Firms and Societies, representing its members whose list has also been placed on record along with the resolution of the Committee to file petition for redressal of grievance of its members who are land oustee of Gangrel Dam Project. As far as delay aspect is concerned, learned counsel for the petitioner has argued that firstly, petition seeking rehabilitation could not be dismissed on the ground of delay as right of displaced persons and land oustee for rehabilitation is essential concomitant of fundamental right under Article 21 of the Constitution of India and a direction can be issued once this Court is satisfied that fundamental right under Article 21 of the

Constitution is violated. Learned counsel for the petitioner would argue that the members of the petitioner- Society are land oustees and despite there being specific provision with regard to rehabilitation as per decision taken at various levels, no land allotment has been made to the members of the petitioner-Society over these years. The other submission is that though initially about 100 persons were allotted agricultural land, the members of the petitioner-Society were not given such benefit of allotment of land even though they are similarly situated. In the year 2004-05 again, proceedings for allotment of land was initiated and another set of about 70 persons who are land oustee and similarly situated as the petitioner were again allotted land on Govt. land, but again the represented members of the petitioner-Society were excluded from consideration and despite representation made, when no allotment was made, the petitioner filed writ petition in the year 2008.

11. On merits, learned counsel for the petitioner referred to large number of documents, minutes of meeting, correspondences, orders issued by various State authorities including orders of allotment of land to about 170 land oustees, to submit that the respondent had taken decision ever since the time of acquisition of land in the year 1978 and time and again, it was resolved that effective measures towards rehabilitation be taken, but, except payment of compensation, which too is inadequate, no other relief was granted. According to him, one of the most important aspect of rehabilitation was allotment of land which has been made to 170 persons, therefore, in such a situation, benefit of allotment of land to land oustee which is in addition to compensation, has to be extended to all and respondents be appropriately directed to complete the process of rehabilitation by making allotment of land to the members of the petitioner- Society. In support of his submissions, learned counsel for the petitioner placed reliance upon the decisions of the Supreme Court in the cases of **Mahanadi Coalfields Limited & Anr. Vs. Mathias Oram and Ors.**¹, **Tukaram Kana Joshi and Ors. Vs. Maharashtra Industrial Development Corporation & Ors.**², **State of Madhya Pradesh Vs.**

1.(2010) 11 SCC 269
2.(2013) 1 SCC 353

Narmada Bachao Andolan & Anr.³, N.D. Jayal & Anr. Vs. Union of India & Ors.⁴, and orders in Narmada Bachao Andolan Vs. State of M.P. & Anr.⁵ Pyarelal Vs. South Eastern Coalfields Ltd. & Ors.⁶ and Vaibhav Raj Patel Vs. Sate of Chhattisgarh & Ors.⁷

12. Per contra, learned counsel for the State argued that the petitioner in WPC No.5575 of 2008 has been filed in the name of a Society and only upon objection raised, a list of members have been filed which shows that in the name of Society, large number of unverified individual seek to get benefit to which they are not entitled under the law. One main objection of learned counsel for the State is that in the present case, the land acquisition had taken place between the period 1972 to 1978 towards construction of dam project and at that time, appropriate compensation was given and some of the land oustees had claimed allotment of land and had made application and they were also allotted certain land at that point of time. No other persons have made application for allotment of land. Learned counsel for the State submit that at that time, the Govt. circular dated 29.1.1996 (Annexure A-1), filed along with affidavit of the Secretary, was in force according to which, on demand, agricultural land could be allotted to eligible persons as per the criteria laid down in the said circular. He further submits that the petitioners are claiming allotment of land and other rehabilitative measures in their favour on the basis of rehabilitation policy of the year 2007 which could not be made applicable in the case of the petitioner. Relying upon detailed report filed by the Commissioner, Raipur, it is stated that earlier when land was acquired, the land oustee of the villages who were land owners were given appropriate compensation and those who were aggrieved by the quantum of compensation had also taken recourse to proceedings under Section 18 of the Land Acquisition Act. As far as claim of allotment of land is concerned, it has been stated that the allotment of land has been made to some of the persons which is also under enquiry by the Govt. These allotments which were made after 2004-05 in respect of 70 persons are not final. According to him, about 100

3.(2011) 7 SCC 639

4.(2004) 9 SCC 362

5.2008 (2) MPHT 490 (DB)

6 .WPC No. 3076 of 2016 and bunch of cases, decided on 11.9.2017

7.WPS No.4221 of 2014, decided on 11.9.2017

allotments were made long back at the time when land acquisition had taken place on their demand and the petitioner cannot seek comparison with those persons who had availed consideration of their cases under scheme of 1976 by raising specific demand and satisfying the authority that they were eligible for allotment of land. Therefore, it is argued, at this stage, the members of the petitioner-Society are not entitled to any allotment of land or any other relief towards rehabilitation after about four decades when all of them have settled at one or the other place.

