

Sent by R.P.A.D.

KARNATAKA STATE HUMAN RIGHTS COMMISSION

No. HRC. 4243 /CR/2008

4th Floor, 5th Phase,
Multi Storeyed Building,
Bangalore, dated: 02-05-2009
Off: Tele: 22392200
Fax: 22392206/07
Law Wing, 22373124

From:
The Registrar,
Karnataka State Human Rights Commission,
Bangalore.

To:
The Chief Engineer,
Bagalkot Town Development Authority,
Bagalkot.

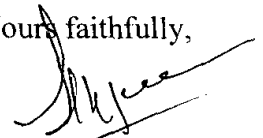
Sir,

Sub:-Final order in H.R.C.No 4243/2008 connected with HRC 277/2009
and 279/2009 –

I am directed to enclose herewith a copy of the final order dated 02-05-2009 passed by the Commission, in the above H.R.C. cases, which is self-explanatory, for your information.

I am also directed to request you to comply with the recommendations of the Commission as per the said order within a period of three months and report the action taken to the Commission within one month from the date of receipt of this communication,

Yours faithfully,


Assistant Registrar

Assistant Registrar

Karnataka State Human Rights Commission
Bangalore.

Encl:- Copy of the final order

Copy with a copy of the final order for information to:-

1. Sri G.V.Parvatikar, No.249/2, Venkatpeth, Bagalkot-587 101.
2. Sri S.G.Chabbi, No.249/2, Venkatpeth, Bagalkot-587 101, .
3. Sri Siddalinge Gowda, Mavinakere-572 221, Tal: Turuvekere, Dist: Tumkur.

KARNATAKA STATE HUMAN RIGHTS COMMISSION AT BANGALORE

H.R.C.No.4243 OF 2008

CONNECTED WITH

H.R.C.NO.277 OF 2009 AND H.R.C.NO.279 OF 2009

DATED THIS THE 2nd DAY OF MAY, 2009.

BEFORE ...

HON'BLE SRI R.H.RADDI, MEMBER

BETWEEN;

1. Sri G.V.Parvatikar,
No.249/2, Venkatpeth,
Bagalkot-587 101.

2. Sri S.G.Chabbi,
No.249/2, Venkatpeth,
Bagalkot-587 101.
and others.

Complainants in HRC 4243/08

3. Sri Siddalinge Gowda,
Mavinakere-572 221
Tal: TuruvekerE,
Dist: Tumkur.

Complainant in HRCs277/09 & 279/09

AND;

1. The Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Bangalore-1.

2. The Regional Commissioner,
Belgaum Division,
Belgaum

Respondents in all HRCs

ORDER

1. The complaints in H.R.C.Nos.277 of 2009 and 279 of 2009 are filed by complainant by name Sri Siddalinge Gowda, subsequent to the common order H.R.C.No.4243 of 2008 and it is as such the complaints of Sri Siddalinge Gowda,, based on paper publications, are clubbed with this common order and are being disposed of by this common order.
2. The complaint in H.R.C.No.4243 of 2008 is filed by Sri G.V.Parvathi Bagalkot and other similarly placed persons affected on account of submersion of their properties under Upper Krishna Project situated within the limits of Bagalkot town. The properties viz., the buildings like residential houses and shops of the complainants herein are coming under the threat of submersion of back waters of Alamatti Dam and they contend that there has been no proper rehabilitation and resettlement package for rehabilitating them on account of such submersion, except provision made to the persons whose properties have been acquired and for whom compensation for their properties. The complainants further contend that in view of the decision of the Supreme Court, storage of water in the dam is only upto maximum of 519.60 metres at Alamatti Dam. Even if so much of water is stored in the Alamatti Dam, which is the maximum quantity of water, the properties belonging to the complainants

been acquired on account of they coming under submersion of back will not be submerged at all.

