

COMMITTEE ON PETITIONS

(SIXTH LOK SABHA)

THIRD REPORT



[Presented to Lok Sabha on the 18th April, 1978]

**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1978/Chakra, 1900 (\$)

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CONTENTS

	PAGE
Composition of the Committee on Petitions	(iii)
I. Introduction	1
II. Petition No. 3 regarding the Gresham and Craven of India (Private) Limited (Acquisition and Transfer of Undertakings) Bill, 1977 . .	3
III. Petition No. 4 regarding unemployment, price-rise, lowering of voting age, inclusion of right to work in Fundamental Rights, educational reforms, atrocities on Harijans and other weaker sections of the Society	4
IV. Representation regarding membership of the Delhi School Teachers' Cooperative House Building Society Ltd., Delhi	5
V. Representation from Shri Purshottam Jivan Machhi, Distt. Valsad, regarding release of confiscated vessel on payment of fine under Sections 115 and 125 of the Customs Act, 1962	9
VI. Representation from Shri A. L. Rai, Vasant Vihar, New Delhi, re. alleged breach of Lease Agreement by Shri M. Maljkovic of the Embassy of Yugoslavia and payment of Rs. 49360 as damages therefor.	14
VII. Representation from Kumari Satya Kumari against alleged rejection of her candidature for recruitment of Clerk-cum-Cashier/Typist-clerk by the State Bank of India, New Delhi, after she had qualified in written test and interview	18
VIII. Representation regarding excise duty on stalk tobacco	22
IX. Representation from Shrimati Jiwan Kaur, re. Settlement of compensation claim of Rs. 9900	29
X. Other representations	31
XI. General	32

APPENDICES

I. Petition No. 3 regarding the Gresham and Craven of India (Private) Limited (Acquisition and Transfer of Undertakings) Bill, 1977.	33
II. Petition No. 4 regarding unemployment, price-rise, lowering of voting age, inclusion of right to work in Fundamental Rights, educational reforms, atrocities on Harijans and other weaker sections of the Society.	36
III. Representation regarding membership of the Delhi School Teachers' Cooperative House Building Society Ltd., Delhi.	41
IV. Representation regarding excise duty on stalk tobacco	48
V. Government of India notification F. No. A-11013/E/122/72-Ad. IV, dated the 9th January, 1973 regarding terms of reference of the Tobacco Excise Tariff Committee	51
VI. Copy of notification No. 98/75-CE dated 30-4-1975	54
VII. Other representations on which the Committee's intervention has procured expeditious, partial or complete relief to petitioners or the Ministries/Departments concerned have explained the position satisfactorily	55

COMPOSITION OF THE COMMITTEE ON PETITIONS
(1977-78)

CHAIRMAN

Shri Hari Vishnu Kamath

MEMBERS

2. Shri Aghan Singh Thakur
3. Shri Ahmed Hossain
4. Shri Rajagopala Rao Boddepalli
5. Shri Ganga Bhakt Singh
6. Shri D. B. Chandra Gowda
7. Shri Kishore Lal
8. Shri R. Kolanthaivelu
9. Shri Lalji Bhai
10. Shri Nanubhai N. Patel
11. Shrimati Ahilya P. Rangnekar
12. Shrimati Rano M. Shaiza
13. Shri Ugrasen
14. Shri K. P. Unnikrishnan
- *15. Sardar Raghbir Singh Virk

SECRETARIAT

1. Shri J. R. Kapur—*Chief Legislative Committee Officer.*
2. Shri M. P. Gupta—*Senior Legislative Committee Officer.*

*Nominated with effect from 20th February, 1978, *vice* Shri Chand Ram ceased to be a member of the Committee on his appointment as a Minister of State.

THIRD REPORT OF THE COMMITTEE ON PETITIONS (SIXTH LOK SABHA)

I

INTRODUCTION

1.1. I, the Chairman of the Committee on Petitions having been authorised by the Committee to present the Report on their behalf present this Third Report of the Committee to the House on the following matters

- (i) Petition No. 3 regarding the Gresham and Craven of India (Private) Limited (Acquisition and Transfer of Undertakings) Bill, 1977.
- (ii) Petition No. 4 regarding unemployment, price-rise, lowering of voting age, inclusion of right to work in Fundamental Rights, educational reforms, atrocities on harijans and other weaker sections of the Society.
- (iii) Representation regarding membership of the Delhi School Teachers' Cooperative House Building Society Ltd., Delhi.
- (iv) Representation from Shri Purshottam Jivan Machhi, Distt. Valsad, regarding release of confiscated vessel on payment of fine under Sections 115 and 125 of the Customs Act, 1962.
- (v) Representation from Shri A. L. Rai, Vasant Vihar, New Delhi, re. alleged breach of Lease Agreement by Shri M. Maljkovic of the Embassy of Yugoslavia and payment of Rs. 49360/- as damages therefor.
- (vi) Representation from Kumari Satya Kumari against alleged rejection of her candidature for recruitment of Clerk-cum-Cashier/Typist-Clerk by the State Bank of India, New Delhi, after she had qualified in written test and interview.
- (vii) Representation regarding excise duty on stalk tobacco.
- (viii) Representation from Shrimati Jiwan Kaur, regarding settlement of compensation claim of Rs. 9900/-
- (ix) Other representations.

1.2. The Committee considered the above matters at their sittings held on the 31st August, 27th October, 28th November, and 20th December, 1977 and 7th and 8th February, and 14th and 30th March, 1978.

1.3. The Committee considered their draft Report at their sitting held on the 12th April, 1978, and adopted it.

1.4. The observations of the Committee on the above matters have been included in this Report.

NEW DELHI;
Dated the 12th April, 1978.

HARI VISHNU KAMATH,
*Chairman,
Committee on Petitions*

II

PETITION NO. 3 REGARDING THE GRESHAM AND CRAVEN OF INDIA (PRIVATE) LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) BILL, 1977.

2.1. Shri Dinen Bhattacharya, M.P., presented to Lok Sabha on the 28th November, 1977 a Petition (*See Appendix I*) signed by Shri Sukumar Chowdhury and others regarding the Gresham and Craven of India (Private) Limited (Acquisition and Transfer of Undertakings) Bill, 1977.

2.2. The Committee considered the petition at their sitting held on the 28th November, 1977.

2.3. The Committee directed that as the Gresham and Craven of India (Private) Limited (Acquisition and Transfer of Undertakings) Bill, 1977, was included in the List of Business of Lok Sabha for consideration and passing, the petition might be circulated* in extenso to the members of Lok Sabha under Rule 307(1) of the Rules of Procedure and Conduct of Business in Lok Sabha.

*The petition was circulated *in extenso* to all members of Lok Sabha on the 28th November, 1977.

III

PETITION NO. 4 REGARDING UNEMPLOYMENT, PRICE-RISE, LOWERING OF VOTING AGE, INCLUSION OF RIGHT TO WORK IN FUNDAMENTAL RIGHTS, EDUCATIONAL REFORMS, ATROCITIES ON HARIJANS AND OTHER WEAKER SECTIONS OF THE SOCIETY

3.1. Shri C. K. Chandrappa, M.P. presented to Lok Sabha on the 2nd December, 1977, a Petition (See Appendix II) signed by Shri Amarendra Narain Sinha and others regarding unemployment, price-rise, lowering of voting age, inclusion of right to work in Fundamental Rights, educational reforms, atrocities on harijans and other weaker sections of the society.

3.2. The Committee considered the petition at their sitting held on the 20th December, 1977.

3.3. The Committee directed that the petition be circulated* in extenso to the members of Lok Sabha under Rule 307(1) of the Rules of Procedure and Conduct of Business in Lok Sabha.

*The petition was circulated *in extenso* to all members of Lok Sabha on the 20th December, 1977.

IV

REPRESENTATION REGARDING MEMBERSHIP OF THE DELHI SCHOOL TEACHERS' COOPSRATIVE HOUSE BUILDING SOCIETY LTD., DELHI.

4.1. Shri Jyotirmoy Bosu, M.P. *vide* his letter dated the 4th August, 1977, forwarded a representation signed by Shri Mohan Lal Singla and others regarding membership issue of the Delhi School Teachers' Cooperative House Building Society Ltd., Delhi.

A. Petitions Prayer

4.2. In their representation (*See* Appendix III), the petitioners had prayed as follows:—

- “(a) That the Government be asked to direct the Registrar, Co-operative Societies, Delhi to countermand his afore-mentioned order dated the 22nd July, 1975, disentitling 503 *bona fide* members from the membership of the Delhi School Teachers Cooperative House Building Society Ltd., Delhi and to announce a revised list of members of the said Society containing the names of all 1482 members who submitted their affidavits before the Assistant Registrar, Cooperative Societies in support of their membership. The revised list be prepared on the basis of the date of their enrolment as members of the Society and should exclude the names of those who have either voluntarily withdrawn from the membership of the Society or are no longer entitled to continue as members, after acquiring a plot or house in Delhi in their own name or their dependents.
- (b) The present illegally elected Managing Committee which since coming into office has been indulging in various illegal activities to the detriment of the society and its members, should be asked to resign immediately, failing which they should be dismissed. This Committee has already run out its maximum tenure of 18 months under the law.
- (c) The Registrar should hold election to a new Managing Committee on the basis of the revised list of members to be prepared by him as indicated in (a) above.
- (d) Government should also ask the Registrar to take further suitable steps to ensure that all the members of the Society (or that number which comes after excluding those who own

houses or plots in Delhi in their own names or names of their dependents) get their plots of land and, if necessary additional land for the purpose may be allotted or the lay-out plan for the land already with the Society, revised so as to accommodate all the members.

(e) Pending preparation of revised list of members and election of Managing Committee, the following steps be also taken by the Registrar:—

(i) Bank Accounts of the Society be freezed;

(ii) Approval to the Revised Lay-out Plan of 1488 plots submitted to D.D.A. be expedited.

The allotment of small plots not more than 150 sq. yds. is in keeping with the policy of the Government and if only 900 and odd numbers are allowed the membership of the Society, they would be getting plots of more than 225 sq. yds.

(iii) Registrar be directed to issue immediately a letter to all the 503 disentitled members of the Society assuring them of their membership."

B. Factual comments of the Ministry of Works and Housing

4.3. The representation was referred to the Ministry of Works and Housing for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 8th November, 1977, the Ministry have stated as follows:—

"The Registrar of Cooperative Societies has intimated that, on a representation from the petitioners and also from the members of the Managing Committee of the Society on the 27th July, 1977, the Lt. Governor, Delhi approved a time bound programme to finalise the membership issue and for election of the new Managing Committee. Formalities relating to the conduct of election, such as preparation of a provisional membership list, publication of a notice in the newspapers setting up of a Committee to examine and decide the objections and suggestions received and other allied matters were finalised and election was fixed for the 18th September, 1977. In the meantime and afterwards, however, two Writ Petitions were filed in the Delhi High Court. One of these, viz. CW No. 581/77, was filed by Shri Kailash Chand Sharma and others for direction to the Registrar of Cooperative Societies to accept 1482 persons as members, stoppage of bank operations of the Society and appointment of an

Administrator. In C.M. No. 1251/77 to the aforesaid Civil Writ No. 581/77, the court ordered on the 15th September, 1977 that the election results will be subject to the Writ Petition. Another Writ Petition No. 659/77 was filed by Shri Ram Kishan Bhalla and others against the Registrar before the Division Bench of the Delhi High Court challenging *inter alia* the list of membership and requesting for stay of election proceedings, removal of the present Managing Committee and appointment of an Administrator in their place. The Division Bench passed an *ex-parte* stay Order on 15-9-1977 in C.M. No. 1249/77 in the said Civil Writ Petition directing the Registrar not to hold election on 18th September, 1977.

