

**Report on Implementation of Interim Orders
of the Supreme Court of India in the Right to Food case
in Badwani District, MP**

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1. The Commissioners designated by the Supreme Court in the Right to Food case received a complaint from the Jagrit Adivasi Dalit Sangathan (JADS), Badwani (dated 14th August 2004) alleging that
 - Wages have not yet been paid at a dam constructed at village Limbi, block Pati, tehsil Badwani, district Badwani, following the GoMP's Pach-Ja campaign in May 2004. The dam was said to have been completed on 2nd June 2004.
 - Social Audit had not been carried out at Limbi despite 3 written requests by the villagers of Limbi
2. On the 22nd of August, 2004, Dr.N.C.Saxena wrote to the Collector Badwani stating that "This is a very serious matter, and I am surprised that no payment has been made to poor people, despite a gram sabha resolution...they MUST be paid immediately. Please note that non-payment of wages for work done at the behest of government officials will be taken very seriously by the Hon'ble Supreme Court."
3. The district administration agreed to conduct a social audit at village Limbi on the 4th of September 2004.
4. The Commissioners requested their Adviser Dr.Mihir Shah to report to them on the matter by arranging to be present at the social audit either in person or through his authorised representative
5. The Adviser Dr. Mihir Shah requested Shri Rangu Rao to represent him at the social audit in view of his expertise in watershed related matters. A copy of the letter appointing Shri Rangu Rao as his representative was faxed to the District Collector Badwani on the 1st of September 2004 seeking her co-operation in the matter.
6. Shri Rangu Rao met the District Collector Smt Anju Baghel at her office at 9.30 am on the 4th of September 2004. The Collector demanded to know under which order of the Supreme Court in which case had Commissioners been appointed and what authority did Dr.Mihir Shah have. She said she was a new appointee and was unaware of the case.

¹ This report is based on the visit by my representative, the renowned watershed expert Shri Rangu Rao to village Limbi, block Pati, tehsil Badwani, district Badwani on the 4th of September 2004. Shri Rao has over 10 years of experience in implementing and guiding watershed related work in the states of MP, Chhatisgarh, Jharkhand, Bihar, Gujarat and Orissa. He was assisted during the visit by SPS watershed engineer Shri Muralidhar Kharadia.

7. Shri Rangu Rao informed her that the interim order of the Supreme Court dated 8th May 2002 (in the case of PUCL Vs UOI & ORS. WRIT PETITION (Civil) NO.196 of 2001) had appointed Dr.N.C.Saxena and Shri S.R.Sankaran as Commissioners to assist the Court. The Court had further stated in the same order that the Commissioners shall be at liberty to take the assistance of individuals and reliable organisations in each state. The Court further directed all officials to fully co-operate with such persons/organisations to bring about effective implementation of the orders of the Court. Shri Rao also informed her that through his letter dated 26th August 2002, Dr.N.C.Saxena had informed the Chief Secretary about the appointment of Dr.Mihir Shah as Adviser for MP. Following this, the Secretary, Panchayats and Rural Development, GoMP had issued an order no.10913/xzk-jks-/22/fo&7/02 dated 7th September 2002 addressed to all Collectors and CEOs, ZP of MP informing them about the appointment of Dr.Shah as Adviser and directing them to provide him full co-operation on a priority basis so that compliance with the orders of the Supreme Court could be ensured. Shri Rao also informed the Collector that he had already visited Badwani as the representative of Dr.Shah on the 15th and 16th of October 2003 and had prepared and submitted a written report to the GoMP along with 3 government officials who were members of the Enquiry Team along with him.
8. Shri Rao obviously had to make quite an effort to convince the Collector that she should indeed co-operate in the matter. She also showed a surprising unawareness of a very important case of the Supreme Court as well as orders of the GoMP. Her attitude could be discerned through her wondering aloud "how long will these enquiries go on? Till the government succumbs to the anti-social elements who file these complaints?"
9. The Collector alleged that no TS, AS, Gram Sabha resolution or muster rolls were available for the work for which JADS is demanding payment. However, she agreed that since the work had been done payments would be made on the basis of valuation to be carried out by the Gram Sabha in the presence of her officers. Shri Rao was provided a copy of a written statement issued by the Collector on the 28th of August 2004 wherein she had promised a sympathetic settlement for the labourers who had worked at the dam site at Limbi. In the same statement, however, her extremely hostile attitude towards JADS is also explicitly stated in fairly graphic terms (see Annex I)
10. Shri Rao then proceeded to village Limbi, 35 km. south-west of Badwani. The officers present at the social audit which began at 12.30 pm included Addl CEO ZP Badwani, Tehsildar Badwani, CEO JP Pati, Dy Dir Panchayats District Badwani, SDO RES, tehsil Badwani and Secretary of GP Limbi. Around 800 villagers,