3. The complainants further contend that though they have been compensation and allotted sites, there is no proper package rehabilitating them, providing a provision for earning their livelihood and instead of providing such rehabilitation package, the Bagalkot Town Development Authority has proposed to demolish the shops and buildings, which act deprive them of their minimum basic facilities. therefore, the complainants herein have sought for intervention of the Commission for protecting their rights,
4. The Commission, after considering the contents of the complaints and as the enclosures to the complaint, issued notice to the Chief Secretary, Government of Karnataka and also to the Regional Commissioner, Belgaum who is also the Commissioner for Rehabilitation and Resettlement and Director of Upper Krishna Project, Bagalkot. Pending receipt of reports from said authorities, the complainants approached the Commission contending that the Bagalkot Town Development Authority has invited tenders for demolition of the structures between contour 520.1 to 521.00 metres, which deprives their interests and rights. In view of the contentions of the complainants before the Commission, coupled with the enclosed records, this Commission, in better interest of protection of the complainants herein, directed the concerned authorities not to proceed with the demolition of the structures of the complainants.

other similarly placed persons, pending final disposal of these complaints. It is accordingly the Authority has heeded to the direction of the Commission.

5. The Regional Commissioner, Belgaum and the Commission Rehabilitation and Resettlement and L.A. Upper Krishna Project, Bangalore has submitted a report dated 1-1-2009 along with enclosures and the order of the Secretary to Government, Revenue Department, has submitted a similar report along with enclosures dated 5-1-2009. Copies of such reports were sent to the complainants for their comments on them. The complainants Sri G.V.Parvathikar and Sri S.G.Chabbi, for and on behalf of the other complainants, have submitted their comments dated 18-1-2009 along with enclosures.
6. The Commission, after receipt of reports, comments and additional comments, and also having regard to the nature of the complaint, found it necessary that the Commission has to visit Bagalkot town and find out to whether there has been a proper rehabilitation package for the complainants and other similarly placed persons or otherwise. Accordingly the Commission visited the Bagalkot old town and new town and conducted inspection of old Bagalkot town and new town on 24-3-2009 and 25-3-2009 respectively, in the presence of some of the complainants and officers of the Bagalkot Town Development Authority as well as the members of the Commission. On 24-3-2009, the Commission heard the residents of Bagalkot and on 25-3-2009 conducted a meeting with the officers

Bagalkot Town Development Authority at Bagaklot. During the commission inspection, the Commission received some representations which have been taken on record.

7. The main grievance of the complainants herein is that there is no rehabilitation and resettlement package to rehabilitate the Displaced Families and further that mere payment of compensatory value to their properties and allotment of sites, is not a rehabilitation, as their rights to livelihood are being affected. They contend that though the structures now being proposed to be demolished by the Bagalkot Town Development Authority are not actually submerged under the back water, the authorities are taking steps to demolish them and in the event if they proceed to do so, the rights of residents of that area would be badly affected. They stated that the maximum water storage in the Alamatti Dam site is only 519.60 metres and on account of it, the lands and buildings only upto 520.10 metres are submerged and further that the buildings and lands between 520.10 metres and 521.00 metres did not suffer any submersion at all and in such a situation there is no need for the present to demolish the structures with the area, which is not being submerged.
8. The reports submitted to the Commission reveal that the complainants have already filed a Writ Petition at Writ Petition No.196/2006 in the High Court of Karnataka seeking similar relief. The High Court has not granted any interim relief in that matter. The complainants ha

filed Writ Petition No.10799 of 2006 before the High Court with a not to shift Bagalkot town till Navanagar is fully developed and equ with all civic amenities. That Writ Petition was also disposed of t that Navanagar has been developed with all civic amenities.