It would be seen from the position stated above that the matter is *sub judice*. It has further been reported that all the contentions made by the petitioners in their petition submitted to the Committee on Petitions are now the subject matter of the above-mentioned two Writ Petitions. Any further action, therefore, on these points will depend on the outcome of the two Writ Petitions."

C. Observations of the Committee

4.4. The Committee note from the factual comments furnished by the Ministry of Works and Housing that two Writ Petitions had been filed in the Delhi High Court challenging *inter alia* the list of membership and requesting for stay of election proceedings, removal of the present Managing Committee and appointment of an Administrator in their place. The Division Bench of the Delhi High Court passed an *ex parte* stay order on the 15th September, 1977 directing the Registrar of the Cooperative Societies, Delhi, not to hold election to the Managing Committee of the said Society on the 18th September, 1977. The Ministry of Works & Housing have stated that the matter is, therefore, *sub judice*. It is further stated that all the contentions made by the petitioners in their petition submitted to the Committee on Petitions are the subject matter of the above mentioned two Writ Petitions and that therefore any further action on those points would depend on the outcome of the two Writ Petitions.

The Committee also note that according to a Public Notice published in the Hindustan Times dated the 24th January, 1978, the Division Bench of the Delhi High Court has passed orders in Civil Writ Petition No. 659/77 appointing a Commissioner to go into the question of:

- (i) The validity of the exclusion of 897 members by the Managing Committee;

(ii) The validity of the inclusion of some out of the total of 784 members;

for the purpose of preparing a list of those members who alone could participate in the election of the Managing Committee of the said Society. The Commissioner appointed for the purpose has directed the persons who claim that they are members of the above Society and whose claims had not been approved by the Managing Committee of the Society to submit their claims to him within 15 days of the publication of the notice.....

The Committee are of the view that as the matter is sub judice, intervention of the Committee in the matter would not be proper.

**REPRESENTATION FROM SHRI PURSHOTTAM JIVAN MACHHI,
DISTT. VALSAD, REGARDING RELEASE OF CONFISCATED VESSEL
ON PAYMENT OF FINE UNDER SECTIONS 115 AND 125 OF
THE CUSTOMS ACT, 1962**

5.1. One Shri Purshottam Jivan Machhi, Distt. Valsad, submitted a representation, dated the 8th July, 1977, for release of his confiscated vessel on payment of fine under Sections 115 and 125 of the Customs Act, 1962.

A. Petitioner's Grievance and Prayer

5.2. In his representation, the petitioner stated as follows:—

"I, a poor, distressed and physically crippled Machhi of 72 years beg to approach you directly with this petition for mercy and seek your help for survival. I have a family of three sons and three daughters. In the year 1968 I built a vessel (Dhanprasad-UMR No. 402) by incurring debt of Rs. 12000/- and fitted an engine by borrowing a loan of Rs. 10,844/- from the Fisheries Department. I was maintaining my family by fishing. In the year 1974, I received an electric shock, my left arm was paralysed and I was confined to bed. Since I could not go out for fishing. My sons secretly negotiated with a smuggler and without my knowledge hired out my vessel for smuggling. My vessel was caught and seized by the Customs. Departmental proceedings were held against me and a penalty of Rs. 1000/- was imposed on me and my vessel was confiscated by the Addl. Collector of Customs, Ahmedabad under his Order No. VIII/10-74/Collr/74 of 31-12-74. Before deciding the case I was not given sufficient opportunity by the Addl. Collector to appear before him although I had sent medical certificate of my illness in time. I incurred debt again and paid the penalty of Rs. 1000/-, I, then appealed to the Central Board of Excise and Customs, New Delhi on 5-5-'75 and pleaded for option to be given to me to pay fine in lieu of confiscation of my vessel under Section 115 of the Customs Act so that I can maintain my family by using the vessel for fishing. The Central Board rejected my appeal and upheld the order of absolute confiscation of the vessel (Order F. No. 191/130/75 CX. V(A) of 30-8-1976.).

I have no means of livelihood now and am reduced to starvation
I have to repay my debt of borrowing. All my three sons are

in jail. My vessel has been disposed of by an illegal auction by the Customs Department without giving publicity in any newspapers. I have no means of maintaining my family and hence I have come up to you with this petition for mercy to order cancellation of the auction of my vessel and to restore it to me for which I am prepared to pay fine in lieu of confiscation under sections 115 and 125 of the Customs Act. For this act of mercy I shall always remain indebted to you."

B. Comments of the Ministry of Finance (Department of Revenue)

5.3. The representation was referred to the Ministry of Finance (Department of Revenue) (Central Board of Excise and Customs) for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 9th November, 1977, the Ministry of Finance have stated as follows:—

"The brief facts of the case are that on 13th April, 1974 the vessel 'Dhanaprasad' belonging to the petitioner was intercepted near Umargan coast, after a chase as the vessel refused to stop when required to do so, and synthetic fabrics of Japanese origin of estimated value Rs. 6,87,590 Indian currency amounting to Rs. 1,700/- and Dubai currency amounting to Rs. 176 Dirhams were recovered from it. The statement given by the Tindal, Crew Members and another person who was found on board the vessel showed that the vessel had been hired by a person known as Kamlakar, Naigam, Bombay, from Jayantilal Purshottam Machhi, the son of the petitioner for the purpose of smuggling goods into India from Dubai. The petitioner himself admitted in his statement that the affairs of the vessel were managed by his eldest son Jayantilal Purshottam Machhi and that a few days before the interception of the vessel by the Customs Authorities his sons Jayantilal and Bhagwan Purshottam Machhi had discussions with some unknown persons in his house. He claimed that he was not aware of the nature of the discussions. The Customs Department could not record any statement from Jayantilal Purshottam Machhi who appeared to have willingly given the vessel belonging to his father and managed by him, for the purpose of smuggling the goods into India.

A show cause notice was issued by the Additional Collector of Customs, Ahmedabad to the petitioner among others, indicating the liability of the seized goods and the vessel to confiscation and his liability to a penalty, under the provisions of the Cus-

toms Act, 1962. On receipt of his reply, the Additional Collector offered an opportunity for personal hearing. An appointment was given to the petitioner on 20.11.74 which was adjourned at the request of the petitioner to 28.11.1974 which was again adjourned at the request of the petitioner to 13.12.74. The petitioner's son informed the Additional Collector by a letter on 14.12.74 that his father was ill and could not attend the hearing. The Additional Collector decided that the petitioner had been given reasonable opportunities for appearing before him. Under the provisions of the Customs Act, 1962, it is not necessary that the person against whom proceedings are initiated should himself appear for personal hearing before the Adjudicating Authority. Such appearance can be made through an authorised representative also. In this case the petitioner could have either deputed one of his sons or a relative or a friend, if he could not engage a legal practitioner to appear before the Additional Collector. Under these circumstances, it is not correct to say that the Additional Collector did not offer reasonable opportunities to the petitioner to appear before the order of confiscation of the vessel was passed by him.

The arguments advanced by the petitioner in his written appeal and during the personal hearing in which he was represented by a consultant, stressed his lack of knowledge of the use of his vessel for smuggling purposes. The petitioner also pleaded for the release of the vessel on a fine in lieu of confiscation. On careful consideration of the appeal, the Board came to the conclusion that the petitioner, as owner of the vessel, failed to discharge the burden on him under Section 115(2) of the Customs Act, 1962 to prove that neither he nor his agent nor the person incharge of the vessel were aware that it was used for smuggling. Further, as the vessel did not stop when it was required to do so by the Customs Officers, it was also liable to confiscation under Section 115(1)(c) of the Customs Act, 1962. The petitioner's vessel was also not registered as a carrier of goods or passengers on hire for applying the proviso to Section 115(2) of the Customs Act, 1962 and allowing an option to pay a fine in lieu of confiscation. It was, therefore, not entitled to redemption from confiscation as contemplated under the proviso to Section 115(2) of the Customs Act, 1962. The provisions of Section 125 of the Customs Act, 1962 are not applicable to confiscations under Sections 115(1) and 115(2) of the Customs Act, 1962.

In view of these facts the petitioner's contention that the vessel should have been released to him on payment of a fine in lieu of confiscation is not maintainable in law.

Even in the petition submitted to the Chairman, Petitions Committee, Lok Sabha Secretariat, the petitioner has not contested the liability of the vessel to confiscation under the provisions of the Customs Act, 1962. He has only pointed out that his vessel was confiscated outright and the confiscation order was upheld by the Central Board of Excise and Customs, in appeal.

Regarding the plea of the petitioner that the vessel should be restored to him on payment of fine in lieu of confiscation, it is submitted that the vessel has been disposed of in public auction on 15.6.1977 for Rs. 25,000 by the Collectorate of Customs and Central Excise, Ahmedabad. As the vessel has already been disposed of in public auction, it is not possible to restore it to the petitioner at this stage. The petitioner's contention that the disposal of the vessel was illegal as it was not publicised in newspapers, has also no substance because the Board has been informed by the Additional Collector of Customs, Ahmedabad that though no publicity was given in newspapers, notices regarding the auction of the vessel were despatched to all important ports for giving wide publicity. The fact that the vessel was sold for Rs. 25,000/- in the auction when its estimated value at the time of its seizure in April, 1974 was only Rs. 25,000/- would itself show that the department had disposed of the confiscated property in the best manner possible. In any case the vessel belonged to the Government after its confiscation and the mode of its disposal to the best advantage of the Government cannot be a matter of grievance for the petitioner."

C. Observation of the Committee

5.4. The Committee note from the factual comments furnished by the Ministry of Finance that the vessel in question had been hired by a person from the son of the petitioner for the purpose of smuggling goods into India from Dubai and that the petitioner himself had admitted in his statement

that the affairs of his vessel were managed by his son. The Committee also note that the vessel has already been disposed of in a public auction on the 15th June, 1977 for Rs. 25,000/- by the Collector of Customs and Central Excise, Ahmedabad, and that, therefore, it is not possible to restore it to the petitioner at this stage.

The Committee are of the view that this is not a matter in which they should intervene.

REPRESENTATION FROM SHRI A. L. RAI, VASANT VIHAR, NEW DELHI, RE. ALLEGED BREACH OF LEASE AGREEMENT BY SHRI M. MALJKOVIC OF THE EMBASSY OF YUGOSLAVIA AND PAYMENT OF RS. 49360/- AS DAMAGES THEREFOR

6.1. Shri A. L. Rai, Vasant Vihar, New Delhi submitted a representation dated the 2nd August, 1977, regarding alleged breach of Lease Agreement by Shri M. Maljkovic of the Embassy of Yugoslavia and payment of Rs. 49,360/- as damages therefor.

A. Petitioner's Grievance and Prayer

6.2. In his representation, Shri Rai stated as follows—

“I let out a portion of Bungalow No. F-8/7, Vasant Vihar to Mr. M. Maljkovic from 15-11-1976 for a period of two years *vide* agreement dated 13-11-1976 which bears the seal of the Embassy of Yugoslavia.

He suddenly vacated the house without any grievance or cause for grievance on 30-4-1977 and moved into another residence.

Under the agreement the house could only be vacated on transfer out of India after giving two months notice.

He and Mr. N. Pavicovic who witnessed the agreement also did not give correct names while signing the agreement.

For breakages, breach of agreement and giving wrong names, Mr. M. Maljkovic and Mr. N. Pavicovic and the Embassy of Yugoslavia became liable to pay me Rs. 49,360/- as damages and also the two gentlemen to a criminal action.

I requested the office of the Chief of Protocol to get me compensation of Rs. 49,360/ or permit me to file civil and criminal suits against them.