including the sarpanch, attended the social audit (after 561 people registered their presence in the Attendance Register the meeting commenced following fulfillment of quorum requirement) (see Annex II: Minutes of the Gram Sabha)

11. The GP secretary was asked to present the records of the work done in 2003–2004. He said that the accounts are under audit in Badwani. However, the Dy Dir Panchayats Badwani who was present said that there were no records in Badwani and that they had been sent to the block office at Pati. The CEO JP Pati, in turn, denied being in possession of these records and stated that they had been returned to the GP. A search was then initiated in the house of the sarpanch. The secretary GP initially returned only with the cash book. He was then again sent to get the entire records of the panchayat including muster rolls, bills and vouchers etc.
12. This made it obvious that every attempt was being made by the GP to hide its records on any pretext. If this is the case in a special Gram Sabha in the presence of a representative of the Supreme Court, one does not need too fertile an imagination to realise how difficult it is to obtain information for village people in the normal course
13. A large number of people expressed the view that they were unaware that the Gram Sabha had approved the repairs of the GP building. An examination of the minutes book of the Gram Sabha showed that there was no prior approval for this work.
14. The GP failed to provide any records or accounts for 2004–2005. It clearly appeared the people had no information about nor had any proposals for work been made at meetings of the Gram Sabha. The people said that this had never been done in their village.
15. A major item of expenditure shown in the cash book is "repair of school building". The cash book states that the panchayat spent Rs.52,765 and distributed 63.5 quintals of wheat as payment for this work. Although shown as a repair work, an old health centre building was brought down to construct a new building. There is no account of the material retrieved from the old structure and used in the new building. The expenditure had no approval from the Gram Sabha or the administration. The meeting resolved that a comprehensive enquiry be carried out of this work to ascertain whether it had got technical sanction and also to assess the material used in the work (see page 18 of Annex II)
16. The social audit meeting also resolved that an enquiry be carried out into
 - the repair of drinking water well and trough (see page 19 of Annex II). People by and large felt that Rs.29,000 just could not have been spent on this work.
 - the construction of a well in Masanya Phalia because this work had not been approved by the Gram Sabha, it was incomplete and it needed to be ascertained

that Rs.10,248 and 13.44 q of wheat had indeed been spent on the work (see page 19 of Annex II).

17. All these enquiries would be carried out by a committee consisting of an elected panch, a Junior Engineer (RES) and a social activist (see page 19 of Annex II).
18. It was also resolved that social audit be carried out of work done in Limbi by any other agency, including non-government agencies.
19. An examination of the records clearly showed that only a few people repeatedly got the opportunity to work on the site during the entire construction period. This clearly showed that Sarpanch was favouring only a few.
20. Finally, the issue of non-payment of wages at an earthen dam site in Dedwani Phalia (near Johania s/o Hira's field) was taken up. Everyone went to the site. The following facts emerged:
 - On 14th April 2003 a Gram Sabha resolution had been passed for construction of this dam
 - Despite this no work was taken up at this site by the GP for more than 1 year. An examination of the minutes of the Gram Sabha (4/9/04) clearly shows that a sum of Rs.1,16,480/- and 81.96 q of grain were left unutilised at the end of 2003–2004 (see page 16-17 of Annex II). Even then in a situation of drought and great need for work as also distress migration, this work was not taken up.
 - On 22nd May 2004 during the Panch-ja Gram Sampark Abhiyan, the Naib Tehsildar Pati inaugurated the work on this dam (see signed statement of Naib Tehsildar testifying to this in Annex III)
 - The work on the dam was completed on 2nd June 2004 but payments were not made despite there being money available with the GP.
 - A Joint Enquiry Committee (including government officials and my representative) set up by the GoMP at the behest of the Commissioners of the Supreme Court visited the dam site on 16th June 2004, where they met the Naib Tehsildar Pati in the presence of the SDM Badwani. The Naib Tehsildar agreed that the dam had been built at his instance, and when asked why payments had not yet been made, stated that they would be made at the earliest.
 - On 24th July 2004, in a letter to the sarpanch Limbi, the CEO ZP Badwani directed him to immediately pay labourers on this dam their due wages for which Rs. 82,737 and 103 quintals of wheat along with 15 quintals of rice had already been released to his GP on 25th June 2004. He wrote that the non-payment by the sarpanch even after a month of his being provided this release was inappropriate and could lead to any untoward incident in the village. He was directed to make

