

COMMITTEE ON PETITIONS
FIFTH REPORT

(SECOND LOK SABHA)

(Presented on the 15th December, 1958)



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

December, 1958

Price : 12 naye paise

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PERSONNEL OF THE COMMITTEE ON PETITIONS

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2. Shri Avtar Singh Rikhy—*Deputy Secretary.*
3. Shri A. L. Rai—*Under Secretary.*

REPORT

I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this their Fifth Report.

2. The Committee at their sittings held on the 17th September and the 21st November, 1958 considered Petition No. 18 (See Appendix) from Shri C. P. Agrawal, Kaimganj, U.P., which had been presented to Lok Sabha by Shri Arjun Singh Bhadauria, M.P. on the 11th September, 1958. The petitioner had prayed that, as the law relating to the liability of the State in tort was in a state of uncertainty, necessary legislation, as recommended by the Law Commission in their First Report on the subject, might be initiated during the Fifth Session of Lok Sabha.

The Committee perused the comments of the Ministry of Law on the petition and noted that the Ministry was taking necessary steps to implement the recommendations of the Law Commission. A draft Bill on the subject had been prepared and circulated to the State Governments etc. for comments. After the comments were received and considered by the Government, the Bill would be introduced in Parliament.

The Committee, therefore, feel that it is not necessary to make any recommendation on the petition.

3. The Committee considered on the 27th August and the 21st November, 1958 the reply of the Ministry of Home Affairs regarding implementation of the recommendations of the Committee on Petitions, First Lok Sabha, on Petition No. 45 (relating to the Indian Arms Act) contained in their Sixth Report.

The Committee noted that no State Government, except one, had raised any objection to the implementation of recommendation No. (i) on Petition No. 45, contained in the Sixth Report of the Committee on Petitions (First Lok Sabha) regarding acceptance of remittances of arms licence fees under the Indian Arms Act by the Treasuries by money orders/postal orders. However, on the position being explained by the Ministry of Home Affairs to the State Government, which had raised certain difficulties, and on their being requested to give effect to the decision, that Government had not pressed their objection any further. The Ministry of Home Affairs had added that it might, therefore, be presumed that the decision had been accepted by all the State Governments.

The Committee recommend that the Ministry of Home Affairs might suggest to the State Governments to give adequate publicity to the above facility by issuing Press Notes etc. on the subject.

4. The Committee also considered at their sittings held during the Sixth Session of Lok Sabha, 126 representations, letters and telegrams addressed by various individuals, associations, etc. to the House, the Speaker or to the Chairman of the Committee, which were inadmissible as petitions.

NEW DELHI;
The 9th December, 1958.

UPENDRANATH BARMAN,
Chairman,
Committee on Petitions.

APPENDIX.

(See para 2 of Report)

PETITION NO. 18

To

Lok Sabha,
New Delhi.

The humble petition of Shri Chandra Prakash Agrawal
Sheweth:

1. The Law relating to the liability of the State in tort is in a state of uncertainty.

2. It has now become increasingly necessary to abandon the theory of a legally indivisible State, and of the conception of feudal allegiance to the Crown, and to substitute for it, the principle of legal liability in matters where the State, either directly or through incorporated public authorities, engages in activities of a commercial, industrial or managerial nature.

3. In pursuance of a communication received from the President of India, the Ministry of Law took up for consideration the question whether legislation on the lines of the Crown Proceedings Act, 1947 of the United Kingdom in respect of claims against the State based on 'tort' is needed and, if so, to what extent.

4. After the constitution of the Law Commission, the Ministry of Law referred the matter to that Commission for consideration and report.

5. The Law Commission, after due consideration of the matter, made certain recommendations on the 11th May, 1956 in their First Report:—Liability of the State in Tort, in respect of legislation for making the State to stand on the same footing as in a suit between subject and subject.

6. It is suggested that necessary legislation as recommended by the Law Commission in their First Report might be initiated during the current (Fifth) Session of Lok Sabha, for the following reasons:

- (a) In principle there is no convincing reason why the Government should not place itself in the same position as

a private employer subject to the same rights and duties as are imposed by the Statute.

- (b) The law should progress in favour of the subject in the context of a Welfare State and should not remain inflexible.
- (c) Legislation in this respect has not so far been initiated and enacted.
- (d) Legislation in this respect is essential in the public interest.
- (e) In the context of a Welfare State, it is necessary to establish a just relation between the rights of the individual and the responsibilities of the State.

and accordingly your petitioner prays for early consideration of the petition in the public interest, and your petitioner as in duty bound will ever pray.

Name of the Petitioner	Full Address	Signature with date
Chandra Prakash Agrawal	Honorary Secretary, The Tobacco Merchants, Association, Kaimganj, U.P.	Sd/-C.P. Agrawal 11.8.58.

Countersigned
By

{ Arjun Singh
Bhadauria, M.P.