I understand the Protocol Division has in clear and strong terms written to the Embassy of Yugoslavia to pay me damages for breach of a valid contract.

The Embassy, because of diplomatic immunity refuses to pay compensation for flagrant breach of a contract.

I would request you to kindly see the correspondence that has passed between the Government of India and the Embassy of Yugoslavia on this subject.

I would like to state that no immunity from civil law exists for diplomats in the Western countries.

I submit that either the Government of India should get me compensation of Rs. 49,360/- or give me permission to file civil and criminal suits."

B. Comments of the Ministry of External Affairs

6.3. The representation was referred to the Ministry of External Affairs for furnishing their factual comments thereon for consideration by the Committee. In this connection, the Ministry of External Affairs have furnished a summary of case *vide* their note dated the 31st October, 1977, stating as follows:—

"The case relates to premature vacation of House No. 8/7, Vasant Vihar by a home based member of the staff of the Yugoslavia Embassy, Mr. Maljkovic, rented out by him from Shri A. L. Rai for a period of 2 years starting from November 13, 1976, and compensation claimed by the latter.

According to clause 15 of the lease deed, the lease could be terminated before the expiry of the two years period in case the lessee was officially transferred from India, on giving two months notice in writing or payment of two months rent in lieu thereof. This case, however, is not covered by the said clause, as the employee of the Embassy continued to stay in India.

The landlord, therefore, claimed Rs. 50,790/- by way of compensation for the unexpired period of the lease, brokerage charges, damages to the fixtures and fittings of the house, as also towards payment of electricity and water bills. On receiving a complaint from Shri Rai, the case was immediately taken up by the Protocol Division of the Ministry of External Affairs with the Yugoslavia Embassy.

The lessor has since settled the bills for electricity and water and the claim of Shri Rai now stands reduced to Rs. 49,360/-. The Yugoslavia Embassy however, wrote back to say that the lease deed of 13th November, 1976, not being a registered document, was treated as an agreement on month to month basis. According to the Yugoslavia Embassy, Shri Rai was not supposed to stay in the portion of the house occupied by him beyond March, 1977 and was to be used only for storage of furniture. His occupation of the premises in contravention

of this understanding prevented independent and peaceful use of the house by Mr. Maljkovic. Mr. Maljkovic, therefore, chose to vacate the House. Mr. Rai was informed of his intentions in writing in early April, 1977 and he raised no objection to it at that time, and was even showing his house to prospective tenants for re-letting. According to the Yugoslavia Embassy, Mr. Maljkovic is, in the circumstances, not liable for payment of any compensation to Shri Rai for the unexpired period of the lease. However, he would be agreeable to payment of compensation for brokerage, to close the matter.

The Yugoslavia Embassy has not furnished any documentary proof in support of their contention that there was an understanding that the owner will not occupy the house beyond March, 1977. This was brought to the Embassy's notice in discussions; but they affirmed that such an understanding did exist. The owner has not, however, denied this fact.

The gist of the Yugoslavia Embassy's reply was communicated to Mrs. Rai on telephone. She wanted permission to sue the Embassy in a court in India. She was informed that the Ministry will not be able to give such permission in view of the Immunity which the Embassy enjoyed from the legal processes of our country. Mrs. Rai showed her unwillingness to settle for the brokerage alone, amounting to Rs. 2500/- and wished to have at least a few months rent by way of compensation.

Subsequently a communication was received from Shri Rai appointing Shri B. B. Tewari, Advocate as his Attorney to pursue his claim against the Yugoslavia Embassy. Shri Tewari has written to the Ministry of External Affairs expressing his preference to settle the matter amicably out of court. Shri Tewari has been asked by the Ministry to intimate whether he was willing to close the case by accepting the brokerage charges offered by the Embassy so that it could be taken up with the Embassy. A reply to this is awaited.

In view of:

- (a) the stiff attitude taken by the Embassy, the non-legality of the lease deed in the absence of registration;
- (b) the stay of the owners in the house beyond the period alleged to have been agreed upon between the parties;
- (c) the proposal of the Embassy to provide compensation for loss of brokerage, which according to the owner is Rs. 2500/-.

- (d) the immunity enjoyed by the Embassy from legal process in Courts in India; and
- (e) the preference shown by the owners' Attorney to settle the matter amicably out of Court;

room for intervention by the Government of India in this case, involving a diplomatic mission, is limited to good offices. These have already been exercised by the Protocol Division of the Ministry of External Affairs. In the view of this Division there appears to have been an informal undertaking that the entire premises would be made available by March, 1977. As this understanding was not in fact kept, the demand of the owner for full compensation of rent for the entire unutilised portion of the lease appears unrealistic. An amicable settlement nearer that proposed by the Embassy is recommended to both parties."

C. Observation of the Committee

6.4. The Committee have perused the factual comments furnished by the Ministry of External Affairs on the representation and are of the view that it is not a matter which calls for their intervention.

VIII

REPRESENTATION FROM KUMARI SATYA KUMARI AGAINST ALLEGED REJECTION OF HER CANDIDATURE FOR RECRUITMENT OF CLERK-CUM-CASHIER/TYPIST-CLERK BY THE STATE BANK OF INDIA, NEW DELHI, AFTER SHE HAD QUALIFIED IN WRITTEN TEST AND INTERVIEW

7.1. Kumari Satya Kumari, Haus Rani, New Delhi, addressed a representation dated the 6th June, 1977, against rejection of her candidature for recruitment as Clerk-cum-Cashier/typist-clerk by the State Bank of India, New Delhi, after she had qualified in written test and interview.

A. Petitioner's Grievance and Prayer

7.2. In the representation, the petitioner stated as follows:—

“After qualifying the written tests conducted by the State Bank of India, New Delhi, on the 14th/15th March 1977, for the above recruitment, I appeared for an interview before the Selection Committee on the 12th May, 1977. I qualified the interview also securing very good marks and was among the top candidates.

When the results were finalised few days after the interview, I came to know that my application had been rejected on the ground that my name was not suggested/sponsored by the Employment Exchange, Delhi.

It is submitted that at the time of tests, all candidates whether their names were sponsored, suggested by the Employment Exchange or not, were allowed to appear in the written tests and interview. It is not fair on the part of the State Bank of India to reject application later on on the ground that the name was not forwarded by the Employment Exchange.

It may be pointed out that my name is also registered with the Employment Exchange, Delhi *vide* Registration No. WAB/3880/76 Further, I have a bright career throughout. In Higher Secondary Examination, I have secured 71 per cent marks and in B.A. (Hons.) I have secured 62 per cent marks.

It is also learnt that a number of vacancies are still pending. Accordingly, in view of my bright career, my name registered with the Employment Exchange and having secured very good marks in the written tests as well as in the interview conducted

by the State Bank, and a number of vacancies still pending, it is requested that the matter may be considered sympathetically by the Committee on Petitions and justice is accorded to your humble petitioner."

**B. Comments of the Ministry of Finance (Department of Economic Affairs)
(Banking Division)**

7.3. The representation was referred to the Ministry of Finance (Department of Economic Affairs) (Banking Division) for furnishing their factual comments thereon for consideration by the Committee. In the factual comments dated the 5th September, 1977, the Ministry stated as follows:—

"The matter has been examined in consultation with the State Bank of India. The Bank has advised that in March, 1977, a test was conducted and vacancies were notified to the concerned Employment Exchange in Delhi, and in local Newspapers inviting applications from candidates belonging to SC/ST Category only. Km. Satya Kumari applied for the clerical job in response to the advertisement in newspapers and in her application, she confirmed that she belonged to SC/ST community. She was, therefore, permitted to appear in the examination in which she qualified. Accordingly, she was called for an interview and asked to produce the original certificates|testimonials. She failed to produce the requisite certificate that she belonged to SC/ST community. She had also given in writing at the time of interview that she did not belong to SC/ST community. In view of the facts that her candidature was considered only on the basis of her claim that she belonged to SC/ST community she was not considered for appointment in the Bank as she did not belong to SC/ST community."

7.4. The Committee called for the following documents from the Ministry of Finance;

- (i) Copy of the advertisement published in the newspapers in pursuance of which applications were invited for the recruitment in question;
- (ii) Original application of the petitioner for the post of clerk in the State Bank of India;
- (iii) Lists of names of candidates (a) who had been sponsored by the Employment Exchange, (b) who had applied in response to the newspaper advertisement, (c) who had qualified and were called for interview, (d) who were finally selected indicating against each—whether the candidates selected were Scheduled Castes/Tribes.

The Committee also asked the petitioner to supply a copy of the application made by her to the State Bank of India for the post of clerk.

7.5. Kumari Satya Kumari in her letter dated the 16th November, 1977, stated that:

"I have no copy of the application made to the State Bank of India for the post of Clerk-cum-Cashier and I regret that I am not in a position to send the same to you.

In this connection, I have to state that on an enquiry by the examiner at the time of appearing in the written examination for the above post. I had given in writing that I did not belong to Scheduled Caste."

7.6. The Ministry of Finance (Department of Economic Affairs) (Banking Division) furnished with their note dated the 16th December, 1977, the following documents for perusal of the Committee:—

- (a) (i) A copy of the advertisement.
- (ii) Original application of Km. Satya Kumari.
- (iii) 3 Registers listing the names of candidates whose names were sponsored by the Employment Exchange.
- (b) 3 Registers listing names of candidates who had appointed in response to the advertisement.
- (c) A list of SC/ST (225) candidates who had qualified in the written test held on 14/15.3.77 and were called for interview.
- (d) A list of (216) candidates of general category who had qualified in the written test held on 14/15.3.77 and were called for interview.
- (e) List of (211) candidates of general category who qualified for permanent appointment on the basis of written test and interview held from 9th to 14th May, 1977.
- (f) A list of SC/ST (214) candidates who qualified for permanent appointment on the basis of written test and interview held from 9th to 14th May, 1977.

C. Observations of the Committee

7.7. The Committee have perused the documents furnished by the Ministry of Finance regarding the recruitment for the above mentioned posts by the State Bank of India. The Committee note that the posts for

one of which Kumari Satya Kumari had applied in the State Bank of India, were reserved for Scheduled Castes and Scheduled Tribes and that Kumari Satya Kumari in her original application to the State Bank of India had stated that she belonged to a Scheduled Caste. At the time of the written test, however, when she was asked to produce the required certificate in support of her claim that she belonged to a Scheduled Caste, she stated that she did not belong to a Scheduled Caste and made a written statement to that effect on her original application form.

In view of the above position, the Committee are of the view that this is not a matter in which their intervention is called for.

VIII

REPRESENTATION REGARDING EXCISE DUTY ON STALK TOBACCO

8.1. Shri C. P. Agarwal, Honorary Secretary, Tobacco Merchants Association, Kaimganj (UP) addressed a representation dated the 25th May, 1977, (See Appendix IV) countersigned by Shri Arjun Singh Bhadoria, MP regarding excise duty on stalk tobacco.

A. Petitioner's Grievance

8.2 In his representation, the petitioner stated *inter alia* as follows:

* * * * *

"The Public Accounts Committee (1969-70) expressed its resentment in the matter of levy of excise duty on tobacco and consequently recommended (*vide* paras 1.70 to 1.78 of 11th Report) to the Government of India to constitute a Committee to examine the Tobacco Excise Tariff. Consequently, the Government of India *vide* resolution dated 9.1.73 appointed the Tobacco Excise Tariff Committee to examine the tobacco excise tariff and other connected matters.

* * * * *

On the interim recommendation of the Tobacco Tariff Committee, levy of central excise duty on stalk tobacco item 4-I-8 of the Tobacco Tariff had been enhanced to Rs. 2/- per Kg. from 65 paise per Kg. by the Government of India from 1.3.75.