13. I have heard learned counsel for the respective parties and perused the records of the case.

14. The preliminary objection with regard to maintainability of the petition on the ground that petition is not maintainable at the instance of the petitioner – Society is liable to be rejected because the writ petition has been filed representing the cause of members who claimed to be land oustee. The petitioner-Society is duly registered which is clear from the certificate of registration issued in favour of petitioner-Society by the Assistant Registrar, Firms and Societies on 14.8.2007. The petitioner is a juristic person. The petitioner has also placed on record, the details of the Society, its Bylaws as also resolution of the Society to file petition to represent the cause of its members. A copy of resolution of General Body convened on 6.4.2008 has also been placed on record. The petitioner-Society has also placed on record the list of its members who are being represented through this petition. Therefore, this petition filed by a registered society in its representative capacity, is maintainable.

15. There is serious objection taken by the respondents on the ground of delay. In the present case, the members of the petitioner-Society are those who claims to be oustees under the Gangrel Dam Project which was admittedly undertaken between the year 1972 to 1978. There is no dispute that the land acquisition proceedings were drawn and compensation was also paid. The parties have placed on record documents to show that compensation was paid to land oustee. In this regard, the respondent- State has placed on records the documents in the form of Vol.-A, Vol-B, Vol-C and Vol-D in respect of Kanker, Durg and Dhamtari district giving details of the land

oustee who were paid compensation. Thereafter, along with the Commissioner report also, complete details regarding number of villages and land acquired and compensation paid including the list of the affected land owners who were paid compensation has been given. Except 41 affected persons, compensation has been paid to all. None of the members of the petitioner-Society have come out with a case that though their land were acquired, they have not been paid compensation. None of them have also come out with the case that they, aggrieved by the quantum of compensation, had approached the Collector under Section 18 of the Land Acquisition Act. Therefore, the petitioners through these petitions are praying for issuance of direction for rehabilitation. The entire pleadings made in the petitions and all subsequent pleadings made by way of rejoinder, application for taking document on record, application for appropriate direction only shows that in addition to compensation, the members of the petitioner-Society in WPC No.5575 of 2008 and petitioners in WPC No.3055 of 2016 are seeking allotment of land as land oustee.

From the documents filed by both the parties and pleadings made, it is also found that initially, about 100 persons were allotted land at the time of acquisition of land and, thereafter, no allotment had taken place nor any of the members of the petitioner-Society or any other representative capacity had been raising demand or taking recourse to any proceedings towards allotment of land. It is found that after 2004, certain representation were made by another Society which led to beginning of another phase of proceedings towards allotment of land to land oustees and then the petitioner-Society was constituted in the year 2007 which started raising demand for allotment of land to its members and then petition was filed. Therefore, in these circumstances when the respondent themselves started fresh proceedings of allotment of land to land oustees in the year 2004-05 and during that period before filing of petition in the year 2008, certain land allotments were made, the members of the petitioner -Society in WPC No.5575 of 2008 and WPC No.3055 of 2016 cannot be denied consideration on merits of their claim for parity of treatment as similarly situated persons towards allotment of land as land oustee. It is not a case that after

acquisition of land and payment of compensation, no land allotments were ever made nor it is a case where certain land were allotted at the time of acquisition of land in the years 1972 to 1978. Had it been so, certainly, the petition was liable to be dismissed on the ground of undue delay and laches. However, in the present case, number of persons, details of which would be given in paragraph herein below have been allotted land towards rehabilitation during the period 2004-10. Therefore, only to the extent of relief of allotment of land as similarly situated persons, the petitioners, claim is required to be examined on merits instead of dismissing the petition on delay and laches. Petitioners claim in respect of all other rehabilitative measure on the basis of Policy of 2007 which came long after acquisition of land and payment of compensation cannot be granted in this petition. Therefore, the only issue for consideration in these cases would be whether members of the petitioner-Society in WPC No.5575 of 2008 and petitioners in WPC No.3055 of 2016 are also entitled to relief towards consideration of their claim for allotment of land on the same line as those land oustees who have been allotted land between the period 2005 to 2010.