9. It is stated in the report that the Government has already acquired structures coming within the contour line of 521.00 metres and Project Displaced Families have been paid compensation by way of by the Special Land Acquisition Officer and also by the Courts Rehabilitation facilities are provided to all the displaced persons. stated further that the Bagalkot Town Development Authority has ini action for acquiring structures of old Bagalkot town upto F.R.L. 5 metres and consequent upon the completion of the proceedings payment of compensation, the properties have been acquired. The shows that the water was impounded in Alamitti Dam upto a heig 519.60 metres as per the interim order of the Supreme Court and th the Government of Karnataka in the year 2002. Because of the diffe in flow levels of back water, the level of impounded water was raised 520.00 metres near Bagalkot Town during normal conditions. As pe engineering assessment, when the height of back water stored was u height of 519.60 metres, it was contemplated to raise back water upto 521.00 metres during floods in the river. It is on account of f structures coming upto 521.00 metres have been acquired.

10. The report further shows that in a normal course the back water level is raised upto 520.00 metres. The effect of submergence, such as collapse of structures due to seepage of water, dampening of walls due to capillary action of ground water level etc., have occurred and it is on account of it, the allegations made by the complainants do not have any substance and they cannot oppose shifting of the families proposed to be shifted. The shifting of the families residing between RL 520.00 metres and 523.00 metres or 100 metres from the water line was proposed to avoid hardship to be caused to the residents therein.

11. It is stated in the report that the Government buildings like Post Office, Hospital, Municipality and Schools etc., have already been got vacated and demolished which are situated below the level of 521.00 metres having been affected on account of submergence. The complainants have no right to carry out their day to day activities in the acquired buildings lying below RL 521.00 metres. The majority of the families of that area have already been shifted to Navanagar whereat the facilities have been provided. It is stated in the report that when the water stagnates for some time, that area becomes an ideal place for breeding centre of mosquitoes culminating in spreading of various diseases like malaria, dengue fever etc., Besides that, a lot of hardship would be faced by the dwellers during night time from the poisonous snakes, scorpions and other nocturnal animals which are dangerous to the human life. The entire effluents collected by the old City of Bagalkot will be channelized through the sewers and disposed of at the

verge of back water, which causes unhygienic and hazardous conditions to human beings.

12. The report reveals that a comprehensive R & R package is given by Government and each one of the main Project Displaced Families is provided with various facilities and incentives including training programmes for desired vocations and ex-gratia to start new vocations etc. It is further stated that the new Bagalkot town i.e. Navanagar has been fully developed in all respects for the complainants and similarly placed persons to shift themselves from old town.

13. The complainants, in their comments dated 18-2-2009 and also additional comments subsequently submitted reiterating their contentions in their complaints, have contended that there are no minimum basic facilities provided in Navanagar and there are no programmes to generate income for livelihood of Project Displaced Families and further that persons who are shifted to Navanagar have to come to old Bagalkot to earn their livelihood spending major part of their time on transportation etc. Since all the main commercial establishments are in old town itself, the people residing in the new town also find it hard to come over to old town every day etc.

14. To find out as to whether the human rights like right to livelihood of the complainants and similarly placed persons are protected or there has been any sort of negligence in protecting their such rights, as stated earlier

Commission visited both Bagalkot old town and Bagalkot new town, went around the area and noticed the situation in the old town and also the facilities provided in the new town as well. This was done by the Commission as the right to life including the right to livelihood is a most important human right of the Project Displaced Families.

15. For the reasons stated in the aforesaid paragraph, the Commission went around the area of Bagalkot old town being affected on account of submergence and noticed the conditions of the residents therein and also the conditions of the structures standing therein and the surrounding environment and living conditions etc. and during such inspection heard several persons with regard to actual practical difficulties, problems, hardships faced by them. It is brought to the notice of the Commission that the persons who are shifted from old Bagalkot town to Navanagar are being simply lodged there and for all practical purposes of their livelihood, every day they have to come back to old town and earn their day to day livelihood by being self employed or by being employees of any commercial establishments etc., as in Navanagar area they are not able to earn their such livelihood. It is noticed by the Commission that almost all the commercial establishments are there in the old town itself and, on enquiry, the Commission came to know that such commercial establishments are under special category which fall under the water level of 525.00 metres and there is a proposal to shift all such establishments to Navanagar. The Commission also noticed that the persons who are shifted to Navanagar have their residence therein and continue to have their petty shops and