* * * * *

The recommendation of the Tobacco Tariff Committee is against the basic principle for which the Committee was constituted. It appears that at this late stage, the Committee has lost sight to differentiate between reality and unreality, and like previously, this time again goods of common people is hard hit.

* * * * *

Notification No. 98/75 dated 30.4.75, U/r 8 of the Central Excise Rules, 1944, which makes effective rate of excise duty at 65 paise per kg. on stalk tobacco was not given effect to by executive instruction of the Congress Government and

operation was confined to in four Southern States namely—Tamil Nadu, Karnataka, Andhra and Kerala. Despite representation, this was never clarified, that why this discrimination was done and why the power was misused for some personal benefits.

* * * * *

In any case of the matter, it is necessary in the interest of justice that duty on stalk tobacco should be reduced to 65 paise per Kg., if not reduced any more. There is no justification to levy duty on stalk @ Rs. 2/- per Kg. in Northern India and 65 paise per Kg. in Southern India."

* * * * *

B. Comments of the Ministry of Finance (Department of Revenue)

8.3. The representation was referred to the Ministry of Finance (Department of Revenue) for their factual comments thereon for consideration by the Committee. The Ministry of Finance (Department of Revenue) have furnished their para-wise factual comments on the points raised in the representation *vide* their factual note dated the 9th November, 1977, stating as follows:—

Point raised	Comments
1. For the first time, tobacco was subjected to central excise duty in 1943. The scheme devised for this purpose generally followed the established trade pattern. While moving for consideration the Tobacco (Excise Duty) Bill, 1943, Sir Jeremy Raisman, the then Finance Member of the Government of India, had stated on the floor of the House that 'in order to distribute the burden as fairly as possible between the different classes of consumers and to recognise in some measure the greater element of luxury in the more expensive forms of smoking, the tax has been graded according to the purpose to which the leaf is to be applied.	No comments as it is factual.
2. In this connection, it is also worthwhile to be mentioned here that a distinction had been drawn <i>ab initio</i> in the matter of prescribing applicable rates of duty between hooka tobacco, which includes stalks and chewing, cigars, and cheroots and snuff and bidis.	No comments as it is factual.

Point raised

Comments

3. Stalks tobacco commonly known as 'dhanthal' being the most inferior variety of tobacco is some times left in the fields by the cultivators. Lowest rate of duty was always fixed for this type of tobacco and rates of duty at different times are given below :—

Year	Rate of duty
1943—57	1 anna per lb.
1957-58	7 paise per lb.
1962—64	24 paise per Kg.
1968-69	32 paise per Kg.
1972-73	50 paise per Kg.
1974-75	65 paise per Kg.
1975—	till upto date Rs. 2/- per Kg.

4. A comparative table of rates of duty for different varieties during February and March, 1975 is given below :—

Variety of tobacco	February, 1975	March, 1975
Stalks	65 paise per Kg.	Rs. 2/- per Kg.
Leaf (Chewing)	Rs. 3.25 paise per Kg.	Rs. 3/- per Kg.
Leaf (Bidi)	Rs. 4.60 paise per Kg.	Rs. 3/- per Kg.

5. The Public Accounts Committee (1969-70) expressed its resentment in the matter of levy of excise duty on tobacco and consequently recommended (*vide* paras 1.70 to 1.78 of 111th Report) to the Government of India to constitute a Committee to examine the Tobacco Excise Tariff. Consequently the Government of India *vide* resolution dated 9-1-73 appointed the Tobacco Excise Tariff Committee to examine the tobacco excise tariff and other connected matters.
- Correct, except that 'resentment may not be an appropriate sentiment to be attributed to the PAC in this connection. The Committee had pointed out that the tobacco tariff was complicated and hence it suggested its rationalisation. The content of the PAC report may be seen for their true scope and meaning.
6. The aforesaid recommendation was based on the fact, amongst others that—
- No comments.
- duty on various types of tobacco has tended to be rather uneven;
 - incidence of tax does not follow a rational pattern;
 - levy of tax shows no co-relation to the relative market values of the various grades to tobacco.

Point raised	Comments
7. The Tobacco Tariff Committee alongwith Collector and other Senior Officers of the Kanpur Collectorate visited Kaimganj on 31-8-73 and the Memorandum which was placed before the Committee was discussed in details by the Tobacco Trade of Kaimganj.	No comments.
8. On the interim recommendation of the Tobacco Tariff Committee, levy of central excise duty on stalk tobacco item 4-1-8 of the Tobacco Tariff had been enhanced to Rs. 2/- per Kg. from 65 paise per Kg. by the Government of India from 1-3-75.	No comments.
9. While rate of duty on stalks always remained very low but it was unduly enhanced with the result that there has been abnormal fall of its market rate and the present rate is Rs./10- per maund of 60 Kgs.	The petitioner has alleged that with the increase in duty on stalks there has been an abnormal fall in the price of stalks and their present rate is Rs. 10 per maund of 60 Kgs. The Collector, of Central Excise Kanpur, who is concerned in the matter, has stated that the present ex-duty price of crushed stalks is about Rs. 60 per quintal. For 60 Kgs. of crushed stalks the ex-duty price would Rs. 36 and not Rs. 10 as alleged by the petitioner.
10. Thus rate of duty is twelve times than that of its price and this being the position, levy of duty is most unreasonable and illegal.	It has been alleged by the petitioner that the rate of duty on stalks is 12 times than that of its price and hence the duty is unreasonable and illegal. The quantum of levy, even though at a very high rate, cannot be said to be illegal as the same has been levied by the Parliament. As to the imposition of duty at higher rate of Rs. 2 per Kg. on stalks, it may be stated that the stalks of tobacco had come to be misused in the manufacture of biris for the manufacture of which the tobacco generally used attract duty at high rate under item 41 (6). The Tobacco Excise Tariff Committee (TETC) had determined the leaf stock mixture ratio in use in biris as 1 : 1 and the average duty borne by such mixture was determined by the TETC to be Rs. 1.95 or say Rs. 2 per kg. the duty on stalks of Tobacco was, therefore, raised in 1975-76 Budget to the level of Rs. 2 per Kg. to check the misuse or abuse of stalks in the manufacture of biris on account of the lower rate of 65 paise per Kg. which stalks enjoyed prior to 1-3-1975. The levy at higher rate on stalks cannot be said to be either unreasonable or illegal.
11. The recommendation of the Tobacco Tariff Committee is against the basic principle for which the Committee was constituted. It appears that this late stage, the Committee has lost sight to differentiate between reality and unreality, and like previously	The petitioner has alleged that the recommendation of the TETC (for raising duty on stalks) is against the principle for which the Committee was constituted. The petitioner's understanding is incorrect. The terms of reference of the Committee

Point raised

Comments

this time again goods of common people is hard hit.

as indicated in the enclosed (See Appendix V) copy of the Resolution of the Government of India were very wide, so as to cover the increasing of the rates of duty, if necessary, to check misuse of lower rated tobacco for purposes for which generally higher rated tobacco is used.

12. Notification No. 98/65 dated 30-4-75 u/r 8 of the Central Excise Rules, 1944, which makes effective rate of excise duty at 65 paise per Kg. on stalk tobacco was not given effect to by executive instruction of the Congress Government and its operation was confined to in four Southern States namely—Tamil Nadu, Karnataka, Andhra and Kerala. Despite representation this was never cleared that why this discrimination was done and why the power was misused for some personal benefits.

The petitioner has alleged that partial exemption from duty on unmanufactured tobacco stalks under notification No. 98/75-CE dated 30-4-1975 (See Appendix VI), has been given effect to only in the Southern States, namely, Tamil Nadu, Karnataka Andhra and Kerala and despite representations the discrimination has not been removed. He has also alleged that this was misuse of power for personal benefits. The position is that from March, 1975 the statutory rate of duty on stalks is Rs. 2 per Kg. However, stalks intended to be used for chewing purposes in unmanufactured form have been exempted from the duty in excess of 65 paise per Kg. This concession was given in response to representations from the Tobacco Stalks Merchants Association. It was observed that the use of stalks directly for chewing purposes was usually limited to very poor labourers. It is reported that tobacco stalks are at present used for chewing purposes mainly in Tamil Nadu, Andhra Pradesh and Karnataka, although small quantities are so used (and cleared at the 65 paise rate) in other areas, e.g. Bombay. The benefit of the lower rate of duty viz., 65 paise per Kg. is, however, available in any part of the country, if the stalks are used for chewing purposes in unmanufactured form.

13. Under the circumstances this is necessary in the public interest that the above Notification be given wide interpretation and it should be applied through the India.

The petitioner has requested that the above notification No. 98/75-CE, should be applied throughout India. As already submitted in the preceding paragraph the notification is of general applicability and the benefits of concessional rate is available to all the parties in the country. The only condition for availing of the concession is that tobacco stalks should be intended for use for chewing purposes in unmanufactured form. Since the intended use is a question of fact, it is necessary for the Central Excise officers to satisfy themselves that the stalks to be cleared at concessional rate at 65 paise per Kg. are actually intended for chewing purposes and will not be misused. In the absence of such a condition, stalks would be misused as biri tobacco and that would defeat the very purpose for which duty on stalks was increased.

Point raised

Comments

14. In any case of the matter, it is necessary in the interest of justice that duty on stalk tobacco should be reduced to 65 paise per Kg. if not reduced any more. There is no justification to levy duty on stalks @ Rs. 2 per Kg. in Northern India and 65 paise per Kg. in Southern India and this type of discrimination is illegal on the face of it. If this is not done, tobacco growers of Northern India will not get it due and reasonable price which he is entitled to get, and which should be given to him in the interest of justice. Now the Janata Government should not permit this type of discrimination and illegality to continue any more under the guise of law.
15. Apart from the fact and circumstances that the cultivator will not get due and reasonable price of his produce, the Government will loose revenue and further this will greatly effect tobacco production.
16. As a matter of fact there should be no excise duty on stalks as this is poor man's good and is normally used in hooka tobacco for smoking.
17. It is pitiable that in levying excise duty on tobacco, as a whole, norms of law and justice have not been properly followed with the result that even after a period of 33 years there is no just and proper scale for levy of duty on tobacco with the result that tobacco excise working is most unhappy.
18. All the above fact and circumstances of the matter require due and immediate consideration and sooner the better this be looked into and tobacco law be made just and equitable as this is very necessary in the public interest.
- As stated in the above para there is no discrimination as alleged and the question of removing the discrimination does not arise.
- The argument advanced by the petitioner that the cultivators will not get due and reasonable price for the stalks and the Government will lose revenue is not clear the stalks are not produced as such, but they necessarily arise in the course of growing and trading in tobacco. Further the question of loss of revenue to the Government does not arise as the tobacco stalks not intended for use for chewing purposes, will have to pay duty at Rs. 2 per Kg.
- The petitioner has contended that there should be no excise duty on the stalks, as this is poor man's good. As already explained, the duty on stalks has been imposed to check misuse or abuse of stalks cleared at the lower rate of duty and subsequently used in the manufacture of biris. The petitioner perhaps desires that the trade should have freedom to use lower rated tobacco in biris to increase their profitability at the cost of consumer and the Government. Hence, the exemption sought for by the petitioner is not feasible.
- Petitioner has alleged that norms of law and justice have not been properly followed in levying excise duty and that even after the excise duty on tobacco as a whole has remained in force for 33 years, the tobacco excise working is unhappy. This is the opinion of the petitioner. Any major change in the rate of duty on tobacco is carried out only with Parliament's approval. The P.A.C. had taken note of the working of the tobacco excise scheme and it was at their instance that the TETC was appointed. Government's decisions on the recommendation made by the TETC have also been implemented in so far as the recommendations related to rationalisation of the tobacco excise tariff. The allegation is, therefore, not justified.

