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Summary of the Judgment dated 15.3.2005 of the Supreme Court in the applications filed by the villages of Jalsindhi and Picchodi, Madhya Pradesh

The judgment of the three-Judge Bench of the Supreme Court of India has **accepted the contentions of the oustees** in the two villages and held that:

(a) For the purposes of rehabilitation under the NWDTA, there is **no distinction** between those whose lands are either temporarily or permanently submerged;

(b) **Major sons are entitled to rehabilitation by way of 2 hectares land** on par with land holders; and

(c) The concept of pari passu means that all those who are affected at a particular height of the dam have to be first rehabilitated in accordance with the award before the height of the dam can be further increased.

Also,

- Every one of the contentions of the State of Madhya Pradesh on the above points has been negated by the Court.
- Regarding choice of land, the judgment specifically states that the land which is to be allotted must be cultivable and irrigable land and that all efforts should be made to locate such land for the oustees.
- The judgment notes the contentions of the State of M.P. made before the Supreme Court earlier that rehabilitation will have to be done community-wise.
- The judgment sets out the figures submitted by the State of M.P. to the NCA from time to time for obtaining clearance for raising the height of the dam. Thus, after this judgment, the figures of persons remaining to be rehabilitated will have to be revised upwards. It is simply not possible for the NCA to give clearance for raising the height till rehabilitation of all the affected people. **In fact, the judgment has reiterated the Court's earlier stand that the dam height should not be raised before full rehabilitation is completed.**

Implication- The immediate implication of this judgment is that that the balance for rehabilitation under the current height of 110 metres, has just increased by a large number. M.P. was earlier denying major sons land, while Maharashtra was allotting only one hectare; now 2 hectares will have to be allotted to all major sons under 110 and 121 metres. In addition, M.P. was using the distinction between temporary and permanent to delay rehabilitation of "temporarily affected families". Since the Court has ruled against this, M.P. will immediately have to rehabilitate all temporarily affected families under 110 and 121 metres, and only then proceed with dam construction.

Hence, not less that 25,000 families are in the affected zone of 121 metres, who will ALL HAVE TO BE REHABILITATED before the government raises the dam to 121 metres or even by another single inch!