other such establishments to earn their day to day livelihood in town itself

16. To find out as to whether proper rehabilitation facilities i.e. providing earning day to day livelihood for the Project Displaced Family have been provided in Navanagar area or not, the Commission, as stated earlier, has been around Navanagar area. It is no doubt a good number of Government Offices, other such buildings have come up in Navanagar area and a number of residential houses have also come up. In Navanagar area facilities like Schools, water supply, electricity supply, etc., are provided. But the Commission noticed that there was no provision made for generating the work at Navanagar for the people to earn their day to day livelihood. Though there were several proposals to establish bazaars, though some shop premises have been constructed by the Bagalkote Development Authority, bazaar areas have not come up to the stage for people to earn their livelihood by doing their petty business and to provide day to day things to the residents therein. Though some shop premises have been constructed, they have remained unoccupied on account of various reasons, mainly the business that could be run in such shops would not fetch any income for so many reasons. It thereby affects the day to day earning of such people if they are shifted to such business premises. The Commission found that the developmental activities going on in the Navanagar town area are not to the expected level to rehabilitate the Project Displaced Families to enable them to earn their livelihood and get employment/work in Navanagar area.

17. The other reliefs claimed by the complainants before this Commission the subject matter of Writ Petition No.19021 of 2006 filed by some complainants, before the High Court of Karnataka. The compl. H.R.C.No.4243 of 2008 in respect of such reliefs is, therefore, barred Regulation 9(h) of the Commission's Regulations.
18. The Commission, after considering the contents of the complainant report and the comments as well as its views on hearing the locals of old town and new town of Bagalkot and also on its own inspection by going around such areas in both old town and new town, finds that the Bagalkot Town Development Authority, if it has to demolish the structures proposed falling between contour 520.10 metres and 521.00 metres, it should to necessarily provide the minimum basic facilities to the human beings who are going to be shifted from that area to live their life as human beings, enabling them to earn their day to day livelihood to live with human dignity. It is on account of such circumstances, the Commission has to make certain recommendations to the Bagalkot Town Development Authority to protect the rights of the citizens of old Bagalkot town whose properties are being submerged in the backwater, as the main concern of this Commission is right to livelihood of the human beings i.e. the citizens of new Bagalkot town and it accordingly directs the Bagalkot Town Development Authority to provide the following basic necessities to protect the human rights i.e. right to life and right to livelihood of the persons to be affected on account of shifting from old town to new town:-

- (a) To provide proper shelter to suit the dignity of each human being therein as a human being with such dignity with which he or she was earlier in the old town making a suitable provision for the people who are shifted from old town to new town with all such dignity and their rights to food, shelter and livelihood are not affected. Displacement shall be carried out in a manner that does not violate the rights to life, dignity, and security of those affected.
- (b) All affected and displaced persons have the right to security for their physical wellbeing and their property. It is, therefore, the Government of Karnataka shall establish sufficient number of Police Stations in Navanagar with police personnel to take rounds during days as well as nights around the area of Navanagar, which is scatterly spread to ensure the safety of the physical wellbeing of the property of the residents of Navanagar.
- (c) As area of Navanagar is scatterly spread, for the movement of the residents to go to shops, hospitals, schools, police stations, municipal offices, District Administration offices, Courts, etc., bus facility to be provided within the Navanagar area, on free pass basis or with very nominal charges shall be provided.
- (d) To generate employment and work and to provide minimum facilities for Navanagar residents to go in for shopping, they shall be facilitated by establishing market areas at nearest and convenient places.

places and such development of market areas shall be on war basis. There shall be programmes for generating variety of work in Navanagar so that the displaced persons from old town shall earn their livelihood once when they are shifted to Navanagar. Since the displaced are compelled to change their place of business from old town to new town of Bagalkot, as the business has been substantially affected on account of submergence, the business requires to be promoted by providing provision for free trade zone.