C. Observations of the Committee

8.4. The Committee note the factual comments furnished by the Ministry of Finance (Department of Revenue) on the various points raised by Shri C. P. Agrawal in his representation regarding excise duty on stalk tobacco. The Committee are of the view that it is not a matter in which they could intervene in view of the factual position stated by the Ministry of Finance.

IX

REPRESENTATION FROM SHRIMATI JIWAN KAUR, REGARDING SETTLEMENT OF COMPENSATION CLAIM OF RS. 9900/-.

9.1. Shrimati Jiwan Kaur, addressed a representation dated the 25th October, 1977, regarding settlement of compensation claim of Rs. 9900/- CAF No. P/Amb./484/VII(W) Index No. P/AT-4/1728.

A. Petitioner's Grievance

9.2. In her representation, the petitioner stated as follows:--

"I beg to refer you my above noted claim, payment of the said claim, has not been made to me in spite of repeated letters/reminders and personal visits to C.S.C. Office.

I am an old aged widow. I have no source of income and my financial position is very much worst. I have no son or other relative to look after me. I, therefore, approach you with a request to please direct Chief Settlement Commissioner to make payment of the aforesaid claim early and oblige.

I hereby certify that no allotment of land has been made to me against the above noted claim and enclose herewith photo-state copy of the letter issued by the Registrar Land Office, Department of Rehabilitation Office in support of this. I am prepared to submit an affidavit in this regard.

As my case is not being finalised and as such in case on action is taken immediately and the claim is not settled I approach your good self to get the case settled."

B. Comments of the Ministry of Supply and Rehabilitation (Department of Rehabilitation)

9.3. The representation was referred to the Ministry of Supply and Rehabilitation (Department of Rehabilitation) for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 24th February, 1978, the Ministry have stated as follows:--

"The case of Smt. Jiwan Kaur has been examined and it has been found that she filed CAF No. P/Amb/484/VII(W) against her rural building claim for Rs. 9900/- but the same was rejected as her husband was found to be an allottee of

agricultural land less than 4 acres in area and no compensation was payable to her under rule 65 of the DP(C&R) Rule 1955 against her non-substantial rural building claim. Intimation on this effect was also sent to her on 16.11.1954.

Further, verification of claims and payment of compensation are governed by the Claims Act, 1954 and DP(C&R) Act, 1954 respectively. In case, anyone is aggrieved, he/she could file appeal/revision petition. Smt. Jiwan Kaur did not avail of this opportunity.

In the circumstances it is not possible to accord any help to the petitioner after lapse of 23 years."

C. Observation of the Committee

9.4. The Committee note the factual comments furnished by the Ministry of Supply and Rehabilitation (Department of Rehabilitation) on the representation and are of the view that it is not a matter in which they should intervene in view of the position stated by the Ministry.

X

OTHER REPRESENTATIONS

10.1. During the period under report, the Committee have considered seven other representations and letters (See Appendix VII) addressed to the House, the Speaker or the Committee by different individuals which were inadmissible as petitions.

10.2. The Committee note with satisfaction that through their intervention, petitioners have either been provided partial or complete relief or the Ministries/Departments concerned have explained the position factual, legal or otherwise in respect of those petitions/representations.

XI

GENERAL

11. The Committee would, however, like to emphasize the need for Ministries to be more expeditious in furnishing factual comments, information or other material as and when asked for by the Committee. That there has been inordinate delay in some cases, necessitating reminders, is disconcerting. The Committee would like the public to feel that in our democracy, they can look up to Parliament for speedy redress of their legitimate grievances.. The Committee would ceaselessly endeavour with that objective in view.

HARI VISHNU KAMATH,

Chairman,

Committee on Petitions.

NEW DELHI;

April 12, 1978.

APPENDIX I

(See para 2.1 of the Report)

[Petition No. 3 *re.* the Gresham and Craven of India (Private) Limited
(Acquisition and Transfer of Undertakings) Bill, 1977]

LOK SABHA

PETITION NO. 3

(Presented to Lok Sabha on 28.11.1977)

[Considered by the Committee on Petitions, Lok Sabha, at their sitting held on the 28th November, 1977, and circulated in pursuance of the Committee's direction under Rule 307 of the Rules of Procedure and Conduct of Business in Lok Sabha]

To

LOK SABHA

NEW DELHI

The humble petition of Shri Sukumar Chowdhury, President, Gresham & Craven Mazdoor Union (Regd. No. 2673) and workmen/employees of Gresham & Craven of India (P) Ltd., Calcutta-700014.

SHEWETH

1. That the Bill namely "The Gresham & Craven of India (P) Ltd. (Acquisition and Transfer of Undertakings) Bill, 1977", is going to be introduced during the Third Session of the Sixth Lok Sabha, 1977, to replace the Gresham & Craven of India (Acquisition and Transfer of Undertakings) Ordinance, 1977 (No. 14 of 1977) promulgated by the President on the 30th September, 1977.

2. That the said Ordinance contains provision for amalgamation of Gresham & Craven of India (P) Ltd. with M/s. Braithwaite & Co. Ltd., Calcutta.

3. That the workmen of Gresham & Craven of India Ltd. are opposed to this amalgamation for the following reasons:—

(a) that the decision is taken by the administration without going into the potentialities of the company in necessary depth.

(i) "Diversification does not involve any additional financial involvement".

- (ii) It has explored foreign market. "Efforts have not gone unrewarded in S.E. Asian market".
- (iii) In the year 1975/76 the Company suffered loss of Rs. 2.3 lacs—in 77/78 it expects a profit of Rs. 2.39 lacs.
- (iv) Percentage on profit over paid up capital in 1977/78 is 12 per cent.
- (v) Its current assets have also increased substantially—i.e. from Rs. 154.24 lacs in 1975/76 to Rs. 209.48 lacs in 1977/78. Current liability Rs. 63.33 lacs in 1975-76 decreases to Rs. 35.47 lacs in 1977-78.

The above facts show the company's encouraging trends in performance and breakthrough in technology. [Extract from performance of Budget—Ministry of Industry (Department of Heavy Industry) for the year 1977-78].

Foreign Order position as per books: Rs. 1.35 crores.

- (b) that the company has taken a number of import substitutes and export oriented items and its diversification programme is fully indigenous, viz.,
 - (i) 4-way Cock—saves foreign exchange of Rs. 6.00 lacs per month.
 - (ii) Electro Hydraulic Governor—saves foreign exchange for Indian Railways to the tune of Rs. 1.68 crores per year.
 - (iii) Decelerating Valves for Diesel Locomotives. C.L.W. and D.L.W. have placed a developmental order on the Company for 15 kinds of items which includes Lubricating Oil Pump for Diesel Locos which are at present being imported.
 - (iv) Components for Elec. & Diesel Locomotives, i.e., all types of Safety Valves which are also import substitutes. This saves foreign exchange to the extent of Rs. 20 lacs per month.
 - (v) Prefabricated Aluminium Housing and Structures—erections going on in Arab countries and also for Defence Department in the strategic areas of the country.

That this alone shows savings not only in foreign currency but also make the Indian Railways and the nation independent of foreign technology and foreign countries. Besides, it opens more avenues for export potentialities for specified items and also provides vast employment opportunity.

4. That M/s. Gresham & Craven has earned Certificate of Distinction in developing and manufacturing these items.

5. That to start full production of these items no new investment or involvement is required, i.e. the company shall produce them with the existing resources—men and machines.

6. That the field of activities of Gresham & Craven is quite different from that of Braithwaite & Co. and at present Gresham & Craven's technology is so highly sophisticated as is seen from the manufacture of the above items. The ambitious programme of new items is directed towards giving opportunities to a large number of unemployed youths.

7. That if amalgamation is allowed, it will frustrate all the objectives of future employment potentialities and damage the prospect of development of specialised export items.

8. That the workers reasonably apprehend that amalgamation shall not only frustrate the whole projects and its potentiality, but shall close the new employment opportunity as the Braithwaite have earned defame for their disunity, corruption and indulgence of unfair labour practice.

9. That the Braithwaite, itself a sick unit, has already eaten up to 32 crores of rupees while the Gresham & Craven, out of Rs. 1 crore loan, has already earned Rs. 23 lacs and increased both its working capital and capital investments.

and accordingly your petitioners pray that in the interest of industry, workmen and employees and the nation, that the provision of amalgamation contained in the Gresham & Craven of India (Acquisition and Transfer of Undertakings) Ordinance, 1977 (No. 14 of 1977) promulgated by the President on the 30th September, 1977 should not be incorporated in the Bill to be introduced in the Third Session of the Sixth Lok Sabha and Gresham and Craven of India should remain as a separate entity in the Public Sector.

and your petitioners as in duty bound will ever pray.

Name of petitioner	Address	Thumb impression or signature
1. Shri Sukumar Chowdhry	President, Gresham & Craven Mazdoor Union, 13-A, Creek Lane, Calcutta-700014 and others.	Sd/-

Countersigned by: Shri Dinen Bhattacharya,

M.P.

Shri Shyamaprasanna Bhattacharyya, M.P.

APPENDIX II

(See para 3.1 of the Report)

[Petition No. 4 *re.* unemployment, price-rise, lowering of voting age, inclusion of right to work in Fundamental Rights, educational reforms, atrocities on harijans and other weaker sections of the Society]

LOK SABHA

PETITION NO. 4

(Presented to Lok Sabha on 2-12-1977)

[Considered by the Committee on Petitions, Lok Sabha, at their sitting held on the 20th December, 1977, and circulated in pursuance of the Committee's direction under Rule 307(1) of the Rules of Procedure and Conduct of Business in Lok Sabha.]

To

LOK SABHA

NEW DELHI

The humble petition of Shri Amarendra Narayan Sinha, General Secretary of All India Youth Federation and Shri Sambhu Sharan Sreevastava, President, All India Students Federation, 4/7 Asaf Ali Road, New Delhi and others.

SHEWETH

That the youth and students of India today are deeply concerned about the most menacing problems of unemployment, price-rise, illiteracy, atrocities on harijans and rural poor etc. They also feel strongly that they are denied of some of the basic democratic rights like voting right at the age of 18. Educational reforms is an urgent necessity while some constitutional reforms also are urgently called for. In this context we make the following proposals to find solution to these burning problems.

I (a) The question of unemployment is inseparably linked with the problem of rapid rate of economic growth, mobilisation of new resources, industrialisation, land reforms etc. Taking these into account we propose:

For mobilisation of new resources we have to largely depend upon our own country. Our effort should be for building up an independent and self-reliant national economy. To achieve this we suggest:

—That the monopoly strangle holds in our economy should be broken by nationalising big industries, firms, banks, plantations, export-import trade etc. owned or controlled by the monopoly houses in India.

—Similar measures may be taken against foreign owned companies, including multinational corporations and their subsidiaries.

—As an immediate step, declare moratorium on the repatriation of profits, royalties and dividends etc. by foreign firms.

—Take stern measures, including demonetisation, to break the parallel economy of black money.

—Collect all tax arrears from the rich and provident fund dues from employers.

—Confiscate hoarded gold, money and all other forms of wealth and take effective measures to check tax evasion and smuggling.

—Take over the export-import trade.

—Ensure the full utilisation of installed capacity in all industries and stop the loot and sabotage of public sector by bureaucrats, contractors and monopolists.

—Minimise foreign collaboration as far as possible.

—Utilise the idle wealth lying with religious institutions for developmental work.

—Set up appropriate government agencies to mobilise the earnings from Indians living abroad and utilise it for economic development.

(b) To find more employment opportunities we propose:

—That the country should be industrialised rapidly.

