

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No.93/2023

In re : News item published in Newspaper 'The Hindu' dated 04.02.2023
titled **"19 families shifted after houses in J & K village develop
cracks"**

Date of hearing: 11.12.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent(s): Mr. G.M. Kawoosa & Ms. Palak Mittal, Advs. for UT of J & K
with Mr. Dheeraj Gupta (Principal Sec. to Govt., Forest,
Ecology & Environment Dept.) (Through VC)
Dr. Harpreet Kaur (Special Secretary, Technical) (Through
VC)

ORDER

1. Pursuant to our order dated 02.11.2023, Mr. Dheeraj Gupta, Principal Secretary, Forest, Ecology and Environment, Union Territory (hereinafter referred to as 'UT') of Jammu and Kashmir and Mr. G.M. Kawoosa, Learned Counsel appearing on behalf of UT of Jammu and Kashmir are present.

2. The matter is taken up *suo-moto* and it relates to the damage which was caused to 21 structures in Doda District in Chenab Valley in UT of Jammu and Kashmir since earth had started slipping.

3. Joint Committee constituted by Tribunal submitted its Report, recommending rehabilitation of the residents of affected 24 houses of Nai Basti, Thathri to a suitable safer location within framework of applicable laws.

4. Tribunal thereafter, had recorded the information furnished by Special Secretary on behalf of UT of Jammu and Kashmir on 20.09.2023

in respect of preparation of a short term and a long term plan and necessary steps for rehabilitation of the displaced families.

5. Thereafter, Action Taken Report dated 01.11.2023 was filed by UT of Jammu and Kashmir. On the issue of rehabilitation, Report was not clear. On the one hand, 14 cases, we found eligible for relief but they were denied relief on the ground of applicability of SDRF norms. Tribunal observed that action is being taken to grant relief in five cases only which are stated to be the landless persons. Stand of UT of Jammu and Kashmir in this regard in the Report was as under:

“15. That the issue of rehabilitation of the affected persons was discussed in detail in the meeting. It was informed by the district administration that the affected persons were also immediately shifted to safer buildings upon receipt of reports of damage to houses. Later on, they have shifted to their own villages or houses of relatives/friends. The Deputy Commissioner also informed that several visits were made to the site subsequently, and concerned stakeholders have been consulted from time to time. The Deputy Commissioner informed that three structures have been damaged completely and 11 others severely. The district administration has kept the houses under observation to note any expansion in cracks or any other subsequent damage. Out of an initially reported 19 cases, after verification, 14 cases have been found eligible for relief. However, none of the house owners are found to be owners of the land on which the houses have been built, the land being either Shamlat Deh or Kacharaie land. Since the occupants are illegal, they do not fall under SDRF norms for payment of relief or compensation. Further, in five cases, the occupants are landless and do not possess land elsewhere. In this regard, after threadbare discussions, it was decided that alternate land may be provided to the five cases of landless persons, as per policy under PMAY(G).”

6. Tribunal required UT of J&K to place material before Tribunal, clarifying that in such cases, SDRF norms will be applicable and also as to how once 14 cases were found to be eligible for relief, they could be denied relief merely raising technicality, ignoring the humanitarian ground.

7. UT of J&K was directed to submit a fresh Report along with all the supporting material within four weeks. Tribunal further directed that stand of State, in this regard, along with all the supporting material, be placed on record, by furnishing a fresh report within a period of four weeks.

8. It is stated that 14 cases have been identified where the structure on the land which have suffered cracks or destroyed and have come in 'RedZone', suffered serious or full damage but UT found that commensurate to the extent of damage, these people were not entitled for compensation since they were occupying land illegally and only some *ex-gratia* payment, UT was decided to be given to them.

9. We find that occupation of the land in question and raising of construction by the affected persons, has been allowed due to inaction, inefficiency or lack of monitoring or supervision on the part of UT and its authorities and stakes have been allowed to be created on the land in question for the reasons attributable to State's inaction. Hence, UT cannot absolve of its responsibility of compensating the people who have suffered loss or damages at the land in question for the reasons, not attributable to these persons, but man-made situations which also have arisen due to inaction on the part of UT and its authorities.

10. In such cases, *prima-facie*, we are of the view that UT is liable to pay compensation, to the extent, the damage has suffered by the people who have raised their structures on the land in dispute.

11. Mr. Dheeraj Gupta, Principal Secretary, at this stage, stated that Committee, headed by Chief Secretary constituted by Tribunal, may be allowed to re-look in the matter and take appropriate decision, founded

on welfare and humanitarian ground, to the people affected for the reasons, not attributable to them and sought two weeks' time to do so.

12. Let the matter be re-examined and an Action Taken Report be submitted within two weeks.

13. List this matter on 13.02.2024.

Sudhir Agarwal, JM

Dr. A. SenthilVel, EM

December 11, 2023
Original Application No.93/2023
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