16. While taking the aforesaid view that delay would not come in the way of the petitioner in seeking adjudication on merits, it is apposite to refer to Supreme Court's decision in the case of **K.B. Ramachandra Raje URS (Dead) By Legal Representatives Vs. State of Karnataka and Ors.**⁸. In that case, preliminary Notification issued in the year 1985 proposing acquisition of land and final Notification of 1988 were under challenge by filing writ petition in the year 1994. Objection was raised regarding delay. The Supreme Court held that where substantial issue of public importance touching upon fairness of governmental action arise, delayed approach to reach the Court will not stand in the way of exercise of jurisdiction, In the factual backdrop of said case where the writ petitioner gained knowledge with regard to allotment of land to Society at a later stage only in the year 1994 when construction had started and the fact came to be known to the writ petitioner, it was held:

“28. It has been vehemently argued on behalf of the

8. (2016) 3 SCC 422

respondents that the writ petition ought not to have been entertained and any order thereon could not have been passed as it is inordinately delayed and the appellant has made certain false statements in the pleadings before the High Court details of which have been mentioned hereinabove. This issue need not detain the Court. Time and again it has been said that while exercising the jurisdiction under Article 226 of the Constitution of India the High Court is not bound by any strict rule of limitation. If substantial issues of public importance touching upon the fairness of governmental action do arise the delayed approach to reach the Court will not stand in the way of the exercise of jurisdiction by the Court. Insofar as the knowledge of the appellant – writ petitioner with regard to the allotment of the land to the respondent No.28-Society is concerned, what was claimed in the writ petition is that it is only in the year 1994 when the respondent No.28-Society had attempted to raise construction on the land that the fact of allotment of such land came to be known to the writ petitioner – appellant.

29. A mere recital of the fact that a part of the land proposed for acquisition is contemplated to be allotted to the Respondent No. 28 in the order dated 31st July, 1987 rejecting the objections filed by the writ petitioner – appellant in response to the notice issued under Section 16(2) of the 1903 Act, in our considered view, cannot conclusively prove that what was asserted in the writ petition has to be necessarily understood to be false and incorrect. At the highest, the fact claimed by the respondents that the appellant had previous knowledge may be a probable fact. The converse is also equally probable. Taking into account the above position

and the contentious issues raised and the conduct of the State Authorities and the MUDA, we are of the view that the said fact by itself i.e. delay should not come in the way of an adjudication of the writ petition on merits. We, therefore, hold that the impugned acquisition by MUDA under the provisions of the 1903 Act is invalid in law and has to be so adjudged."

17. Learned counsel for the State, referring to decision of the Supreme Court in **State of Madhya Pradesh Vs. Narmada Bachao Andolan & Anr.** (2011) 7 SCC 639 has argued that the delay in the present case must be treated to be fatal in view of what has been observed in para-17 & 18 in the above decision.

In the aforesaid decision, a challenge made to the construction of dam under the project after long time when clearance and undertaking to constructed the dam had been given and hundreds of crores of rupees had already been invested before the writ petitioner had chosen to file writ petition in the year 1994. It was observed as below :-

"17. In the instant cases, the construction of the dam started in October 2002 and was completed in October 2006. No objection had ever been raised by NBA at any stage. The Narmada Development Authority vide order dated 28.3.2007 gave permission to National Hydraulic Development Corporation to raise the water level of the dam to 189 meters upon showing that rehabilitation of oustees of 5 villages adversely affected at 189 meters, had already been completed. The writ petition was filed praying for restraining the appellants from closing the sluice gates of the dam contending that resettlement and rehabilitation was not complete. There was no explanation as to under what circumstances the Court had been approached at such belated stage.

18. In *Narmada Bachao Andolan v. Union of India & Ors.*, (2000) 10 SCC 664, (hereinafter called as 'Narmada Bachao Andolan- I'), this Court dealt with a similar issue of laches and observed that in spite of the fact that the clearance for construction of the dam was given in 1987, the same was challenged in 1994 on the ground that there was a lack of studies available regarding the environmental aspects and also because of seismicity. Thus, the clearance should not have been granted. The rehabilitation package was dissimilar and there had been no independent study or survey done before the decision to undertake the project was taken and construction started. This Court held that clearance and undertaking to construct the dam had been given and hundreds of crores of rupees had already been invested, before the writ petitioner had chosen to file the writ petition in 1994. Thus, the petitioner was guilty of laches in not approaching the court at an earlier point of time."