—That radical land reforms should be adopted, and implemented speedily. Similarly measures may be taken for the distribution of surplus and arable land to the rural poor and landless.

—That the government should undertake a massive housing scheme for rural poor and slum clearance scheme in urban areas.

—That measures should be taken for promotion of agro-industries, cottage and small scale industries.

—That the government should undertake large schemes of public works, land reclamations, afforestation, rural electrification, rural road construction etc.

—That the credit requirements of small farmers be met adequately and on easy terms.

—That a time bound scheme for eradicating illiteracy and for compulsory primary education be implemented.

—That steps should be taken to provide adequate funds to co-operatives, especially those run by unemployed people as part of self-employment scheme.

—That all the vacancies in government, semi-government offices be filled.

—That steps should be taken to expand social services, especially the rural health scheme.

—That a scheme for integrated rural development be launched.

—That a comprehensive plan be made for the full exploitation of all our natural resources.

(c) (i) Considering the fact that large number of unemployed youth are facing appalling conditions of poverty and starvation we propose:

—That a massive scheme of food for employment be launched or a job guarantee scheme may be worked out for immediate implementation.

—If relief measures are not taken up, then the government should pay unemployment allowance to the victims of unemployment.

(ii) In defence of jobs the following steps may be taken:

—Ban closures, lock-outs, retrenchment and lay-offs.

—Ban introduction of unilateral automation and needless technological changes, only for displacement of workers.

—Confirm all casual, temporary and *badli* employees and abolish contract labour system.

—Guarantee statutory employment to all apprentices and trainees and enhance the scope of apprenticeship.

—Impose statutory ban on eviction of tenants, share-croppers and provide statutory protection to their tenancy rights.

—Discipline the private sector and compel it to provide employment to people at the same ratio as the public sector does.

—Police verification system for government jobs be abolished forthwith.

II. The Constitution of India may be amended to lower the voting age to 18, to include the right to work as fundamental right and to delete the right to property from the chapter of fundamental rights.

III. Price rise shall be checked by effective government control on the production of articles of mass consumption and by organising a nation-wide mass distribution system under the supervision of popular committees.

—Take over the wholesale trade in foodgrains and ensure distribution of edible oil, kerosene oil, drugs, clothes and foodgrains through the public distribution system.

IV. Education system in India needs thorough reforms. It should be made democratic and its content and perspective be made scientific. It should be made accessible to common people by making it less expensive. Medium of instruction shall be mothertongue at all levels. The examination system shall be reformed.

Public Schools be abolished and commercialisation of education by private agencies be put an end to. It should be linked up with man power planning and made job oriented.

—Full academic freedom should be allowed in educational institutions.

—Democratic rights of the students, teachers and *karamcharis* be protected statutory and they should be given due representation in all academic and administrative bodies.

—More and better hostel facilities at cheaper rates be provided to students.

—Education should be protected from imperialist penetration and also from communalists and obscurantists.

V. Ensure the democratic functioning of elected students unions and school parliaments.

VI. Stop atrocities on harijans and other weaker sections by ensuring the following:

— That they should be provided with land, employment, house site, minimum wage and job security.

— In every State a cell may be set up directly under the Chief Minister with a special IG at its head for preventing atrocities on harijans and to take prompt and stringent actions against the culprits.

VII. In the Sixth Five Year Plan, more funds be allotted for the implementation of a time-bound programme for providing more employment. The Sixth Plan itself should have a greater outlay aimed for achieving greater rate of economic growth.

And accordingly your petitioners pray that in the interest of building up a brighter future for the country, its people and to create conditions for having a generation of Youth and Students, happy and contented, the Lok Sabha may consider these proposals and recommend to the Government of India to take necessary actions accordingly.

And your petitioners as in duty bound will ever pray.

Name of the petitioner	Address	Thumb impression or signature
1 Amarendra Narain Sinha	General Secretary, All India Youth Federation, 4/7 Asaf Ali Road, New Delhi.	Sd/-
2 Sambhu Saran Sreevastava	President, All India Students' Federation, 4/7 Asaf Ali Road, New Delhi	Sd/-
3 Ranjit Guha	Vice-President, All India Youth Federation, 4/7 Asaf Ali Road, New Delhi.	Sd/-
4 Govind Narain Sreevastava	Joint Secretary, All India Students' Federation 4/7 Asaf Ali Road, New Delhi.	Sd/-
5 Bant Singh Brar.	Joint Secretary, All India Youth Federation, 4/7 Asaf Ali Road, New Delhi.	Sd/-

Countersigned by : C. K. Chandrappan, M.P.

APPENDIX III

(See para 4.2 of the Report)

[Representation *re.* membership of the Delhi School Teachers' Cooperative House Building Society Limited, Delhi.]

The Speaker,

Lok Sabha.

The humble petition of Shri Mohan Lal Single and others members of the Delhi School Teachers' Cooperative House Building Society, Delhi, against the Delhi Cooperative Societies Registrar's Order dated 22-7-1975 depriving 503 persons of their membership of the said society.

SHEWETH

A Cooperative Society by the name 'Delhi School Teachers' Cooperative House Building Society' was formed in 1961 for providing residential plots and some other amenities to its members, who were mainly to consist of teachers in Delhi.

2. Initially the Society purchased a land measuring about 150 acres near Shahdra from a certain private owner. Later, consequent on the acquisition of land by Government, the Land and Building Department, Delhi, agreed to reallocate the same to the Society after going through the necessary acquisition proceedings. The Society was required to deposit with the Government an amount of about Rs. 18 lakhs as cost of the land. When the then teacher members of the Society did not deposit their share of the instalment and the Society could not find enough resources from them, it was decided by the Society to enrol new teacher as well as non-teacher members mainly through the good offices of Delhi State Parents' Association. This enabled the Society to meet the demand of the Government towards the cost of the land.

3. Non-teachers were enrolled by the Society as its members since beginning with the full knowledge and consent of the teacher members of the Society. The office-bearers of the Society who enrolled them also assured that their membership satisfied the Bye-laws of the Society and that there was sufficient land to accommodate them. In fact the General Body of the Society passed unanimously a resolution on 26-11-1966

amending the Bye-laws of the Society regarding enrolment of non-teachers as members without even prescribing any limit on the number of such membership.

4. Subsequent to the acquisition of land, the Society undertook to have the site developed through contractors. Due to misguided activities of certain members who had their own axe to grind and who unfortunately in their design got help from the Contractor, the affairs of the Society took unhappy turn. These developments from 1966 onwards retarded the progress of the development work and also created group rivalries. It is now understood that in 1966, the Registrar of Co-operative Societies even ordered an enquiry into the working of Society and found certain irregularities but failed miserably to discharge his statutory obligations to put the working of the Society in order.

5. In 1972, the Registrar ordered another enquiry. The Enquiry Officer appointed by the Registrar through a public notice dated 2nd March, 1974 appearing in daily papers of 8th March, 1974, invited affidavits from all those persons who claimed to be members of the Society. Although, the affidavits were required to be submitted to him by the 16th April, 1974 he accepted affidavits upto the end of August, 1974. In September, 1974 he summoned all the claimants to appear before him personally with the original membership receipts, he submitted to the Registrar a list of 1482 members, a copy of which was also laid on the Table of Rajya Sabha by the Minister of Works and Housing on 27-2-1975.

6. With the said state of affairs, the members of the Society whether teachers or non-teachers who belong to salarised class and who invested their hard-earned life savings, got alarmed and felt concerned about their right to have a plot and also about their money invested. It was brought to the notice of the Government that the affairs of the Society were not being carried out in accordance with the law, that the Registrar had not taken any effective remedial steps in that regard and that the situation demanded its intervention to ensure justice to all those who had invested their life savings with the hope to get a roof over their head some day.

7. The Government also felt concerned as is evident from the following observations made by Shri Annasaheb P. Shinde, Minister of State in the Ministry of Agriculture, in Lok Sabha on 12-8-1974:—

“...But the unfortunate part of the story is this, namely, that the members are nowhere. No allotment of land has taken place. Nobody knows what is happening to their money. The whole thing is in a state of confusion... We have suggested to Delhi Administration that they must take immediate action in the matter and it will be seen that whatever has to be done to protect the interests of members is done.”

The Minister also assured the House as under:—

“... We have asked the Delhi Administration to enquire into the matter and give the report as early as possible. We will also try to see that there is proper Committee of Management and proper allotment of land is made thereafter so that those who have invested their lifesavings in the Society would get their due... After the Committee comes into being as a result of elections, I think it should be possible to protect by and large, the interests of the members of the Society.”

8. The Enquiry Officer, appointed in 1972 in his Report, which has not been made public till today, is understood to have recommended that in view of non-availability of full record it could not be verified whether the entire membership of the Society stood the test of law and as such all the 1482 members who filed affidavits should be recognised as members and the normal working of the Society restored on that basis with all the necessary steps and precautions to enable it to go ahead with its work of allotment of plots to all the 1482 members.

9. After the Enquiry Officer submitted his report, a number of deputations of members of Society called on the Registrar and the deputationists were assured by him that all the 1482 members would be recognised as members and they would be called upon to elect a new Managing Committee.

10. On 8-2-1975, a deputation of the then Managing Committee of the Society met the then Works & Housing Minister, Shri K. Raghu Ramaiah and submitted a revised layout of 1488 plots prepared by M/s. Kothari & Associates, keeping in view all the requirements of provisions of roads etc. as per D.D.A. bye-laws. The Minister had told the deputationists that if all the 1482 members could be accommodated he would be happy to give his approval. The Minister also spoke on phone to the then Vice-Chairman, D.D.A. (Shri Jag Mohan) to examine the revised Plan.

11. While the above-mentioned assurances were being held out, suddenly on 7-8-1975, during emergency, the Registrar exhibited outside his office his Order dated 22-7-1975 according to which out of 1482 only 979 persons were recognised by him as eligible voters to elect a Managing Committee of seven including office bearers (The Society had always a Managing Committee of eleven Office-bearers). This order was significantly silent about the fate of 503 Members and this silence has consistently been maintained by the Registrar till-date. No reasons have so far been given about the disentitlement of their membership. How ironical and unjust it is that these very 503 members paid more than Rs. 15 lakhs to the Society during the years 1966-69 which made it possible for the

Society to make payment towards the cost of 90 acres of land allotted to it.

The high handedness and arbitrariness of the Registrar in giving this Order is evident from one fact alone *i.e.*, while the said order was exhibited outside his office on the 7th August, 1975, the programme of elections announced therein prescribed the last date for filing nominations was 6th August, 1975 which means the date for nominations was already over when the order was made public.

12. In pursuance of the above order, the Registrar rushed through the elections and got a Managing Committee of his choice elected on 17-8-1975 despite various objections about illegalities in regard to eligibility of persons to be on the Managing Committee.

13. All representations from aggrieved members against the above-mentioned order of the Registrar which is grossly illegal, arbitrary unjust and contrary to the principles of natural justice, equity and good conscience have gone in vain.

14. The aggrieved members also submitted a petition to the Committee on Petitions of Fifth Lok Sabha which considered the matter and took oral evidence of the petitioners, the Registrar of the Society and the Secretary of the Ministry of Works and Housing. The Committee were convinced with the genuineness of our grievance and mass injustice done to us. However, owing to dissolution of Fifth Lok Sabha, the Committee could not make its recommendations. We feel certain that the Committee would have recommended to the Government to take necessary steps to safeguard the interests of all the 1482 members and ensure allotment of plots to all of them except of course those who have since become ineligible due to their having acquired own house or plot in Delhi or some such other reason.