(e) Since the purpose of allotment of sites for industrial establishments has not become fruitful, the allotment of sites for industrial development where industries are not established within the given or specified time, shall be cancelled and sites shall be allotted to such entrepreneurs who are positively to develop the industries and generate the income and employment for the displaced persons. This shall be done without hesitation and within the shortest possible time to protect the right of the displaced persons for earning their livelihood.

(f) Shifting of the persons from the affected old town area to the new town area and for the persons moving from old town area to new town area to earn their livelihood and vice versa as well as for the coolie work going from new town to old town and the persons residing in the old town to go to old town to work in their commercial or business establishments, transport facility like free buses to them shall be provided.

provided without costing anything to them out of their meager earnings for their livelihood for that purpose.

(g) Health care facilities are to be provided on priority basis as the District Health Hospital is in the new town area and in emergency of the people living in the old town area, a vehicle or facilities to move to District Hospitals shall be provided at the earliest possible. The Bagalkot Development Authority shall put forth all possible efforts to create employment opportunities for the persons at new town and have programmes to attract the displaced persons to be shifted from old town to new town so that they volunteer to shift themselves to the new town.

(h) Grave yards in the new town are situated far off from the residences of some of the residents and, therefore, the authorities shall provide a vehicle or facility to reach the grave yards carrying the bodies. The facility shall be provided to the residents of old town on payment of municipal tax etc., as the Town Municipal Office is in the new town and for their movement from old town to new town there shall be a provision for free conveyance. There shall be some arrangement for the people coming for official works at new town from old town providing free conveyance to them.

(i) The commercial establishments at old town which are to be situated at a minimum of 525.00 metres of water level under special category, shall be situated

once by construction of common shop complexes for all the business people of old town on loan basis i.e. contribution of the business person being 25 per cent of the total cost of his shop and 75 per cent of the cost shall be raised by loan in such businessman's name by the Old Town Development Authority taking assistance of financial assistance from financial institutions and taking of the construction of shop complex with the help of construction companies like Housing Land Army etc, as the Commission has received representation from business community people of old town with such a proposal to enable them to shift at once for the purpose to avoid affect business of one or two individuals who shift to the new town.

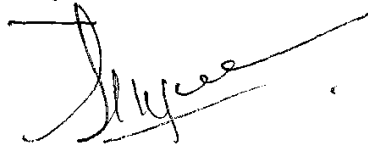
- (j) To facilitate the allottees of one or more number of sites on account of the family eligibility to meet the exigencies in life like health emergency, education necessity, etc., the conditions in the lease cum agreement relating to allotment of sites shall be relaxed so as to enable them to mortgage or alienate the portion of the sites allotted to them to meet such exigencies as they have a right over their property in their possession.
- (k) The shops constructed in new town area shall be allotted to business people from old town who intend to start their business in new town area on rental basis for a particular period of 3-5 years so as to promote livelihood in new town area.

19.The Commission directs that the above recommendations shall be complied so as to protect the human rights like right to life, dignity, liberty and security of the persons to be shifted from old town to new town and to protect their right to livelihood while shifting from old Bagalkot town to new Bagalkot town from the affected submergence area, within a period of three months and action taken shall be reported within one month from the date of receipt of this order, as required under Sec.18 (e) of the Protection of Human Right Act, 1993 .

20.With the above recommendations, the complaints in H.R.C.No.4243 of 2008 connected with H.R.C.NO.277 of 2009 and H.R.C.NO.279 of 2009 stand finally disposed of.

sd/f
(R.H.RADDDI)
MEMBER

copy



Assistant Registrar
Karnataka State Human Rights Commission
Bangalore.