18. Therefore, the aforesaid decision is not applicable because present is not a case where the petitioners, by filing these petitions in the year 2008 and 2016 are challenging the project or reclaiming their land which was acquired. These petitions do not pretend to challenge the land acquisition proceedings. The petitioners are aggrieved because of discriminatory treatment meted out to them where allotment of land has been made in favour of some of the land oustees, but, the petitioners' claim have not been considered. The distinction between challenging of project at a belated stage and need for examination on merits, the claim of rehabilitation, without challenge to the acquisition proceedings, was clearly demarcated in para-19 and 20 of the aforesaid decision, as below:-

"19. The Court, however, observed as under:
(*Narmada Bachao Andolan (1) case*, SC pp. 695-96, paras 48 & 50)

"48. When such projects are undertaken and hundreds of crores of public money is spent, any individual or organisations in the garb of PIL cannot be permitted to challenge the policy decision taken after a lapse of time. It is against the national interest and contrary to the established principles of law that decisions to undertake developmental projects are permitted to be challenged after a number of years during which period public money has been spent in the execution of the project.

50. This Court has entertained this petition with a view to satisfy itself that there is proper implementation of the relief and rehabilitation measures In short, it was only the concern of this Court for the protection of the fundamental rights of the oustees under Article 21 of the Constitution of India which led to the entertaining of this petition. *It is the relief and rehabilitation measures that this Court is really concerned with and the petition in regard to the other issues raised is highly belated.*" (Emphasis added)".

20. In fact for redressal of any grievance regarding implementation of the R & R Policy, the oustees ought to have approached the GRA. There is nothing on record to show how many oustees remained unsatisfied/aggrieved of the orders passed by GRA till the filing of the writ petition. Thus, in view of the above, the High Court ought not to have examined any issue other than relating to rehabilitation i.e. implementation of the R & R Policy.

19. Had it been a case where the matter relating to allotment of land would have been given a final closure in the year 1980 itself by making allotment of land to some of the land oustees and the matter set at rest, certainly, the members of the petitioner-Society and individual petitioners could not be heard in the years 2008 and 2016 that they should also be allotted land.

But then in the present case, a second phase of allotment started in the year 2004-05 which continued till the date of filing of the instant petition and even thereafter till 2010. The petitioner cause of action is the discriminatory treatment that when large number of land oustees have been allotted land in the recent past since 2004 onwards, the petitioner, being land oustee, should also receive consideration towards allotment of land.

20. The entire case of the petitioners seems to be based mainly on claim of allotment of land on parity rather than any specific policy of rehabilitation. In the writ petition, the petitioners have pleaded that after the Project was launched resulting in acquisition and submergence of land of several villages, various assurances were made and the authority including representative of public held meeting to evolve appropriate rehabilitatory measure for land oustees. In this regard, reference has been made to letter dated 29.7.1972 (Annexure P-4) of the then Chief Minister. In this letter, addressed to a villager of village- Harfar, Tahsil – Dhamtari (which is now a district), it has been mentioned that those agriculturists whose land is going to be submerged would be granted preferential treatment in the matter of allotment of land in addition to compensation. However, there is nothing on record led by any of the parties that at the time of acquisition of land under the Project, there existed any policy of rehabilitation in addition to payment of compensation for acquisition of land. At the time when the land acquisition in the present case had started, there did not exist any specific policy of rehabilitation for the displaced person. The constitutional obligation of the State as 'welfare State' was judicially evolved in important path-breaking judgment of the Apex Court in **Narmada Bachao Andolan v. Union of India and ors., (2000) 10 SCC 664**. In this case, Hon'ble Supreme Court had observed as below -