15. Reverting to the impugned order of the Registrar, it is submitted that under the Cooperative Societies Act, the Registrar does not have any power or authority to remove or disqualify a person from the membership of a society. This power vests only in the General Body of the Society. In a recent case of the Delhi Consumers Cooperative Wholesale Store Ltd. before Delhi High Court (Civil Writ No. 1303 of 1975), Mr. Justice Anand observed:

"To concede such powers (to disqualify or remove members) to the Registrar would amount to elevating him to the position of the despot with absolute and unregulated power to make drastic orders that may affect the vital interests of the Societies and their members."

16. Even the list of 979 persons has been prepared by the Registrar arbitrarily and suffers from the following gross inaccuracies and illegalities and as such cannot be held to be a list of genuine members:—

- (a) None of the alternative criteria recommended by the Enquiry Officer has been followed. Instead some new arbitrary considerations have been taken as the basis to pick and choose persons included in the list.
- (b) It is understood that the list includes teachers enrolled as members upto 1973 and non-teachers enrolled upto June, 1966. This is discriminatory and even this yardstick has not been applied in all cases of persons included in the list.
- (c) A number of persons included in the list have given wrong date of their admission in their affidavits and even some who did not give any date of their admission.
- (d) There are cases of illegal transfer of membership.
- (e) 51 persons owning houses in their own names or in the names of their dependents have been included.
- (f) 40 non-teachers have been shown as teachers to accommodate them in the list.
- (g) 13 teacher-members enrolled in the initial years of the society have been excluded by showing them as non-teachers.
- (h) About 350 persons in the list do not satisfy the essential condition in the bye-laws regarding membership i.e., they are not paid members of Delhi School Teachers Association.
- (i) The Registrar was under statutory obligation [*vide* clause 3 of Schedule II of Rule 58(1) of Delhi Cooperative Society Rules 1973] to display list of eligible voters 30 days before the election but he failed to do so.
- (j) The Registrar failed to appreciate that after excluding 150 members who already own houses or plots in Delhi and about 100 who wish to withdraw their money, the net number of members will come to about 1200 members who can very reasonably be given justice.

17. The facts briefly stated above indicate the injustice done to as many as 503 persons in depriving them of their membership of the Society. These persons belong mostly to salaried class and had invested their life savings in the hope of getting a small plot for their residence. After becoming members of the Society they could not legitimately become member of any other Cooperative Society nor could they get any land or flat from the D.D.A.

PRAYERS

and accordingly your petitioners pray:—

- (a) That the Government be asked to direct the Registrar, Co-operative Societies, Delhi to countermand his afore-mentioned order dated the 22nd July, 1975 disentitling 503 *bona-fide* members from the membership of the Delhi School Teachers Cooperative House Building Society Ltd., Delhi and to announce a revised list of members of the said Society, containing the names of all 1482 members who submitted their affidavits before the Assistant Registrar, Cooperative Societies in support of their membership. The revised list be prepared on the basis of the date of their enrolment as members of the Society and should exclude the names of those who have either voluntarily withdrawn from the membership of the Society or are no longer entitled to continue as members, after acquiring a plot or house in Delhi in their own name or their dependents.
- (b) The present illegally elected Managing Committee which since coming into office has been indulging in various illegal activities to the detriment of the society and its members, should be asked to resign immediately, failing which they should be dismissed. This Committee has already run out its maximum tenure of 18 months under the law.
- (c) The Registrar should hold election to a new Managing Committee on the basis of the revised list of members to be prepared by him as indicated in (a) above.
- (d) Government should also ask the Registrar to take further suitable steps to ensure that all the members of the Society (or that number which comes after excluding those who own houses or plots in Delhi in their own names or names of their dependents) get their plots of land and, if necessary, additional land for the purpose may be allotted or the lay-out plan for the land, already with the Society, revised so as to accommodate all the members.
- (e) Pending preparation of revised list of members and election of Managing Committee, the following steps be also taken by the Registrar:—
 - (i) Bank Accounts of the Society be freed;
 - (ii) Approval to the Revised Lay-out Plan of 1488 plots submitted to D.D.A. be expedited.

The allotment of small plots not more than 150 sq. yds. is in keeping with the policy of the Government and if only 900 and odd numbers are allowed the membership of the Society, they would be getting plots of more than 225 sq. yds.

(iii) Registrar be directed to issue immediately a letter to all the 503 disentitled members of the Society assuring them of their membership.

and your petitioner(s) as in duty bound will ever pray.

Sl. No.	Name of Petitioner and father's name	Address	Signature
1.	Mohan Lal Singla S/o Milkhi Ram & other	4534, Daiwara, Nai Sarak, Delhi.	Sd/-

APPENDIX IV

(See para 8.1 of the Report)

[Representation re. excise duty on stalk tobacco]

To,

Lok Sabha,
New Delhi.

The humble petition of Chandra Prakash Agrawal, Kaimganj (U.P.)
SHEWETH:—

1. For the first time, tobacco was subjected to central excise duty in 1943. The scheme devised for this purpose generally followed the established trade pattern. While moving for consideration the Tobacco (Excise Duty) Bill, 1943, Sir Jeremy Raisman, the then Finance Member of the Government of India, had stated on the floor of the House that 'in order to distribute the burden as fairly as possible between the different classes of consumers and to recognise in some measure the greater element of luxury in the more expensive forms of smoking, the tax has been graded according to the purpose to which the leaf is to be applied'.

2. In this connection it is also worthwhile to be mentioned here that a distinction had been drawn *ab initio* in the matter of prescribing applicable rates of duty between hooka tobacco, which includes stalks and chewing cigars, and cheroots and snuff and bidis.

3. Stalks tobacco commonly known as 'dhanthal' being the most inferior variety of tobacco is some times left in the fields by the cultivators. Lowest rate of duty was always fixed for this type of tobacco and rates of duty at different times are given below:—

Year	Rate of duty
1942—57	. 1 annum per lb.
1957-58	. 7 paise per lb.
1962—64	. 24 paise per kg.
1968-69	. 32 Do.
1972-73	. 50 Do.
1974-75	. 65 Do
1975 till Up'date	Rs. 2/- per kg.

4. A comparative table of rates of duty for different varieties during February and March, 1975 is given below:—

Variety of tobacco	Feb. 1975	March 1975
Stalks	65 paise per kg.	Rs. 2/- per kg.
Leaf (Chewing)	Rs. 3.25 per kg.	Rs. 3/- per kg.
Leaf (Bidi)	Rs. 4.60 per kg.	Rs. 3/- per kg.

5. The Public Accounts Committee (1969-70) expressed its resentment in the matter of levy of excise duty on tobacco and consequently recommended (*vide* paras 1.70 to 1.78 of 111th Report) to the Government of India to constitute a Committee to examine the Tobacco Excise Tariff. Consequently the Government of India *vide* resolution dated 9-1-73 appointed the Tobacco Excise Tariff Committee to examine the tobacco excise tariff and other connected matters.

6. The aforesaid recommendation was based on the fact, amongst others that—

- (i) duty on various types of tobacco has tended to be rather uneven;
- (ii) incidence of tax does not follow a rational pattern;
- (iii) levy of tax shows no co-relation to the relative market values of the various grades of tobacco.

and the same were made the terms of reference of the Committee so constituted as afore-mentioned.

7. The Tobacco Tariff Committee along with Collector and other senior Officers of the Kanpur Collectorate visited Kaimganj on 31-8-73 and the Memorandum which was placed before the Committee was discussed in details by the Tobacco Trade of Kaimganj.

8. On the interim recommendation of the Tobacco Tariff Committee, levy of central excise duty on stalk tobacco item 4-1-8 of the Tobacco Tariff had been enhanced to Rs. 2/- per Kg., from 65 paise per kg. by the Government of India from 1-3-75.

9. While rate of duty on stalks always remained very low but it was unduly enhanced with the result that there has been abnormal fall of its market rate and the present rate is Rs. 10/- per maund of 60 kgs.

10. Thus rate of duty is twelve times than that of its price and this being the position, levy of duty is most unreasonable and illegal.

11. The recommendation of the Tobacco Tariff Committee is against the basic principle for which the Committee was constituted. It appears that at this last stage, the Committee has lost sight to differentiate between reality and unreality, and like previously, this time again goods of common people is hard hit.

12. Notification No. 98/75 dated 30-4-75 u/r 8 of the Central Excise Rules, 1944, which makes effective rate of excise duty at 65 paise per kg. on stalk tobacco was not given effect to by executive instruction of the Congress Government and its operation was confined to in four Southern

States namely—Tamil Nadu, Karnataka, Andhra and Kerala. Despite representation this was never claimed that why this discrimination was done and why the power was misused for some personal benefits.

13. Under the circumstances this is necessary in the public interest that the above Notification be given wide interpretation and it should be applied throughout the India.

14. In any case of the matter, it is necessary in the interest of justice that duty on stalk tobacco should be reduced to 65 paise per kg., if not reduced any more. There is no justification to levy duty on stalk @ Rs. 2/- per kg. in Northern India and 65 paise per kg. in Southern India and this type of discrimination is illegal on the face of it. If this is not done, tobacco growers of Northern India will not get its due and reasonable price which he is entitled to get, and which should be given to him in the interest of justice. Now the Janata Government should not permit this type of discrimination and illegality to continue any more under the guise of law.

15. Apart from the fact and circumstance that the cultivator will not get due and reasonable price of his produce, the Government will loose revenue and further this will greatly effect tobacco production.

16. As a matter of fact there should be no excise duty on stalks as this is poor man's good and is normally used in hooka tobacco for smoking.

17. It is pitiable that in levying excise duty on tobacco, as a whole, norms of law and justice have not been properly followed with the result that even after a period of 33 years there is no just and proper scale for levy of duty on tobacco with the result that tobacco excise working is most unhappy.

18. All the above fact and circumstance of the matter require due and immediate consideration and sooner the better this be looked into and tobacco law be made just and equitable as this is very necessary in the public interest.

and accordingly your petitioner prays for an early consideration of the petition in the public interest.

and our petitioner as in duty bond will ever pray.

Name of petitioner	Address	Signature & date
Chandra Prakash Agrawal, Hon. Secretary, The Tobacco Merchants Association, Kaimganj (U.P.)		Sd/- (C.P. Aggrawal) 27-5-77

APPENDIX V

(See para 8.3 of the Report)

[Government of India, Ministry of Finance Notification F. No. A.11013|E|122|72-Ad. IV, dated the 9th January, 1973, regarding terms of reference of the Tobacco Excise Tariff Committee]

F. No. A.11013|E|122|72-Ad. IV

BHARAT SARKAR

GOVERNMENT OF INDIA

VITTA MANTRALIYA

MINISTRY OF FINANCE

(RAJASWA AUR BIMA VIBHAG)

(DEPARTMENT OF REVENUE & INSURANCE)

New Delhi, the 9th January, 1973

19th Pausa, 1894 (SAKA)

RESOLUTION

The Government of India have decided to appoint a Committee to examine the present Tobacco Excise Tariff in all its aspects with a view to having a judicious and rational tariff structure and administering this tariff effectively, efficiently and economically through simplified practical procedures. The Committee will be composed of the following:—

CHAIRMAN

Shri B. Sivaraman, former Cabinet Secretary and now Vice Chairman of the National Commission on Agriculture, New Delhi.

MEMBERS

1. **Shri B. N. Banerji**, former Chairman of the Central Board of Excise & Customs; former Special Secretary to the Government of India in the Ministry of Foreign Trade; and former Chairman of the Tariff Commission.
2. **Shri J. Banerji**, Member (Central Excise), Central Board of Excise & Customs.

Shri Daya Sagar, an officer of the Indian Customs and Central Excise Service, will act as Secretary to the Committee.