- the payment within 3 days. Or else face action u/s 40 and other sections of the Panchayat Raj Act (see Annex IV)
- On 3rd August 2004 the Tehsildar Badwani wrote to the Naib Tehsildar Pati and the CEO JP Pati to ensure immediate payment of wages on the dam (see Annex V).
 - On an examination of this dam at the site, Shri Rao and all officials agreed that the labourers had done very good quality work, although the site selection could have been better. The Tehsildar of Badwani expressed the view that the labourers need to be congratulated for the hard work they had put in under the extreme heat conditions of May 2004.
 - It is a matter of serious concern that despite a passage of 3 months since the work on the dam was completed and repeated letters written by district officials to the GP, as also letters from the Commissioner of the Supreme Court to the Collector and a Joint Enquiry Committee set up by the GoMP visiting the site, payments have still not been made to the labourers. This is a gross violation of the Interim Orders of the Supreme Court in the Right to Food case.
 - On examination of the labour records we find that 1566 person-days of work has been put in at the site (see Annex VI).
 - At a statutory minimum wage of Rs. 56.83 (see Annex VII for order of GoMP), this comes to a total payment of Rs. 88,995.78.
 - Shri Rao has also prepared a post-valuation estimate of the work (see Annex VIII). This comes to Rs. 80,191. All of this is wage payments. The SDO (RES) Badwani also expressed his view to Shri Rao that the cost of the dam would be around Rs. 80,000.
 - Considering the already three month delay in payment of wages, a compensation of 10% for delay would be entirely reasonable (see letter of Commissioners of the Supreme Court to the Chief Secretary, GoMP no. JEC.Barwani/203/MP dated 1st August 2004). Adding this to the value of work done as per CSR, the figure due to the labourers would come to Rs. 88,209.65. This is almost equal to the value according to the labour records.
 - We, therefore, believe that an immediate payment to labourers of a total sum of Rs. 88,995.78 according to the record of work done at Limbi would be most appropriate.

Summary Recommendations

1. The Collector Badwani must ensure that the process of social audit is taken seriously by all Gram Panchayats in the district. All records must be made available at meetings of the Gram Sabha, which must be regularly held. Copies of records must be made available to any citizen on demand. Strict action must be initiated on any dereliction of duty in this respect.
2. The Collector Badwani must fully co-operate with any individual/organisation seeking to enforce transparency and accountability in governance.
3. A payment of a total of Rs. 88,995.78 be immediately made to labourers who worked at the earthen dam site in Dedwani Phalia (near Johania s/o Hira's field) in village Limbi, block Pati, tehsil Badwani, district Badwani as per the record of work done.
4. The payments must be made in a transparent manner at village Limbi in full public view in the presence of an officer of rank not less than Tehsildar.
5. The Collector should report to the Commissioners of the Supreme Court of India that the payment has been made, not later than 20th September 2004. Non-compliance with this would necessitate bringing the issue to the notice of the Hon'ble Supreme Court.

(Dr. Mihir Shah)

10th September 2004

Adviser to the Commissioners, Supreme Court of India