“241. Displacement of people living on the proposed project sites and the areas to be submerged is an important issue. Most of the hydrology projects are located in remote and inaccessible areas, where local population is, like in

the present case, either illiterate or having marginal means of employment and the per capita income of the families is low. It is a fact that people are displaced by projects from their ancestral homes. Displacement of these people would undoubtedly disconnect them from their past, culture, custom and traditions, but then it becomes necessary to harvest a river for larger good. A natural river is not only meant for the people close by but it should be for the benefit of those who can make use of it, being away from it or near by. Realising the fact that displacement of these people would disconnect them from their past, culture, custom and traditions, the moment any village is earmarked for take over for dam or any other developmental activity, the project implementing authorities have to implement R&R programmes. The R&R plans are required to be specially drafted and implemented to mitigate problems whatsoever relating to all, whether rich or poor, land owner or encroacher, farmer or tenant, employee or employer, tribal or non-tribal. A properly drafted R&R plan would improve the living standards of displaced persons after displacement. For example residents of villages around Bhakra Nangal Dam, Nagarjun Sagar Dam, Tehri, Bhillai Steel Plant, Bokaro and Bala Iron and Steel Plant and numerous other developmental sites are better off than people living in villages in whose vicinity no development project came in. It is not fair that tribals and the people in un-developed villages should continue in the same condition without ever enjoying the fruits of science and technology for better health and have a higher quality of life style.

Should they not be encouraged to seek greener pastures elsewhere, if they can have access to it, either through their own efforts due to information exchange or due to outside compulsions. It is with this object in view that the R&R plans which are developed are meant to ensure that those who move must be better off in the new locations at Government cost. In the present case, the R&R packages of the States, specially of Gujarat, are such that the living conditions of the oustees will be much better than what they had in their tribal hamlets."

Certainly, at the time when the acquisition had taken place, jurisprudential development of law with regard to rights of displaced persons for appropriate rehabilitation was not so developed and even the State which were otherwise constitutionally obliged to act as welfare State had also not framed effective rehabilitative policy for land oustees and displaced persons. The only right in their hands was right to compensation guaranteed under land acquisition laws. This compensation could be claimed only by those who were owners of land. Landless persons who were otherwise occupying forest land were not recognized as persons entitled to get compensation. As early as on 29.1.1976, State of Madhya Pradesh, prior to re-organization of State under MP Reorganization Act, 2000, came out with a policy of preferential allotment of agricultural land. This circular has been annexed along with the affidavit dated 25.7.2012 of the Secretary, Govt. of Chhattisgarh, Department of Revenue. This also finds mention in the report filed by the Commissioner before this Court. The Circular is in vernacular language and provides that whenever an agricultural land is acquired under Govt. irrigation or industrial project, displaced persons, if they are willing, would be allotted agricultural land, as far as possible. Such allotment was subject to four conditions enumerated therein. The first condition was for those who have taken compensation against acquired land. The second condition was that they are defined as landless under the Revenue Books Circular Part-III. Third was that they are

willing to take land in command area or in neighborhood and lastly, that land is otherwise available for allotment.

It further stipulated that highest priority for allotment would be given to the concerned persons and they would be required to pay 60% of the market value of the land proposed to be allotted and a maximum of 2 hectare of irrigated land or 4 hectares of un-irrigated land would be given to the entire family. It further stipulated that if the displaced person is willing for allotment of land in exchange, then land to the extent of 2 hectares of irrigated or 4 hectares of un-irrigated, as the case may be, may be allotted and 60% of the market value of land would be adjusted against compensation payable and balance compensation would be paid. It further stipulated that if 60% of the market value of the land is more than the amount of compensation payable, the balance amount will have to be paid. Lastly, it was provided that if no land is available in the concerned village or or in neighbourhood village, then land available in any other village of that Tahsil, provided the displaced person is willing to accept ,would be allotted.

21.It would thus be clear that when the Project had started in the year 1972 and land acquisition proceeding had started, no Policy was there but during the currency of Project which continued up to 1978, Circular dated 29.1.1976 came into existence and, therefore, the displaced person/land oustees who were willing for allotment of agricultural land were entitled for due consideration of their claim for allotment in terms of provision contained in Circular dated 29.1.1976.

22.However, the petitioner in its petition has not referred to the aforesaid Circular much less any reliance placed thereon though the petitioner relies upon various letters, resolutions, communications, correspondences and orders which are referred to hereinbelow.

23.Letter dated 29.6.1972 of the then Chief Minister has already been referred to hereinabove. The pleading in the petition further reveals that a meeting under the Chairmanship of Parliamentary Secretary of Revenue Department was held on 19.3.1978 which was attended by officers of various departments. A perusal of the minutes of meeting dated 19.3.1978

(Annexure P-5) reveals that apart from ensuring compensation to all land oustee, it also mentions regarding allotment of land by way of exchange and preferential treatment for allotment of land to those who had not taken compensation. Broadly, this resolution was in accordance with the terms and conditions of Circular dated 29.1.1976, referred to herein-above.