2. The Committee will have the following terms of reference:—

- (i) To review the working of the Tobacco Excise Tariff as in force at present in all its aspects including its merits and demands and particularly to enquire—
 - (a) whether the physical form criterion in the Tobacco Tariff has served the purpose for which it was introduced, particularly when the actual use of tobacco still continues to determine the final rate of duty applicable to tobacco;
 - (b) whether it is necessary to prescribe different rates depending upon the end use of tobacco;
 - (c) whether all tobacco can be subjected to one first rate of duty and, if not, the categories into which tobacco should be divided for purposes of classification and the criteria to be adopted for such classification; and
 - (d) feasibility of eliminating duty on tobacco grown in sparse growing areas or alternatively evolving a compounded levy for tobacco grown in such areas.
- (ii) To review the existing administrative arrangements for assessment and collection of duty and to consider the simplification of these arrangements and procedures, so as to safeguard the interests of revenue and economise on staff by a judicious rationalisation of checks on growers and others and intensification of checks at revenue-yielding points. The Committee will keep in view the overall position that a large complement of staff remains engaged on the administration of excise other than tobacco and it may not be possible to exclusively employ the staff for tobacco excise work at all points;
- (iii) To review the existing system of storage in curers' premises and in warehouses, movement inbond; whether the in-bond movements should be restricted and the period for which in-bond storage should be allowed;
- (iv) To consider the question of losses in tobacco occurring due to dryage and the method to be adopted for condoning these including the feasibility of dispensing with account of losses by suitable adjustment of duty rates taking into normal dryage of different varieties and making the warehouse licensee or curer or dealer accountable for the entire quantity received; and
- (v) To make any other recommendations germane to objectives of this enquiry.

3. The Committee will submit its report to the Ministry of Finance (Department of Revenue & Insurance) by middle of July, 1973.

ORDER

Ordered that a copy of the Resolution be communicated to all concerned and that it be published in the Gazette of India for general information.

Sd/- M. R. YARDI,
Secretary to the Government of India.

APPENDIX VI

(See para 8.3 of the Report)

(Copy of Notification No. 98/75-CE, dated 30-4-1975)

The Central Government hereby exempts stalks of tobacco falling under sub-item i(8) of item No. 4, intended to be used for chewing purposes in unmanufactured form from so much of the duty of excise leviable thereon as is in excess of fifty five paise per kilogram.

APPENDIX VII

(See para 10.1 of the Report)

[Other representations on which the Committee's intervention has procured expeditious, partial or complete relief to petitioners or the Ministries/Departments concerned have explained the position satisfactorily.]

Sl. No.	Name and address of the petitioner	Brief subject	Facts perused by the Committee
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MINISTRY OF SUPPLY AND REHABILITATION (DEPARTMENT OF REHABILITATION)

- | | | | |
|---|--|---|---|
| 1 | Shri Syed Mohd. Tehseen, C/o Peer Syed Mashuk Ali, Khadim Mohalla, Ajmer. | Restoration order of property No. IX/122, Khadim Mohalla, Ajmer | <p>From the perusal of record it appears that we have no relinquished evacuee beneficiary right in favour of non-evacuee beneficiaries and that being so the property still remains with the Custodian until and unless the non-evacuee beneficiaries get evacuee interest relinquished in their favour. It is therefore, not possible to send any intimation to the Municipal authorities in this regard.</p> <p style="text-align: right;">(The petitioner was informed the above position by the Department)</p> |
| 2 | Shri Ladharna K. Chandiramani, Jai Sai Baba Cooperative Housing Society, Flat No. 24, Near Aman Talkies, Ulhasnagar-3. | Adjustment of Rs. 1666.80 from CAF No. B / T / UT/1550/ IVNT towards Room No 6, Bk. No. 491-B, Ulhasnagar-2 | <p>The Deputy Chief Settlement Commissioner (G) in the Settlement Wing of this Department, to whom the case was referred, has intimated that a recovery schedule for Rs. 1661.80 confirming adjustment from Compensation Application Form No. B/T/UT/1650/ IVNT towards the cost of property referred to above was forwarded to the Assistant Administrator, Camp-4, Ulhasnagar-3, on 18-7-77. You are therefore advised please to contact that authority for issue of the sale/conveyance deeds.</p> <p style="text-align: right;">(The petitioner was informed of the above position by the Deptt.)</p> |

1	2	3	4
3.	Shri Bhojraj Phatandas Plot No. 283, near Ram Mandir, Chan- danbai plot, Chandan- nagar, Nagpur.	Finalisation of CAF No. RG/95/M/Nagpur/654 of Smt. Devi Bai Wd/o Shri Phatandas	The Deputy Chief Settle- ment Commissioner (Gene- ral) in the Settlement Wing of this Department to whom the matter was referred, has intimated that six recovery sche- dules confirming adjust- ment of Rs. 11,555.72 having been carried out from CAF No. RG/95/M/ Nagpur/654, as per details given below were for- warded to the Naib Teh- sildar (Rehabilitation), Nagpur on 26-7-77.

Name of Allottee	Property No. in respect of which adjustment carried out	Amount adjusted
1. Sh. Hari Ram . . .	111-A, Jaripatka Colony, Nagpur	1000.00
2. Sh. Gambhormal . . .	111-B, Jaripatka Colony, Nagpur	1600.00
3. Sh. Relumal . . .	16-B, Jaripatka Colony, Nagpur	630.00
4. Sh. Daulatram . . .	317-B, Jaripatka Colony, Nagpur	3918.00
5. Sh. Sobhraj . . .	311-B, Jaripatka Colony, Nagpur	1860.00
		9008.00
Towards repayment of loan amounts outstanding against:		
Sh. Panjuma! Methumal		690.25
Sh. Chhabal Das Ghumanmal		676.00
Sh. Phatandas Manghumal		1181.47
		2547.72

In view of the position explained above, no further action is required to be taken by this Department and the case has been closed.

(The petitioner was informed of the above position by the Department)

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- 4 Shri Tulsidas Kanyalal, Room No. 14, Bk. No. 33, Ulhasnagar-1, Distt. Thana. Adjustment of cost and rent of Room No. 14, Bl. No. 33, Ulhasnagar-1 from Compensation Application Form No. B / T / UT / 687/XXIV (CS) and benefit of Rule—19 of the Displaced Persons (Compensation & Rehabilitation) Rules, 1955. The correct No. of his Compensation Application Form is B/T/UT/681/XXIV-Cash P.C. No. 47713 and not B/T/UT/687/XXIV (Cash) as mentioned in his letter under reference. A reply in the matter was sent to him *vide* this Department's Memo No. SW/ASO/(R)/B/Y/UT/681/XXX(L)/CS/895 dated 10-9-76, that room No. 8, Bk. No. 682, Ulhasnagar was allotted to him compulsorily *vide* order dated 14-11-1960 passed by Shri L. C. Malik, Asst. Settlement Commissioner, Bombay against the Statement of Account issued to him. The conveyance deed also stands issued to him after adjustment of cost of the said property from his CAF. It is regrettable that his request for adjustment of cost of another property can not be considered as no balance is left in his CAF.

In view of what has been stated above, no further action is required to be taken by this Department in the matter.

(The petitioner was informed of the above position by the Department).

- 5 Shri Lachhman Das, VIII/1024(3), Sadiq Manzil, Mehrauli, New Delhi-30. Issue of Sale Deed in respect of property No. VIII/1024(3) Sadiq Manzil, Mehrauli, New Delhi. Ministry of Supply and Rehabilitation (Department of Rehabilitation)

In his representation dated the 31st July, 1977, the petitioner stated *inter alia* as follows:—

“That I am allottee purchaser of property No. VIII/1024/3, Mehrauli, New Delhi.

In their reply, dated the 10th January, 1978 the Department of Rehabilitation have stated that:

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That I have paid Rs. 8005·25 P. the entire cost of the property in 1966.

That I have also paid all rents and no arrears of rents are due against me.

That when I have paid price long ago and inspite of my numerous visits and representations to R.S.C. Office in this old age, it is not understandable as to why the Sale-Certificate is not being issued to me.

You are kindly requested to intervene in the matter and get me the Sale Deed, in respect of the above-mentioned property."

"The Conveyance deed in favour of Shri Lachhman-das in respect of the above property was issued on 30-11-1977 by the Settlement Wing of this Department."

- 6 Shrimati Bhagwanibai Intimation of adjustment/
Shivaldas, C/o Shri Recovery Schedule in
L. S. Roopani Brk. No. respect of Tenement No.
53/5, Ulhasnagar. 1846/7, Ulhasnagar.

In her representation dated the 28th September, 1977, the petitioner stated as follows:—

"That I have associated an amount of Rs. 1700·34 np. on 13-7-60 from AF.No. B/A/17361/1361 of SHRI MATHURADAS HOTCHAND, towards my tenement No. 1846/7, Ulhasnagar-5

I have not heard that amount has been adjusted but I have not received INTIMATION OF ADJUSTMENT/RECOVERY STATEMENT so far now M.O. Office of the Administrator has received Recovery Schedule.

I have to request your honour to issue Intimation of Adjustment to M.O., and copy to me.

Hope that you will kindly co-operate with me and will issue me INTIMATION OF ADJUSTMENT/RECOVERY STATEMENT at an early date and oblige, as C.R. is awaited for recovery schedule."

In their reply dated the 14th October, 1977, addressed to petitioner and copy to this Secretariat, the Department of Rehabilitation have stated as follows:—

"With reference to your representation addressed to the Chairman, Lok Sabha, Parliament House, New Delhi, regarding issue of intimation of adjustment of Rs. 1700·34 from CAF No. B/A/17361/1361 of Shri Mathura Dass Hot Chand towards GBRP No. 7, Brk. No. 1846, Ulhasnagar, this is to inform you that after adjustment of the above amount, Recovery Schedule was sent to you vide our letter No. SC/(III)/ASO (PII)/TRC/ Recovery Schedule /76 dt. 15-1-77. The endorsed copy of this Recovery Schedule was also handed over to the administrator, Ulhasnagar on 4-2-77.

You are, therefore, requested to approach the Administrator, Ulhasnagar for issuance of the C.D."

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7. Shri W. Rosario, 920- Synagogue Street, Poona-1. Payment of arrears of stepped up salary. Ministry of Defence

In his representation dated the 4th April, 1977, Shri Rosario stated as follows:—

In their reply dated the 22nd October, 1977, the Ministry of Defence have stated as follows:—

“That my plea for at least parity with my juniors, if not more, has finally been conceded. The last pay I drew was stepped up from Rs. 560/- to Rs. 600/- to bring me on par with them.

However, by an arbitrary order, I was paid arrears from 18th July, 74 amounting to Rs. 23.65 and not from 1st January, 73. I was thus deprived of 18 1/2 months of arrears of salary since the Pay Commission Recommendations are applicable from 1 January, 73 and my juniors have received arrears from that date.

May this case of injustice please be investigated and my dues paid to me at an early date.

I am also glad to inform you that my pension has now been finalised by a grant of Rs. 2/- more than previously and balance of Death-cum-Retirement Gratuity, based on revised salary paid to me.”

“Based on 3rd Pay Commission Report, orders were issued *Vide* this Ministry's O.M. No. 2(24)/ 74/D (Civ-1) dated 27th September, 1974 for removing anomaly in cases of promotions occurring on or after 1st January, 1973 allowing arrears of pay accruing as a result of stepping up of pay with effect from 18th July, 1974. Consequent upon issue of clarification under this Ministry's O.M. No. 12(2)/ 76/D (Civ-1), dated 3rd August, 1976 to the effect that the orders for stepping up of pay under this Ministry's O.M. dated 27th September, 1974 *ibid* issued by AOC Records are in order, Shri Rosario has been paid arrears of pay from 18th July, 1974 to 31st July, 1974 and nothing more is due to him.”