Another letter dated 29.5.1978 (Annexure P-6) of the SDO, Dhamtari addressed to the Superintending Engineer Mahanadi Irrigation Project, Rudri, also shows that instructions were received from the Govt. For rehabilitation of displaced persons and for this purpose, Govt. required survey to be carried out to find out the number of affected families. At this juncture also, what would be the terms and conditions and details of policy of rehabilitation was neither stated in this letter nor there existed any detailed rehabilitation policy except one of limited nature confining to allotment of agricultural land as per letter dated 1976.

In letter dated 3.6.1978 of the SDO, Dhamtari (Ex.P-7) addressed to Executive Engineer Mahanadi Project, Rudri, it was again mentioned that Circular for rehabilitation of affected families due to submergence of land in Gangrel dam in village Bagodor is under consideration of the Govt. It further mentions that the Collector, Raipur has fixed the deadline of 5.6.1978 for allotment of *aabadi* plot to displaced family and, therefore, within the stipulated period, upon completion of land allotment, rehabilitation proceedings had to be started. The Executive Engineer was instructed to seek details/list of displaced persons.

Another meeting was held on 11.11.1978 to address various issues arising on account of displacement under the Gangerel Dam Project which also included rehabilitation of those whose land were acquired. This meeting was chaired by the then Commissioner, Raipur Division and attended by the Collector, Additional Collector as also officers of the Forest Department, Irrigation Department, Land Acquisition Officer and other authority. Para 3.2 of the said resolution, it was resolved that displaced persons would be rehabilitated in terms of Circular dated 29.1.1976 and accordingly land under Revenue department available in nearby villages would be used for allotment of land to displaced person. The three Collectors were directed to

expeditiously initiate proceedings and submit their report. In this resolution, there is also mention of initiation of proceedings for transfer of 889 hectares of forest land to Revenue Department for the purpose of making available land for allotment to displaced persons which included only land owners whose land were acquired but not landless persons, called as Vasundhara category (agricultural labours). The proposal was for preparation of rehabilitative scheme in village Bagodor and Saloni. Further in this resolution, it was also mentioned that as 889 hectares of forest land proposed to be allotted to Revenue Department for allotment may not be sufficient for allotment to all the displaced persons, the Offices of Raipur, Kanker and Durg Forest Division were directed to carry out survey and find out whether more land is available for rehabilitation of displaced persons.

24. A perusal of these minutes of meetings would show that not only there were indication of allotment of agricultural land to displaced persons but taking of many other steps towards their rehabilitation. It would thus be seen that even though at that point of time, there was no exhaustive rehabilitation policy at the State level, except provision for allotment of land under Circular dated 29.1.1976, the State authority in various meetings were trying to work out as to what other rehabilitative measures could be taken and benefit extended to the land oustee. A perusal of the aforesaid resolutions show that number of rehabilitative measures were suggested.

25. After 1978, what rehabilitative measures were taken including allotment of land to displaced person has been given in detail in the affidavit filed by the Commissioner pursuant to direction dated 19.12.2014 of this Court. This report suggests that apart from payment of compensation, proceedings towards transfer of 889 hectares of forest land were initiated in anticipation of approval by the Central Govt. and then land was proposed to be allotted to displaced persons but the Govt. of India never granted any approval and, therefore, no transfer could finally take place. As per factual statement given in para-2.5 of the report of the Commissioner, in the absence of approval of the Central Govt., the process of transfer of forest land to Revenue Department could not be completed and, therefore, there

is no document of transfer of forest land to Revenue Department and the land , even on date, continues to be forest land.

In the said report, it was further mentioned that after receiving compensation, various families according to their convenience had settled in nearby villages after purchasing agricultural land and earning their livelihood. In para-2.8 of the said report, it has been stated that even though rehabilitation Policy of 2007 was not in existence at the time of acquisition of land under the irrigation project, a committee involving members of panchayat and district administration was constituted by the State Govt. and on the recommendation of the Committee, various benefits which are enumerated in Rehabilitation Policy of 2007 were extended in nearby villages of Gangrel Dam. Reference has been made to *Annexure-8*, which is a chart showing details of compensation paid village-wise, details of allotment of patta to both land owners and land less. It also give details of rehabilitation measures taken which included provision for water, electricity, availability of schools, health centers, community halls, rashan shop, panchayat bhawan etc. These facts have also been stated in para-3.4 of the aforesaid report also, details of available facility village-wise has been given in *Annexure-9*.

These factual statements made in the report have not been disputed by the petitioner by filing any rejoinder.

26. From the averments made and documents filed along with the petition, it is reflected that though rehabilitation measures were taken from time to time ever since the displacement of affected families because of the irrigation project, as far as allotment of land is concerned, benefit was extended to very few affected persons and there were grievance with regard to inadequacy of compensation and the displaced persons were further asking for other benefits as measure of rehabilitation. Between the period from 1972 to 1995, the development which had taken place from time to time, as stated in the pleadings and documents filed by respective parties, show that after various resolutions were passed and correspondences made, certain allotment of land had also taken place. These facts stated and document filed by the petitioner along with their application for taking

document on record dated 29.3.2011 annexing four documents – Annexure D-1, Annexure D-2, Annexure D-3, Annexure D-4. The Secretary of the petitioner-Society had submitted an application under RTI vide Annexure D-2, in response to which, information was supplied vide memo dated 15.11.2007 (Annexure D-3). The information disclosed in this letter along with attested documents shows that 159 persons were benefited of allotment of land and list thereof has been attached. It appears that as the process of transfer of 889.90 hectares of forest land was already initiated in anticipation of approval from the Central Govt., the information also suggests that 889 hectares of forest land has been transferred to Revenue Department, which is not fully correct in view of the report of the Commissioner which shows that finally, this transfer could not materialize for want of approval by the Central Govt. But certainly, in village Bagodor (Jogidih), 159 displaced persons were allotted land, details of which, have been given. This letter also shows that basis of allotment of land by way of lease was in implementation of rehabilitation policy but it does not say under which policy, such allotment by way of lease was done. The information further disclosed that other applications are also pending. Another memo dated 6.8.2009 (Annexure D-4) of Collector Land Records Branch Dhamtari also discloses details of survey showing allotment of land as also occupation of various persons. It also shows encroachment made. Thus, it is clear that large number of displaced persons/land oustees were allotted land.

The aforesaid facts stated by the petitioner in their additional pleadings by way of application for taking documents on record supported with affidavit was followed by memo of submission dated 25.7.2012 of the State along with which the affidavit of the Secretary, Department of Revenue has been filed wherein existence of Circular dated 29.1.1976 has been mentioned. In this affidavit also, it has been stated that on the basis of said circular, in the year 1979-80 as many as 99 land oustee were given agricultural land and as per the availability of agricultural land and as it was demanded by those land oustee due to construction of dam. Further statement is that the other oustee having received their due compensation, shifted outside and settled

themselves. It has also been averred in affidavit that till 2004-05 i.e. 25 years after the completion of Project, there was no demand for land from any of the oustee and thereafter, 71 persons were allotted land from 2004-05 to 2009-10 by the Revenue Officials which is subject matter of enquiry of the Govt. vide order of inquiry dated 9.5.2012. A copy of letter dated 9.5.2012 has been annexed along with affidavit as Annexure A-2. A perusal of this letter would show that this letter was issued during the pendency of petitioner's petition because when the petitioner filed documentary evidence with regard to allotment of land to number of persons, the State Govt. took cognizance and directed enquiry. However, till date, no report had been submitted before the Court.

27. In the detailed report of the Commissioner, Raipur Division, in compliance of order dated 19.12.2014 of this Court, list of persons who have been allotted land in village Jogidih has been annexed as *Document No.6* and perusal of the same would show that as many as 170 land oustee have been allotted land by way of lease. This chart also refers to revenue case number and year of revenue cases under which such lease was allotted. It discloses that from Sr.No.1 to 83, Sr. No.85, Sr. No.91 to 107 are allotments made way back in the year 1980. But it further shows that large number of allotments have been made in the year 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10. Therefore, even according to the State also, in the first phase, allotment of land was made in the year 1980 and, thereafter, the second phase of allotment of land started in the year 2004-05 which continued till 2009-10 i.e. even after filing of this petition.

28. An overall view of the entire pleadings and documents filed by respective parties before this Court reveals that though initially when the Project was started in the year 1972 and lands were acquired, various meetings were organized and a Policy of allotment of land was also promulgated by the Govt. on 29.1.1976 and thereafter allotment of land to large number of persons, about 100 in number, had taken place in the year 1980, but, thereafter, though certain other rehabilitative measures were taken by providing road, electricity, water facility in the area where displaced and oustee had re-settled after having been displaced from the affected

villages, allotment of land had stopped. A possible reason for this could be that 889 hectares of land which were proposed to be transferred from Forest Department to Revenue Department could not materialize for want of approval by the Central Govt. and further no serious efforts were made to complete the process of allotment of land to all displaced persons by identifying land in nearby village and area. In the year 2004-05 again, voices were raised and documents to this effect have been placed on record by the petitioner that another representative body of displaced persons under the name "*Duban Sangharsh Samiti, Gangrel Bandh*" had been approaching the Govt. and authority for providing proper measures for rehabilitation including the allotment of land, which yielded some result, in the sense that about 70 more allotments of land were made to land oustee during this period. It has been indicated in various charts referred to above. In 2007, the petitioner-Society was constituted which also started raising demand for its members for grant of benefit of rehabilitation including land allotment on the similar line as was being raised by another body namely *Duban Sangharsh Samiti Gangrel Bandh, Dhamtari*.

29. Present is not a case where the allotments were made to about 100 persons in the year 1980 on their demand, under the provision of Circular dated 29.1.1976, but, when subsequently, voices were raised, though belatedly, after about 25 years, the State authority again started allotting the land and in the second phase, about 70 allotments have been made. This allotment have been brought under an inquiry vide letter dated 9.5.2012 (Annexure A-2) filed along with memo of submission dated 25.7.2012. But so far, no report has come nor this allotment made subsequently during the period 2004-05 to 2010 have been cancelled.

Certainly, if there would have been no further allotment after 1980, the petitioner could not have claimed any relief for allotment without proof of they having submitted any demand for allotment in terms of circular dated 29.1.1976. But in the present case, there has been a second phase of allotment from 2004-05 to 2009-10 in which 70 land oustees have been benefited by allotment of land. The respondent authority cannot adopt pick

and choose method. If 70 number of land oustees have been allotted land, the members of the petitioner-Society who were also admittedly land oustee are also entitled to consideration and they cannot be denied consideration on the ground that at the time of acquisition of land and taking compensation, they had not submitted any demand letters in terms of circular dated 29.1.1976. This Court finds that the allotment made during period 2004-05 to 2009-10 are under enquiry institute by the State. But report has not been submitted. Therefore, members of the petitioner-Society are also entitled to due consideration for allotment of land in terms of circular dated 29.1.1976 on the same line the land oustee have been allotted land between the period of 2004-05 and 2009-10. Proceeding for consideration of cases for allotment of land to the members of the petitioner-Society is required to be initiated by the office of the Collector, Durg, Dhamtari and Kanker.

30. The proceeding for allotment of land by way of lease shall be initiated by competent authority under the orders of the concerned Collector of the three districts i.e. Durg, Kanker and Dhamtari and upon due enquiry, appropriate decision shall be taken by the competent authority with regard to claim for allotment of land to members of the petitioner-Society in WPC No.5575 of 2008 and petitioners in WPC No.3055 of 2016. However, in case, pursuant to enquiry initiated vide letter dated 9.5.2012 (annexed as Annexure A-2 along with memo of submission dated 25.7.2012), the allotment made between the period from 2004-05 to 2009-10 are found illegal for any reason and those allotments are cancelled, there would be no requirement of consideration of petitioners claim for allotment. For effective compliance of the order of this Court, it is necessary to issue further direction that enquiry initiated under letter dated 9.5.2012 shall be concluded within an outer limit of three months, if not already concluded, from the date of receipt of copy of this order by the Secretary Department of Revenue and Disaster Management, Govt. of Chhattisgarh. If the allotment made between the period 2004-05 to 2009-10 are not cancelled, the claim of allotment of land by the petitioners be examined by the competent revenue officials as directed herein-above which shall also be

completed within an outer limit of three months. It is also made clear that this direction in exercise of extraordinary writ jurisdiction under Article 226 of the Constitution are meant to provide relief to oustee who do not possess any land as on the date. If any of the petitioners or any member of his family has purchased agricultural land, the benefit of land allotment shall not be extended to such land oustee.

31. Except aforesaid relief, no other relief towards any other rehabilitation can be granted to the petitioner-Society.

32. The petitions are accordingly partly allowed to the extent and in the manner stated herein-above. No orders as to costs.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen