

COMMITTEE ON PETITIONS

(SIXTH LOK SABHA)

FIRST REPORT

[Presented to Lok Sabha on the 7th December, 1977]



LOK SABHA SECRETARIAT
NEW DELHI

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**COMPOSITION OF THE COMMITTEE ON PETITIONS
(1977-88)**

Shri Hari Vishnu Kamath*—Chairman

MEMBERS

2. Shri Aghan Singh
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.

SECRETARIAT

Shri J. R. Kapur—Chief Legislative Committee Officer.

-
- * Proceeded abroad on the 23rd September, 1977.
 - ** Appointed by the Speaker as the Chairman of the Committee with effect from 23rd September, 1977 during the absence abroad of Shri Hari Vishnu Kamath.
 - *** Vacant *vice* Shri Chand Ram ceased to be member of the Committee on his appointment as a Minister of State with effect from 14th August, 1977.

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 First Report of the Committee to the House on the following matters:—

- (i) Petition No. 2 regarding release of political prisoners.
- (ii) Representation regarding certain irrigation facilities to farmers of Chembedu, Taluka Srikalahasti, Distt., Chittoor.
- (iii) Representation from Shrimati Sovana Banerjee, widow of late Shri R. C. Banerjee, a P & T pensioner, regarding grant of family pension.
- (iv) Representation regarding claim against the Railways for damage to consignment of 145 bags wheat booked ex-Mandsaur to Grain Depot (B.P.T.), Invoice No. 13 dated 1st September, 1972.
- (v) Action taken by Government on the recommendations of the Committee contained in their Twenty-third Report (Fifth Lok Sabha) on the representation regarding exemption from payment of road-tax and supply of petrol at concessional rates to physically handicapped persons using vehicles.
- (vi) Action taken by Government on the recommendations of the Committee contained in their Twenty-fifth and Thirty-second Reports (Fifth Lok Sabha) regarding misuse of name and pictorial representation of Parliament House in contravention of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950.
- (vii) Action taken by Government on the recommendation of the Committee contained in their Twenty-ninth Report (Fifth Lok Sabha) on the representation regarding regularisation of Government accommodation No. B. 11/215, Dev Nagar, New Delhi, in the name of Shri Lalit Kumar.
- (viii) Other representation.

1.2. The Committee considered the above matters at their sittings held on the 16th July, 29th and 31st August and 4th, 26th and 27th October, 1977.

At their sitting held on the 4th October, 1977, the Committee heard oral evidence of the representatives of the Ministry of Railways (Railway Board) and the Bombay Port Trust Railway.

1.3. The Committee considered their draft Report at their sitting held on the 1st December, 1977 and adopted it.

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

UGRASEN,

Chairman,

Committee on Petitions.

NEW DELHI;

Dated the 1st December, 1977.

II

PETITION NO. 2 REGARDING RELEASE OF POLITICAL PRISONERS

2.1. Petition No. 2 signed by Shri Pijush Dey, Joint Convenor, Bandimukti-O-Gana-dabi Prastuti Committee, West Bengal, and others regarding release of political prisoners was presented to Lok Sabha on the 22nd June, 1977, by Shri Dinen Bhattacharya, M.P.

A. Petitioners' grievances and prayer

2.2. In their petition, the petitioners stated as follows:—

"Whereas various political parties, including the Janata Party, had pledged before the Lok Sabha elections of March 1977 to release all political prisoners;

Whereas the demand for the unconditional release of all political prisoners is now being raised in all parts of India by political parties, democratic organisations and many eminent men in various professions;

Whereas the Baroda Dynamite case involving charges of waging war against the legally constituted government was unconditionally withdrawn;

Whereas the opportunities of the new democratic atmosphere in this country must be made available to all political workers of all political persuasions;

Whereas the imposition of any conditions on the release of political prisoners is fundamentally undemocratic; and

Whereas the imprisonment, or continued imprisonment of political workers on the basis of their political beliefs is fundamentally undemocratic;

Accordingly your petitioners pray that—

All political prisoners, irrespective of political beliefs or affiliations and including those serving sentences of conviction, those under trial and those detained without trial, be released unconditionally."

B. Factual comments of the Ministry of Home Affairs

2.3. The petition was referred to the Ministry of Home Affairs for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 27th September, 1977, the Ministry of Home Affairs have stated as follows:—

“The term ‘political prisoner’ is not defined in any law and it is sometimes loosely used even to include persons affiliated to political organisations who have committed crimes totally unrelatable to their political beliefs or activities in pursuance thereof. The Government have already taken all possible steps to see that persons kept under preventive detention or prosecuted for their beliefs and acts directly relatable to any legitimate political activity are released. The Minister of Home Affairs issued a press statement on 24th August, 1977 in this regard. It is also to be noted that law and order is a State subject and there are constitutional and legal limitations to what the Central Government can do in this regard.”

2.4. In his press statement issued on the 24th August, 1977, the Minister of Home Affairs stated as follows:—

“I have been reading with a sense of dismay reports in the Press alleging that thousands of political prisoners were still languishing in jails in various parts of the country. These reports or statements, though not politically motivated, create an impression in the public mind that the Janata Government or Ministry of Home Affairs was dragging its feet on the election promises made by the Janata Party in this regard. I deem it my duty, therefore, to place the facts before the people to set at rest all misgivings on this subject.

As soon as the new Government took office, it decided that all persons who were either kept under preventive detention or were being prosecuted or were convicted for acts directly relatable to their political beliefs or political activities, should be immediately released. During the Emergency, several organisations were banned and many persons were detained merely on the ground that they belonged to banned organisations. Many others were prosecuted and convicted on the ground that they indulged in activities in furtherance of the objectives of the banned organisations. Instructions had been issued for the release of all such persons. To the best of my knowledge, I have not come across a single instance of any complaint that any such person continues to be in custody now.

NAXALITES

The problem of Naxalites had also engaged our immediate attention. We issued instructions to all States that all Naxalite detenus should be immediately and unconditionally set free. Out of 645 Naxalite detenus when the new Government assumed Office, all but four, who are in Tamilnadu, had been released by the end of May.

Even in regard to other Naxalite prisoners, we have done more than any other Government in the past was able or willing to do. Inasmuch as the crimes committed by the Naxalites were not actuated by any personal considerations, we wanted to bring them into the political mainstream if they could only be weaned away from the path of violence which they had adopted. With this end in view, a dialogue was initiated with some of their leaders and all the State Governments were advised to release even those Naxalite prisoners who were charged with or convicted of serious offences but had spent five years in jail whether as undertrials or as convicts and gave an indication of a desire to abjure violence in future. It is in pursuance of our suggestions that releases of such prisoners have been made in States like West Bengal, Bihar, Orissa and Punjab. If the progress in this direction is not as spectacular, however, as one would wish, the constitutional and other legal constraints are appreciated before the Central Government is held to any blame. If any of the State Governments like Andhra Pradesh who are entrusted with the responsibility of maintaining law and order in their jurisdictions, are apprehensive regarding those who are charged with or convicted of serious offences and yet refuse to give any indication of any desire to abjure violence even in future, we cannot possibly blame them. Nor can we, under the Constitution, force them to act against their wishes?

MISA DETENUS

As for detentions under MISA, there were 6,847 detenus under MISA on 25th March, 1977. I had clearly stated on the floor of both the Houses of Parliament in the first week of April, 1977, that we were advising the State Governments 'to release all those still under detention except where interests of security of the country are clearly involved or where persons have been detained on account of their recent indulgence in violent activities'. As a result of these efforts, the number of detenus on 13th August, 1977 came down to 592, out of whom, 509 are foreigners awaiting repatriation to the country of their origin or suspected of espionage. Out of the remaining 83 Indian nationals in detention including the 4 Naxalites in Tamil Nadu, 33 are

spies, 19 are insurgents in the North Eastern region and 6 are persons having extra-territorial loyalties. The remaining 21 persons are anti-social elements and hardened criminals detained in various States in connection with the maintenance of public order.

I may add that our commitment to repeal the MISA is absolute and unconditional. If it has not yet been struck off the statute-book, it is because an examination of the proposals for strengthening of other laws and consequential matters, as promised in the President's Address, has not yet been completed.

I hope the above facts will allay all doubts and misgivings if any are at all entertained—in public mind about our policies and will put an end to misinformed criticism of the Government on the subject of release of political prisoners.”

C. Observation of the Committee

2.5. The Committee note from the factual comments furnished by the Ministry of Home Affairs that the Government have already taken all possible steps to see that persons kept under preventive detention or prosecuted for their beliefs and acts directly relatable to any legitimate political activity are released. The Committee also note that the Minister of Home Affairs in a press statement issued on the 24th August, 1977, stated that instructions had been issued for the release of all such persons and that he had not come across a single instance of any complaint that any such person continued to be in custody then. The Minister of Home Affairs also stated in his aforesaid press statement that the Central Government had issued instructions to all State Governments that all Naxalite detenus should be immediately and unconditionally set free.

2.6. The Committee feel that in view of the factual position stated by the Government, no further action is called for in the matter on the part of the Committee.

III

REPRESENTATION REGARDING CERTAIN IRRIGATION FACILITIES TO FARMERS OF CHEMBEDU, TALUKA SRIKALAHASTI, DISTT. CHITTOOR.

3.1. Shri K. V. Subbiah and others submitted a representation, dated the 17th April, 1977, regarding certain irrigation facilities etc., to farmers of Chembedu, Taluka Srikalahasti, Distt. Chittoor.

A. Petitioners' grievances

3.2. In their representation, the petitioners stated as follows:

Para 1. The Chembedu Tank situated in the village limits in Srikalahasti Taluq of Chittoor District in Andhra Pradesh comes under the Swarnamukhi System has been paying Betterment taxes from the inception of the system i.e., from 1956 till today.

Para 2. The total cost of Scheme to the tune of Rs. 12,00,000/- has been met under 'Central Drought and Famine Relief Funds' in the Royalseema region amongst the fourteen schemes contemplated and started during 1953.

Para 3. The right side sluice on the high level has been closed without any reason as such the higher lands on the right side of the hospital has been deprived of irrigation which were originally being irrigated under the system and also levied during the Jamindari System and also after taking over upto 31st June, 1970.

Para 4. The tank is fed by a supply channel from the Swarnamukhi system in order to stabilise the ayacut under this Tank and also some more tanks under this system, viz., Nandimala, Madinanipalem, Chennappanaidupeet, Nallagolla Kandiga, Pathipadu, Arlapadu, Kamareddypalem, and Thorappadu.

Para 5. Due to the improper maintenance and non-excavation to standards of supply channel waters were not received properly due to the supply channels not excavated the following as mentioned above tasks has not developed the Ayacut which has resulted in the ayacut (Additional) deve-

loped under the Chembedu Tank itself where there is ample scope for development.

Para 6. The silt clearance has not been properly done and the stage of the supply channel is in a dilapidated condition and since water has to follow a fall, some water is flowing to the said tank. Many a works booked under the Head has not seen the lime-light in execution but only found a place in records and payments.

Para 7. Now since the total Ayacut under the said tank is 2,700 and since water has to follow a fall, some water is flowing to the said tank. Many a works booked under the Head has not seen lie-light in execution but only found a place them, it will be cruel to deprive them the waters.

Para 8. This can only be achieved by making the M.W.L. of the tank as the F.T.L. i.e. raising the water level by a height of 3' which will not only can stabilize the ayacut under the scheme and also all the tanks can be fed without any difficulty and there won't be any objections from any part of the ryot and also the Ayacutdars for paying any such assessments since already the ayacutdars were paying for the simple sin of drinking the waters of Swarnamukhi when they came to kalahasti.

Para 9. If there is any submersion beyond the contemplated area due to the raise of the bund it won't hamper any patta lands extra than those that were already declared under the submergence and issued pattas as submerged land in Punabaka village. If any further submission will be there this can be avoided by putting a cross Bund with stopping the water from entry into the fields which will be a length to a height of 3 feet which will cost only about Rs. 10,000/- which avoids so many complications and the system can be made useful and paying and a boon to the SriKalahasti Taluq hereby to the backward Royalaseema Area.

Para 10. Added to it no officer is inspecting the tanks nor objected for this extra development of ayacut and now since an objection has been raised for the excavation of supply channels, the reply that they have only contemplates for 2,500 acres under this tank has arisen after a period of nearly 20 years.

Para 11. Hence, we the ayacutdars request that kind and necessary action may be taken such that the entire land

which can be irrigated has to be utilised for foodgrains production as the country is facing food problems instead of spending more and getting new lands under cultivation, it is better to get the lands already which are having irrigation sources under plough and increase the production.

Para 12. Even while filling up of the tanks in general the practice is to fill up the tail and tank first and then the tank in the foremost but these things are taking a reverse gear and if by that time the flood records of the tank is deprived of its water and thereby resulting an unseasonable crop and failure of crop due to short of waters like and thereby hitting the ryots financially and this country for foodgrains.

Para 13. This has been classified as a second class irrigation source during the survey and settlement during 1970-71 only due to the supply channel the entire ayacut under the system of tanks as second class irrigation sources and levied upon. This even after the completion of this project after 16 to 18 years has not so far achieved but ayacutdars assessed and harassed for taxes.

Para 14. Now since the second class irrigation source contemplate a lead crops with 9 months water the entire ayacutdars are prepared to pay the taxes if this is promised and measures taken for the same.

Para 15. Now ayacut development roads were framed and there are no transport facility to transport the crop to market and thereby a heavy loss is put on the part of the ayacutdars.

Para 16. All the salient points may kindly be examined and necessary action taken and suitable instructions issued such that the ryots of medium type are not ruined entirely."

B. Factual comments of the Ministry of Agriculture and Irrigation

3.3. The representation was referred to the Ministry of Agriculture and Irrigation (Department of Agriculture) for furnishing their factual comments thereon for consideration by the Committee. The Ministry of Agriculture and Irrigation (Department of Agriculture) in their factual note dated the 8th September, 1977, have stated that as the matter came under the purview of the State Government, the same was referred to the Government of Andhra Pradesh and the Ministry have forwarded to the Committee the item-wise reply sent by the State Government on the points raised in the representation.

3.4. In their para-wise factual comments on the points contained in the representation, the Government of Andhra Pradesh (Irrigation and Power Department) have stated as follows:

Para 1. The Chembedu tank is included under Swarnamukhi anicut system and is being supplied with water from Swarnamukhi anicut.

Para 2. Construction of the anicut a/c Swarnamukhi river near Srikalahasti was completed at a cost of Rs. 11.66 lakhs, during 1956.

Para 3. The Registered ayacut of 1263.43 acres under Chembedu tank is reported to be irrigated under 9 Nos. Sluices. No sluice is stated to have been closed during the recent times. The internal distribution of water is done by Revenue Department.

In the absence of the details of Survey Nos. of land it is not possible to examine as whether they are included as ayacut under the tank or suggest any remedial measures.

Para 4. The Chembedu tank is fed through a supply channel from Swarnamukhi anicut and from Chembedu tank the following tanks are being supplied with water.

(1) Madinenipalem tank	125.55 acres
(2) Nandimala tank	100.67 acres
(3) Nellangundlakhandriga	115.00 acres
(4) Teripadu tank	90.00 acres
(5) Chennepanaidupeta tank	161.00 acres
(6) Ummalagunta tank	129.00 areas
(7) Abakavarikandiga tank	49.00 areas

760.22 acres

Para 5. The particulars of ayacut irrigated during 1975-76 under the tank against the Registered ayacut are as follows:

	Ist crop	IInd crop	Total extn. Irrigated in 1975-76	Regd. ayacut
1	2	3	4	5
1) Nandimala tank	5			5
2) Madinenipalem tank	271.01	0.84	271.85	226.22

	2	3	4	5
(3) Nallagudlakhandriga	77.81	..	77.87	115.00
(4) Teripadu tank	133.38	26.36	159.74	90.00
(5) Chennepaniadupeta tank	369.33	16.32	385.65	399.00
(6) Ummalagunta tank				
(7) Abakavarikandriga tank				
(8) Chembedu	1616.45	100.99	1717.41	1263.43

The Chembedu Channel which was existing prior to the construction of anicut was improved after the construction of anicut. It is having lot of kinks and curves and it was silted up due to heavy rains of 10/76 and 11/76. From the actual cultivation particulars furnished above this is due to proper water regulation.

Para 6. No silt clearance work is reported to have been done in 76-77 on supply channel and flood damage repairs are reported to have been done. In the absence of specific names of work when wrong booking is alleged, no report can be furnished.

Para 7. The registered ayacut of 2033.65 acres under the 8 tanks listed out in para 5 can be supplied with water from the system and any additional ayacut can be thought of only after detailed investigation of the entire swarnamukhi anicut system after working with the availability of yield etc.

Para 8: As the irrigation under Chembedu tank is much more than the registered ayacut, there may not be any need to improve the standards. If additional ayacut is to be proposed detailed investigation of the aspects of availability of yield after looking into the upper and lower utilisations, land submersion and extra cost involved in improving the bund, weirs and distribution system.

Para 9: The function of protection bund to avert foreshore submersion can only be examined if additional ayacut is feasible for inclusion under the system.

Para 10: The Irrigation department officers in charge of maintenance work will be inspecting the tank and channels frequently. But the distribution of water through field bodhies etc., is controlled by Revenue Department and unauthorised cultivation if any is to be checked by Revenue Department.

Para 11: No comments.

Para 12: This being a diversion scheme all the tanks will be fed simultaneously during flood season. During low

flows water will be supplied to the tanks depending on the requirements. As already explained the ayacut under the tank is receiving adequate supplies.

Para 13: As explained already in the paras above, the Irrigation under the tank is over and above the registered ayacut and adequate supplies are being ensured to the tank.

Para 14: Water is being diverted to the tanks from the Swarnamukhi anicut during the entire period of availability of water in the river.

Para 15: There is a metal road from Chembedu village connecting Nandupet-Srikalashti road and this is under the control of Panchayat Raj Department."

C. Observations of the Committee

3.5. The Committee note from the factual note furnished by the Ministry of Agriculture and Irrigation (Department of Agriculture) that as the matter came under the purview of the State Government, they had referred it to the Government of Andhra Pradesh. The Ministry of Agriculture and Irrigation (Department of Agriculture) have forwarded the parawise factual comments of the Government of Andhra Pradesh on the various points raised in the representation stating inter alia that the irrigation under the Chembedu Tank is over and above the registered ayacut and adequate supplies are being ensured to the tanks. If additional ayacut is to be proposed detailed investigation of the aspects of availability of yield after looking into the upper and lower utilisations, land submersion and extra cost involved in improving the bund, weirs and distribution system has to be undertaken. The petitioners have submitted that they are not getting adequate supplies of water for irrigation of their land. Since the matter comes under the purview of the State Government, the Committee hope that the Government of Andhra Pradesh will look into the matter and take necessary action, including allocation of funds and the requisite survey of the area etc., to meet the demands of the petitioners.

IV

REPRESENTATION FROM SHRIMATI SOVANA BANERJEE, WIDOW OF LATE SHRI R. C. BANERJEE, A P&T PENSIONER REGARDING GRANT OF FAMILY PENSION.

4.1. The President, All India Organisation of Pensioners, New Delhi, forwarded a representation from Shrimati Sovana Banerjee, widow of late Shri R. C. Banerjee, a P&T pensioner, regarding grant of family pension to her.

Sarvashri Dilip Chakravorty and Prafulla Chandra Sen, M.Ps., had recommended the representation for consideration by the Committee.

A. Petitioner's Grievance and Prayer

4.2. In her representation, dated the 9th September, 1977, the petitioner, Shrimati Sovana Banerjee, stated as follows:—

“That my late husband was a Postal Pensioner and took his last breath in the year 1976 by a sudden attack of coronary thrombosis and I approached the all big-guns of the Postal Deptt. following his death for the family pension as enjoyed by the other Central Govt. Pensioners' widows who retired on or after 1-1-64.

That my representations evoked responses from all the big guns of the department in the same strain that I am not entitled to the benefit of the family pension since my late husband had retired before the introduction of the family pension scheme effective from 1-1-64.

That after having been disappointed, I approached the Secretary General of the All India Pensioners' Association, Kanpur and I had been intimated that the case was put forward in a form of resolution in Lok Sabha Committee on Petitions during the by-gone Congress regime but nothing positive came out of it.

That now our country has stepped on to a new Era with commitments to eradicate the social evils and doing jus-

tice to the weaker section of the Janata and hence I am approaching your supreme might with this humanitarian cause to give it a shape after approval of the honourable M.Ps. in the Parliament and save a few surviving souls of the septuagenarian and octogenarian widows who are also the parts and parcels of the country.

That I got my petition endorsed and recommended by the two M.Ps. of the State for its admission into the Lok Sabha Committee on Petitions as per rule and hope that your dignity would kindly exert your full discretion in giving a concrete shape of this humanitarian approach and save the surviving souls of a few widows of the country and oblige."

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

4.3. The representation was referred to the Ministry of Finance (Department of Expenditure) for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 6th October, 1977, the Ministry have stated as follows:—

"Regarding representation from Smt. Sovana Banerjee for grant of family pension to her and other widows of those Government servants who had retired before the 1st January, 1964 i.e. before the introduction of the Family Pension Scheme for Central Government employees, 1964, the position under the rules is briefly as follows:—

- (i) According to the Liberalised Pension Rules which came into force in 1950, family pension was allowed to the family of a Government servant who had completed 25 years qualifying service and died while in service or after retirement. The family pension was restricted to 5 years commencing from the date following the date of death of the Government servant and it was also provided that the family pension should not be paid beyond 5 years from the date of superannuation. Thus, in the case of retired Government servants who dies within 5 years of retirement, the family was eligible for family pension for the unexpired portion of 5 years from the date of retirement. The above provisions were liberalised in 1957 providing for payment of family pension to the families of Government servants who had completed 20 years' qualifying service in normal cases and 10 years in special cases. The period of payment of

family pension was also raised from 5 years to 10 years but in the case of those who died after retirement, the earlier provision continued to operate.

- (ii) With effect from 1st January, 1964, the Government of India introduced a new Family Pension Scheme which covers all regular employees on pensionable establishment whether temporary or permanent who were in service on the 1st January, 1964, or were recruited thereafter. Under this scheme the family pension is allowed to the widow or widower upto the date of death or remarriage and in the case of minor son until he attains the age of 18 years and in the case of unmarried daughter until she attains the age of 21 years or the date of her marriage whichever is earlier. By another order issued *vide* this Ministry's O.M. No. F.9(16)-EV(A)/63-Pt. II dated the 21st October, 1964, the families of Government servants who were receiving family pension on the 31st December, 1963 under the Liberalised Pension Rules and families of Government servants in receipt of family pension under the Liberalised Pension Rules who retired before the 1st January, 1964 but died subsequently, (but within 5 years of the date of retirement) were also allowed the benefit of family pension for life in the case of widows at certain reduced scales after the normal period of payment of family pension under the Liberalised Pension Rules expires. It may be added that the beneficiaries of this concession are limited to the widow and minor children of the deceased pensioner, and not to pay other dependents, who were eligible for family pension under the Liberalised Pension Rules. This is so because under the newly introduced family pension scheme the term family is restricted to cover wife/husband and minor children only.

Thus the widow of late Shri Banerjee is not entitled to any family pension even under the Liberalised Pension Rules because Shri Banerjee died after more than 5 years of his retirement.

As regards the question of extending the benefit of the Family Pension Scheme, 1964, the matter has already been examined at appropriate level and it is not possible to agree to the retrospective effect being given to this scheme."

C. Observation of the Committee

4.4. The Committee note from the factual comments furnished by the Ministry of Finance (Department of Expenditure) that the petitioner is not entitled to any family pension even under the Liberalised Pension Rules because her husband had died after more than five years of his retirement. As regards the question of extending the benefit of the Family Pension Scheme, 1964, the Government have stated that it is not possible to agree to the retrospective effect being given to that scheme.

The Committee feel that in view of the position stated by the Ministry of Finance (Department of Expenditure), the matter does not require the intervention of the Committee.

REPRESENTATION REGARDING CLAIM AGAINST THE RAILWAYS FOR DAMAGE TO CONSIGNMENT OF 145 BAGS WHEAT BOOKED EX-MANDSAUR TO GRAIN DEPOT (B.P.T.) INVOICE NO. 13 DATED 1-9-1972.

5.1. M/s. Hirji Lakshmichand & Co., Bombay submitted a representation dated the 8th April, 1977, regarding a claim against the Railways for damage to a consignment of 145 bags wheat booked ex-Mandsaur to Grain Depot (B.P.T.) Invoice No. 13 dated 1-9-1972.

A. Petitioners' grievances and prayer

5.2. In their representation, the petitioners stated *inter alia* as follows:

"This petition is submitted by the petitioner to the Hon'ble Chairman and Members of the Petitions Committee of Lok Sabha against the action of the Western Railway Administration and the Bombay Port Trust Railway Administration of depriving the petitioner of the amount of Rs. 3625.00 which the petitioner had claimed as a compensation from the above two administrations as per rules of the Indian Railways Act. The consignment of 145 bags wheat was indented by the petitioner from Mandsaur for sale in the Bombay market and was despatched from Mandsaur as per the particulars stated earlier in this petition. The normal transit time between Mandsaur to Bombay is hardly 4/5 days but the consignment arrived in Bombay on or about 7-10-1972 i.e. after a delay of about 34 days. The consignment when arrived and was made available for delivery was found to be in a very heavily damaged condition. The petitioner therefore demanded the delivery on assessment and the Assessment was conducted by M/s. Standard Surveillance Corporation a professional surveyor. The survey report of the surveyors reads as under:

The above consignment booked from Mandsaur to Grain Depot under R.R. 097087 dated 1-9-72 and loaded into wagon No. 9946 was reported to have been transhipped enroute at Ratlam to wagon No. 32860, arrived at Grain

Depot on 7-10-72 and placed at 'D' shed and unloaded on the same day.

All the above bags were presented for survey. The bags were stacked in four tiers and random samples were drawn with a poker-sampler from thirty bags.

Upon examination, the samples were found weevil-infested with a major portion of the grains eaten up and reduced to grain dust.

The wheat in its present condition is not saleable in the market. However, after drying, sieving, cleaning and separating the eaten up grains it could be sold.

Allowing for wastage, cost of transportation, drying, sieving and cleaning, we assess an allowance of Rs. 25/- per qtl. in the sound market value which has been accepted on behalf of the consignee.'

Issued without prejudice and subject to the terms and conditions of the Contract of Carriage'.

The damage allowance assessed by the surveyors appointed by the B.P.T. Railway was much less and did not reflect the actual loss but in order to have cordial relations with the railways we accepted the same believing that the railway would compensate us for the said loss. As required under the Indian Railways Act, the petitioner submitted his claim for the above on the two railways *vide* his notice of claim dated 7-12-72 addressed to the Chief Comml. Supdt. Western Railway and the Manager, B.P.T. Railway. After protracted reminders and issue of the Notice of suit under Sec. 80 C.P.C. and 87 of the B.P.T. Act the Manager, B.P.T. Railway *vide* his letter No. CU-963-G-72 of 28-5-75 repudiated the claim of the petitioner. The letter of B.P.T. Railway reads as under:

'The forwarding note tendered by the senders bears the following remarks. Wagon directly loaded by the sender. P. 7 & P. 8 not complied with. Bagging old having holes. Dunnage not used.

In the circumstances, I regret your claim for 145 bags wheat damaged by wet cannot be entertained in this case.'

Against the repudiation of this claim the petitioner, submitted representations to the General Manager, Western Railway, Chairman, Bombay Port Trust, and also to then

Minister for Railways, Shri Kamalapathi Tripathi, vide their claims agent's letter of 19-11-75 and 12-7-1976. The Chief Claims Officer, Western Railway vide his letter No. CC-739-72-RTM of 18-8-76 merely informed the petitioner that the Manager, B.P.T. Railway, is competent authority to settle the claim while the B.P.T. Railway vide their letter No. CU-963-G-72 of 30-7-1976 merely maintained the repudiation of this claim.

The petitioner states that the repudiation of the claim by the B.P.T. Railway Administration is not in order because firstly there was a delay in the transit of the consignment which took about 34 days as against the normal transit period of hardly 4/5 days. The consignment was transhipped enroute at Ratlam and this has been done by the railway's own contractors and without being witnessed by any of the consignor/consignee's people. The Standard Surveillance Corporation in their report as to the cause of damage have clearly stated that the damage was due to Weevil infestation, due to prolonged transit and lack of cross ventilation. In our appeal to the B.P.T. Railway Administration and the Western Railway the petitioner had stressed this point and still the claim has not been considered. Faced with the unhelpful attitude of the Railway Administration, the petitioner now seeks the verdict of the Committee as to whether the action of the Railway Administration in depriving the petitioner of his dues in this case is in order or not."

B. Comments of the Ministry of Railways (Railway Board)

5.3. The representation was referred to the Ministry of Railways (Railway Board) for furnishing their factual comments thereon for consideration by the Committee. The Ministry of Railways (Railway Board) furnished a copy of the note received by them from the Railway Manager, Bombay Port Trust, stating as follows:

"A consignment of 145 bags wheat was booked ex-Mandsaur to BPTG in wagon No. NRC 9946, which was transhipped enroute at Ratlam on Western Railway into wagon No. NRC/32860 and received on this Railway on 6-10-1972.

The contents of wagon No. NRC 32860 were delivered to the party M/s. Hirji Lakhmichand & Co., Bombay, on 24-10-1972 on a qualified remark, 'received 145 bags, out

of which, 2 bags slack weighing 85 and 79 kgs. (as against sound bag wt. 100 kgs.)' Accordingly, the discrepancy was notified to the Foreign Railways for 2 bags cut and slack only, under Conference Rules.

Prior to delivery, the consignment was jointly surveyed by the Party's surveyor and M/s. Standard Surveillance Corporation on 23-10-1972 who assessed an allowance of Rs. 25/- per quintal. Based on this, the party submitted a claim for Rs. 3,625/- for damage and deterioration to 145 bags wheat, in time. The party's claim was repudiated vide this office letter No. even dated 28th May, 1975 on forwarding note remarks, 'wagon directly loaded by senders P 7 and P 8 not complied with. Bagging old, having holes. Dunnage not used; as advised by the Western Railway.

Notwithstanding the contents of para 3 above, the fact remains that the party had failed to pass a remark regarding damage by wet to the bags on the unloading and delivery Memo No. 2326/13 before taking the delivery of the subject consignment. The claim, therefore, correctly stands repudiated under para 138 of I.R.C.A. Goods Tariff, which reads as under:

'138. A notice of Loss or Damage—The Railway shall not be responsible for any damage to or loss of property unless notice of such is given in writing to the Station Master before delivery and removal from the Railway's premises of the property or of the package or packages, the contents or parts of the contents of which are alleged by the claimant, to be damaged or lost or of the consignments, a portion of which is alleged by the claimant to be lost (as the case may be).

On merits also, the case does not warrant reconsideration. The transit time in this case is only 37 days, during which, the consignment cannot get affected with worms unless it was originally in that condition or was in deteriorated condition at the time of loading. The mere fact that the consignment was surveyed at the unloading point, does not make Railways liable for compensation. The party's claim is also now suit barred under the Limitation Act, and therefore cannot be settled."

C. Evidence before the Committee

5.4. At their sitting held on the 4th October, 1977, the Committee examined the representatives of the Ministry of Railways (Railway Board) and of the Bombay Port Trust on the points contained in the representation.

5.5. When asked to explain the reasons for the inordinate delay of two and a half years in the settlement of the claim for damage to a consignment of 145 bags booked ex-Mandsaur to Grain Depot (Bombay Port Trust), the Railway Manager, BPT, stated that the claim was received in December, 1972. In July, 1973, enquiries were completed and a decision for repudiation of the claim was taken in the same month. After that, the delay took place. The officer concerned for the delay was punished and he was superseded.

5.6. The Committee asked the witnesses to give their comments on the submission made before the Committee by the petitioners that the repudiation of the claim by the BPT Railway Administration was not in order because there was a delay of 34 days in the transit of the consignment as against the normal period of four or five days. The Chief Claims Officer, Western Railway, stated that the said consignment was booked on the 1st September, 1972. Along with that, three other consignments of wheat meant for Bombay were also booked on the same day. Out of these four consignments, two reached their destination within the normal time. The consignment in question and another one were delayed in transshipment at Ratlam as these consignments were to be transferred from metre gauge wagons to broad-gauge wagons. At that time, in 1972, there was a strike by locomen of Southern Railway with the result that all the loads which were passing through Ratlam junction were detained. Secondly, due to breaches between Ratlam and Ganga-pur, the goods meant for Ratlam were also held up. Thus due to congestion of hold up, these particular wagons were held up for 27 days for shipment along with other wagons. Further, it was not always operationally feasible to take out wagons strictly in order of priority.

5.7. The Chief Claims Officer, Western Railway, further stated that there was another wagon, which was also detailed for 27 days, that arrived at Bombay on the 7th October, 1972. They had enquired from that consignee, who took delivery of the goods whether he had also suffered any loss due to delay in the transport. The consignee said that there was no loss suffered by him. Also, there was no deterioration in that consignment delivered on the same day. But in this particular case, the consignee had said that there was loss in the quality of the goods. But the loss was not on account

of the goods being damaged due to wet owing to delay in the trans-shipment. They had also made enquires from the Collector of Ratlam, as well as from the Meteorological Department, and it was established that there was no rain at Ratlam during the relevant period. But in this particular case, according to the assessment, there was a loss. They, therefore, wanted to find out as to what were the reasons for deterioration. It had been mentioned in the joint survey report that the damage was due to prolonged transit and lack of cross ventilation. The witness added that they had also come across a number of cases where foodgrains, particularly consignment of wheat, had taken much longer than 32 days but there was no damage. The opinion given to them was that this could have been caused either because the goods were inherently defective or because of prolonged confinement. Hence in the present case both the factors were responsible. Therefore, on the ground of equity, the case should have been settled on 50-50 basis. So, they had taken the decision to pay the amount to the party and the party had accepted the payment. In reply to an enquiry, the witness clarified that the loss suffered by the party was Rs. 2570/- which was two-third of the loss of Rs. 3625/- assessed by the surveyor.

5.8. In this connection, the Chief Claims Officer of the Western Railway informed the Committee of a telegram and a letter addressed by the party concerned to the Committee on Petitions, and copies endorsed to them, stating that "in view of the compromise reached with the Railways our petition to the Committee may kindly be treated as withdrawn".

5.9. In response to a question, the representative of the Railway Board stated that the destination railway had to pay the claim. The BPT Railway was the agent of the Western and Central Railways for payment of the claims.

5.10. Subsequently, M/s. Hirji Lakhmichand & Co., Bombay, addressed a letter dated the 7th October, 1977, to the Committee stating that since their claim for damage to a consignment of 145 bags wheat booked ex-Mandsaur to Grain Depot (BPT) had been settled in full by the Western Railway, they had withdrawn the representation against the Western Railway which they had made earlier to the Committee.

D. Observation of the Committee

5.11. The Committee observe that in view of the settlement of the claim of the petitioners by the Western Railway, no further action is called for in the matter on their part.

VI

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE CONTAINED IN THEIR TWENTY-THIRD REPORT (FIFTH LOK SABHA) ON THE REPRESENTATION REGARDING EXEMPTION FROM PAYMENT OF ROAD-TAX AND SUPPLY OF PETROL AT CONCESSIONAL RATES TO PHYSICALLY HANDICAPPED PERSONS USING VEHICLES

6.1. In their Twenty-third Report (Fifth Lok Sabha) presented to Lok Sabha on the 25th July, 1975, the Committee, after considering the representation regarding exemption from payment of road-tax and supply of petrol at concessional rates to physically handicapped persons using vehicles and the factual comments of the Ministries concerned thereon, had recommended as follows:—

“The Committee feel that the Central as well as the State Governments owe a special responsibility towards the physically handicapped persons in our society. The Committee note that road tax on vehicles is a State subject and is levied by the State Governments under the respective State Motor Vehicles Taxation Acts. From the facts furnished by the Department of Social Welfare and the Ministry of Shipping and Transport, the Committee also note that in exercise of the powers conferred on them, some of the State Governments and Union Territory Administrations, namely, Governments of Andhra Pradesh, Bihar, Gujarat, Karnataka, Maharashtra, Nagaland, Tamil Nadu, Tripura, Chandigarh, Delhi, Goa, Daman and Diu and Pondicherry have already issued orders granting either total or partial exemption to the vehicles operated by physically handicapped persons from payment of road tax. In the Union Territories of Andaman and Nicobar Islands and Dadra and Nagar Haveli, there are no vehicles used by physically handicapped persons. The Committee, therefore, recommend that the Central Government should take necessary steps to persuade the remaining State Governments and Union Territory Administrations to follow suit and grant exemption to the physically handicapped persons from payment of road tax, especially as the number of vehicles used by invalid persons would not be large and the consequent loss in revenue on that account would not be substantial.

The Committee further recommend that Government should also impress upon the State Governments the desirability of adopting a uniform policy in this regard by allowing total exemption to the physically handicapped persons from the payment of road tax.

As regards the petitioners' other prayer for supply of petrol free from excise duty in the same manner as is done in the case of the diplomatic personnel under diplomatic/international practices and conventions, the Committee agree with the views expressed by the Ministry of Finance that the concession to diplomats is admissible for different reasons which cannot be made applicable in the case of the physically handicapped persons. This, however, does not absolve the Government of their responsibility to find out ways and means to provide the relief asked for by the petitioners. The Committee recommend that Government should expeditiously introduce a suitable scheme to make available petrol at concessional rates to such physically handicapped persons who are needy and genuinely deserve this concession".

[Paras 3.4 to 3.6, Pages 10-11, Twenty-third Report (5LS)].

6.2. The Department of Social Welfare, with whom the above-mentioned recommendations of the Committee were taken up for implementation, have in their reply, dated the 21st September, 1977, stated as follows:—

"It has been decided by the Government to implement a scheme whereunder 50 per cent of the cost of petrol/diesel purchased by physically handicapped owners of the invalid carriages within certain stipulated limits will be reimbursed to them with effect from 2 October, 1977. A copy of circular letter No. 20—122/74-HP|HW dated 8-9-77 addressed to all Chief Secretaries in this regard is enclosed herewith for information (See Appendix I).

As regards the exemption from the payment of road tax on the vehicles used by physically handicapped persons it is stated that all the State Government/Union Territory Administrations have exempted invalid carriages owned/used by the physically handicapped persons from the payment of road tax."

6.3. The Committee note with satisfaction the action taken by the Government to implement the recommendations of the Committee on the matter contained in their Twenty-third Report (Fifth Lok Sabha).

VII

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE CONTAINED IN THEIR TWENTY-FIFTH AND THIRTY-SECOND REPORTS (FIFTH LOK SABHA) REGARDING MISUSE OF NAME AND PICTORIAL REPRESENTATION OF PARLIAMENT HOUSE IN CONTRAVENTION OF THE PROVISIONS OF THE EMBLEMS AND NAMES (PREVENTION OF IMPROPER USE) ACT, 1950.

7.1. In their Twenty-fifth Report (Fifth Lok Sabha) presented to Lok Sabha on the 6th January, 1976, the Committee, after considering the matter regarding misuse of name and pictorial representation of Parliament House in contravention of the Emblems and Names (Prevention of Improper Use) Act, 1950. had *inter alia* made the following recommendation:—

“The Committee note that as recommended by the Committee in their Fifth Report (Fourth Lok Sabha), majority of the States have agreed to making offences under the Emblems and Names (Prevention of Improper Use) Act, 1950, cognizable and that Government propose to amend the Act accordingly. The Committee recommend that Government may expedite introduction of necessary legislation in Parliament.

The Committee also note the action taken by Government on the various cases of violation of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, pointed out by Shri C. V. Varad of Bombay. The Committee desire the Government to expedite their action on the outstanding cases.”

[Paras 3.9. and 3.10, Page 12, Twenty-fifth Report (5LS)1.

7.2. In their Thirty-second Report (5LS) presented to Lok Sabha on the 11th August, 1976, the Committee after considering the action taken reply of the Government on their recommendation contained in para 3.9 of the Twenty-fifth Report, had recommended as follows:

“The Committee note the position stated by the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation) conveying the views of the Ministries of Law and of Home Affairs on the question of making violations under the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, as

cognizable offences. The Committee, after careful consideration of all aspects of the matter, agree that contraventions of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, need not be made cognizable offences so that no harassment is caused to the public at the hands of subordinate police officials in cases of minor contraventions of a technical nature. The Committee, however, desire the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation) to take a serious view of the cases of violations of the provisions of the said Act brought to their notice and pursue them vigorously. The authorities concerned should also be urged to exercise utmost vigilance in the matter to prevent any misuse of the emblems and names held in esteem by the nation. The Committee would like to be apprised of the instruction issued to the authorities concerned by the Government in this respect."

[Para 8.3, page 24, 32nd Report (5LS)]

7.3. The Ministry of Civil Supplies and Cooperation, with whom the above recommendations of the Committee were taken up for implementation, have in their action taken replies dated the 10th August and 22nd September, 1977, respectively, on the outstanding cases, have stated as follows:—

- (i) "As regards the case of M/s. Ayurved Sevashram Pvt. Ltd., Udaipur, the Government of Rajasthan under their letter No. F. 12(8) Home Gr. V./75, dated the 27th June, 1977 have informed that the pictorial representation of the Parliament House was used by M/s. Ayurved Sevashram Pvt. Ltd., Udaipur only in one advertisement in 1968 and was never repeated thereafter and that the said party had tendered unqualified apology. Hence, the State Government have recommended that no action needs be initiated against M/s. Ayurved Sevashram Pvt. Ltd., Udaipur.

On overall considerations, this Ministry is inclined to agree with the views of the State Government."

- (ii) "As regards the case of 'Parliamentary Times' the Delhi Administration in their letter No. F. 4(72)/74-Judicial dated 2nd August, 1977, have stated that the matter was referred to the Public Prosecutor, Delhi who has opined as under:—

"The offence in question committed on 15-8-72 is punishable only with fine upto Rs. 500/- and as such under Sche-

dule II classification of offences. Against the other laws, Cr. P. C. is non-cognizable under Section 468. **Cr. P. C. of the offence is punishable with fine only no court shall take cognizance thereof after the expiry of a period of six months, the period is to be calculated as is provided under Section 469 Cr. P. C. and so calculated launching prosecution now is time barred.**

In view of this legal opinion, no prosecution can be launched for the default of the 'Parliamentary Times'."

7.4. In regard to alleged misuse of name and pictorial representation of Parliament House and national flag in contravention of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, by the Magazine "Commerce" of Bombay, in its issue of 10th March, 1973, as pointed out by Shri C. V. Varad in his letter dated the 22nd July, 1976, the Ministry of Civil Supplies and Cooperation with whom the matter was taken up, have in their reply dated the 28th December, 1976, stated as follows:—

"This Ministry under letter No. 23(9)-IT/76, dated the 4th August, 1976 took up the matter with the Department of Home (Special), Government of Maharashtra for conducting complete enquiries into the matter and sending report to this Ministry along with their views. The Government of Maharashtra under their letter No. SB. XXII/ENA 0576/1587 dated 16th November, 1976 have sent results of detailed investigation with relevant enclosures. Shri D. B. Mahatme, the publisher, in his letter dated August 21, 1976, has stated that they published the photograph in question without any intention of using it for commercial purposes and chiefly due to ignorance about the provisions of the Act. Due to lack of proper knowledge about the spirit and contents of the law, the pictorial representation was brought out so as to highlight the most important event that was taking place in the Parliament. Shri Mahatme has tendered an unqualified apology for the lapse and has assured that there will be no recurrence of such lapse in future. Out of the concerned 7250 copies published, according to the publisher, all the copies have been distributed free of charge to the subscribers except two copies which were returned in office for record. Out of these two copies, one was later on handed over to the Police authorities.

On overall consideration of the matter under reference, and taking into account the opinion of the State Government that no further action need be taken against the publisher in view of the fact that the lapse has been committed for the first time and unqualified apology has been tendered by him, this Ministry agrees with the State Government's views that no further action may be taken against the publisher of 'Commerce' magazine."

7.5. In regard to the recommendation contained in para 8.3 of the Thirty-second Report (5LS), the Ministry of Civil Supplies and Cooperation in their reply dated the 20th December, 1976. have stated as follows:—

"As desired by the Committee, this Ministry would take a serious view of the cases of violations of the provisions of the said Act brought to their notice and pursue them vigorously. The authorities concerned have been apprised to exercise vigilance and to give widespread publicity to the provisions of the Act so as to ensure proper compliance and to create awareness among the public at large about the said Act. A copy of communication No. 23(36)-IT/72. Vol. II dated the 24th July, 1976 to the Chief Secretaries of all the State Governments and Union Territories regarding giving adequate publicity to the provisions of the Act through various media available with the State Government, is enclosed herewith for information (See Appendix II)."

7.6. The Committee note the action taken by the Ministry of Civil Supplies and Cooperation in regard to the outstanding cases of violations of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, pointed out by Shri C. V. Varad of Bombay against (i) M/s. Ayurved Sevashram Pvt. Ltd., Udaipur, (ii) Parliamentary Times, New Delhi, and (iii) the Magazine Commerce of Bombay. The Committee also note the contents of the communication dated the 24th July, 1976, issued by the Ministry of Civil Supplies and Cooperation to the Chief Secretaries of all the State Governments/Union Territory Administrations regarding giving of adequate publicity to the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, through various media available with the State Government.

7.7. The Committee feel that in view of the action taken by the Government in the matter, no further action is called for in the matter on the part of the Committee.

VIII

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATION OF THE COMMITTEE CONTAINED IN THEIR TWENTY-NINTH REPORT (FIFTH LOK SABHA) ON THE REPRESENTATION REGARDING REGULARISATION OF GOVERNMENT ACCOMMODATION NO. B. 11/215, DEV NAGAR, NEW DELHI, IN THE NAME OF SHRI LALIT KUMAR.

8.1. In their Twenty-ninth Report (Fifth Lok Sabha) the Committee, after considering a representation from Shri Sadhu Ram, a retired Government employee, regarding regularisation of Government accommodation No. B. 11/215, Dev Nagar, New Delhi, in the name of his son, Shri Lalit Kumar and the factual comments of the Ministry of Works and Housing thereon, had made the following recommendation:—

“The Committee, while taking note of the factual comments furnished by the Ministry of Works and Housing on the representation observe that the gap between the date of retirement of Shri Sadhu Ram and the date of appointment of his son is only five days more than the maximum period of ten months admissible for such *ad hoc* allotments.

The Committee recommend that the Ministry of Works and Housing may reconsider the petitioner's case sympathetically, if feasible, without treating it as a precedent”.

[Page 28, para 6.4, Twenty-ninth Report(5LS)]

8.2. The Ministry of Works and Housing with whom the matter was taken up, stated in their reply, dated the 11th October, 1976, as follows:—

“This Ministry is required to offer comments on the recommendation contained in the Twenty-ninth Report of the Committee on Petitions (Fifth Lok Sabha) received with O.M. dated the 5th May, 1976. The points raised in the said para have been considered carefully; but it is regretted that it has not been found possible to sanction an *ad hoc* allotment to Shri Lalit Kumar since if an exception

were made in his favour, it will be difficult not to treat this case as a precedent.

The case has been seen by the Minister of Works and Housing and Parliamentary Affairs."

8.3. The Committee on Petitions (Fifth Lok Sabha) at their sitting held on the 24th December, 1976, considered the above action taken reply of the Ministry of Works and Housing on the matter and directed that it might be ascertained whether Shri Lalit Kumar was still occupying a Government quarter.

8.4. The Ministry of Works and Housing (Directorate of Estates) in their reply dated the 25th January, 1977, have stated that "Quarter No. B. 11/215, Dev Nagar, in the occupation of Shri Sadhu Ram was vacated by him on 24-4-1976 (FN)."

8.5. The Committee note that Quarter No. B 11/215, Dev Nagar, New Delhi, in the occupation of Shri Sadhu Ram was vacated by him on the 24th April, 1976. The Committee are of the view that, in the circumstances of the case, no further intervention by the Committee is called for in the matter. The Committee, however, recommend that, in future, such exceptional cases may be considered more sympathetically by the Government.

IX

OTHER REPRESENTATION

9.1. The Committee have also considered one other representation addressed to the Committee by an individual which was inadmissible as petition.

9.2. The Committee observe that through their intervention, the Ministry/Department concerned have explained satisfactorily the position in respect of the representation (see Appendix III).

NEW DELHI;
The 1st December, 1977.

UGRASEN,
Chairman,
Committee on Petitions.

APPENDIX I

(See para 6.2 of the Report)

[Copy of circular letter No. 20-122/74—HP/HW dated the 8th September, 1977, addressed to Chief Secretaries to Governments of all States/Union Territories re. supply of petrol/diesel at 50 per cent subsidy to handicapped persons using motorised transport vehicles.]

No. 20-122/74-HP/HW

Government of India

Department of Social Welfare

New Delhi-110001, dated 8th September, 1977.

To

The Chief Secretary,
to Government of
(All States/Union Territories).

SUBJECT: Supply of petrol/diesel of 50 per cent subsidy to handicapped persons using motorised transport vehicles.

Sir,

The question of introducing a suitable scheme for making available petrol/diesel at concessional rate to physically handicapped persons, in pursuance of the recommendations of the Committee on Petitions of the Lok Sabha in their 23rd Report and that of the Rajya Sabha in their 47th Report, has been under consideration of the Government and it has now been decided to implement the recommendations through subsidies by way of refund of 50 per cent of the actual expenditure incurred by them on purchase of petrol/diesel from recognised dealers subject to prescribed ceilings.

With a view to minimising the difficulties in obtaining the refund, it has been decided to implement the scheme through the Tehsildars and equivalent officers in Tehsils/Talukas, where the physically handicapped owners of motorised vehicles are normally residing.

A copy of the instructions, laying down the procedure for submission and processing of the claims is enclosed. (See enclosure). You are requested to give the maximum possible publicity regarding this concession through the State Government publicity media and to bring this decision of the Government within the knowledge of all Tehsildars or equivalent officers in the State, so that handicapped persons coming within the purview of the concession may derive the necessary cooperation from them in the matter of reimbursement of the subsidy due to them. Implementation of this scheme is unlikely to throw up any work-load, worth the name, on the Tehsildar since presently, on an average, there would not be even one vehicle per Tehsil/Taluka in the country.

The Scheme is to be implemented from 2 October, 1977—Gandhi Jayanti Day—and it is, therefore, imperative that orders of the State Governments along with a copy of enclosed 'Instructions' and 'Prescribed Forms' reach Tehsildars or equivalent officers within 30 September 1977. A copy of such orders issued to Tehsildars may also kindly be enclosed to this Department.

The receipt of this communication may kindly be acknowledged.

Yours faithfully,

Sd/-

(N. P. Nawani)

Dy. Secy. to the Government of India.

ENCLOSURE TO APPENDIX I

INSTRUCTIONS REGARDING CLAIMS/PAYMENT OF SUBSIDIES ON PURCHASES OF PETROL/DIESEL BY HANDICAPPED OWNERS OF MOTORISED VEHICLES

The scheme for payment of refund of 50 per cent of actual expenditure on purchase of petrol/diesel (subject to ceilings indicated below) incurred by the handicapped owners of motorised vehicles will be effective from 2-10-1977:—

Vehicles below 2 H.P.	15 Ltrs. p.m.
Vehicles between 2 & 9 H.P.	25 Ltrs. p.m.
Vehicles of 10 H.P. and above	50 Ltrs. p.m.

2. Each holder of a vehicle in respect of which road tax is exempted should apply to the Tahsildar or an equivalent officer of the Tehsil/Taluka where such holder normally resides for an Identity Certificate, in the prescribed form (Annexure 'A'). The Tahsildar, on satisfying himself after examining the road permit of the vehicle (which must have already been exempted by State Government from payment of road-tax) should complete Part II of the Form and return the same to the applicant after giving the Identity Certificate, a serial number and affixing his signatures on the photograph. He will maintain a register of all such Identity Certificates issued by him and communicate the names, addresses and registration numbers of vehicles and the respective identity certificate number directly to the Department of Social Welfare, Government of India, New Delhi-110001 every quarter for record.

3. After issue of the Identity Certificate, the holder of the vehicle will be entitled to claim subsidy quarterly on the basis of petrol/diesel purchased and used by him for the motorised vehicles, exempted from payment of road tax by State Government/ Union Territory Administration. All purchases made by him should be recorded in a statement as in Annexure 'B'. Every time the beneficiary purchases petrol/diesel, he should affix his signature in the column provided and also obtain the signatures of the distributor so that it

is clear that the petrol/diesel has been used for the vehicle owned by the physically handicapped person concerned, which is exempted from the road tax.

4. The beneficiary will submit a claim after the expiry of each quarter (i.e. in January, April, July and October) for purchases made upto the end of December, March, June and September respectively, direct to the Department of Social Welfare, Government of India New Delhi-110001, in the prescribed form (Annexure 'C'). The claim will be accompanied with an extract of the concerned purchases recorded in the statement prescribed in Annexure 'B'. The Union Department of Social Welfare will examine the claim and on being satisfied about the claim preferred, remit the subsidy through a bank draft to the concerned Tehsildar/Taluka Officer or concerned officer as the case may be, for being disbursed to the beneficiary. The Tehsildar/Taluka Officer will intimate the beneficiary to collect his money and will submit the authorised payee's receipt within 45 days of the receipt of the Bank draft or return the money to Secretary, Department of Social Welfare, New Delhi, if the beneficiary does not turn up to collect the amount in spite of notices given to him. The bank draft will be accompanied by a copy of extracts of the statement prescribed in Annexure 'B' as sent by the beneficiary on the basis of which payment has been made. The Tehsildar or Taluka Officer will compare this extracts with the original available with the beneficiary Annexure 'B' before making the payment.

5. Once an entitled physically handicapped beneficiary approaches the Tehsildar or equivalent officer with an intention to avail of the benefits of this scheme, the Tehsildar should arrange to make copies (cyclostyled or otherwise) of Annexure A, B and C and hand over these to the applicant. The Forms are not being printed centrally because at present there would not be more than 50-60 such cases in all over the country and sending forms to all Tehsils in the country will only mean enormous wastage. The Tehsildar should explain the scheme to the applicant and advise him to fill up Part I of Annexure 'A', affix his photograph and resubmit the same to him (Tehsildar). The Tehsildar should then fill up Part II and return the Annexure 'A' to the beneficiary. After obtaining this "Identity Certificate", (Annexure 'A') from Tehsildar, the beneficiary can start availing of the benefit of the scheme. The beneficiary should be explained that he should keep the "Identity Certificate" safely, maintain Annexure 'B' carefully and submit his quarterly claims to Department of Social Welfare, Government of India, Shastri Bhawan ('A' Wing) in Annexure 'C'.

6. It is requested that Tahsildar or equivalent officers may deal with these applicants with utmost sympathy and consideration as they are all physically handicapped people.

Annexure 'A'

IDENTITY CERTIFICATE

No:—

PART I

Photograph of the Applicant

1. Name and full address of the physically handicapped person:
2. Nature of Physical handicap:
3. Type of vehicle maintained and its horse power:
4. Registration No. of Vehicle:
5. Address and location of the I.O.C. Dealer from whom the applicant wishes to purchase his requirement of petrol/diesel:

Signature of the Applicant

PART II

1. Authority for total exemption of road tax (quote Notification issued by State Government)
2. Registration number of vehicle:
3. Monthly entitlement of petrol/diesel at concession rate—
 Vehicle below 2 H.P.—15 Litres p.m.:
 Vehicles between 2 to 9 H.P.—25 Litres p.m.
 Vehicles of 10 H.P. and above—50 Litres p.m.

Signature of Tahsildar or
his nominated Officer

Tahsil—————

District—————

State—————

Annexure 'B'

Date	Quantity of petrol/ diesel sold	Signatures of beneficiary	Signature of I.O.C. Distributor
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Annexure "C"

CERTIFICATE

This is to certify that the quantities of petrol/diesel specified in the Schedule appended hereto were purchased by me betweenand.....for my bonafide personal use.

Signature

Name and address of the
physically handicapped owner.

SCHEDULE

Registration No. of the
vehicle_____

Identity Certificate
No. _____

Month and Date	Quantity (Liters)	Amount
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APPENDIX II

(See para 7.5 of the Report)

[Copy of Ministry of Civil Supplies and Cooperation communication No. 23(36)-IT/72, Vol. II, dated the 24th July, 1976, to the Chief Secretaries of the State Governments|Union Territories re. giving of adequate publicity to the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, through various media available with State Governments and Union Territories.]

No. 23(36)-IT/72. Vol. II.

Government of India

Ministry of Industry & Civil Supplies
Department of Civil Supplies & Cooperation

New Delhi, the 24th July, 1976.

To

The Chief Secretaries of all the
State Governments/Union Territories.

Subject:—Alleged misuse of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950.

Sir,

I am directed to invite your attention to Ministry of Commerce's letter of even number dated 2nd June, 1973, in which the views of the State Governments/Union Territories were invited in regard to the question of making cognizable all offences committed under the Emblems and Names (Prevention of Improper Use) Act, 1950.

2. After careful consideration, it has been decided that offences committed in contravention of the provisions of this Act may not be made cognizable. The object of this enactment is not to punish people for their misguided zeal and patriotism, which in most cases, motivates them to associate without proper authority their ventures with names and emblems held in high esteem by the Nation. If all offences under this law are made cognizable, even technical breaches of the law would invite serious notice by subordinate functionaries of the law, leading to avoidable harassment to persons whose actions are faulty more out of ignorance than any wilful design. The spirit underlying this Act is to educate people suitably, to enable them to appreciate that the Nation holds certain names and emblems in high esteem and would not like to see them being associated with ventures that are motivated by profit-making

or other similar commercial considerations. For this purpose, the existing safeguards in the Act are considered adequate.

3. However, to ensure widespread dissemination of knowledge regarding the provisions of this Act with a view to enabling its proper compliance, it is necessary that adequate publicity in this regard be made through the various media available with the State Governments to enable the public at large to become aware of this law and to appreciate its purpose. Steps may therefore, kindly be taken to publicise the provisions of this Act at suitable forums, particularly where representatives of trade and industry are associated. A copy of the Emblems and Names (Prevention of Improper Use) Act, 1950, is enclosed for ready reference.

4. The receipt of this letter may please be acknowledged.

Yours faithfully,

Sd/-

(A. Mubayi)

Deputy Secretary to the Govt. of India.

1. Lok Sabha Secretariat in continuation of this Department's O.M. of even number dated 29th April, 1976.
2. Ministry of Home Affairs w.r.t. their d.o. No. 13/7/75-Pub. dated 1st March, 1976.
3. Ministry of Law, Justice and Company Affairs (Deptt. of Legal Affairs) New Delhi.

Sd/-

(A. Mubayi)

Deputy Secretary to the Govt. of India.

APPENDIX III

(See para 9.2 of the Report)

OTHER REPRESENTATION

[Other representation on which the Committee's intervention, the Ministry/Department concerned have explained the position satisfactorily]

S.No.	Name and address of the petitioner	Points raised by the petitioner	Facts perused by the Committee
1.	Shri Chhatumal Khilumal, House near Bk. No. 374, Ulhasnagar-2, Distt. Thana.	<p><i>issue of a copy of order of legal heir of Shri Khilumal.</i></p> <p>"That my father was claimant and allottee of Govt. Land vide U. No. 323, Sheet No. 72, Section 7-A, Near Brk. No. 374, Ulhasnagar-1.</p> <p>That my father has expired and I had applied for Legal Heir on 5-2-73, but case is still pending.</p> <p>That Shri S. S. Goila, Settlement Officer, Jamnagar House, New Delhi, has called me on 18-4-77, at Vakil Building and he has taken Statement & also two witnesses. He examined full compensation and assured me that I will get order copy within one month.</p> <p>I regret to say that I have not received order copy though JULY is also gone. The case must be pending without any action, I have to receive compensation of Agricultural Land.</p> <p>I humbly pray your honour to kindly make enquiry from the Joint Secy., Rehabilitation Deptt., Jaisalmer House, New Delhi, regarding above matter and get me the order copy of compensation of my agricultural land claim."</p>	<p><i>Supply and Rehabilitation (Department of Rehabilitation)</i></p> <p>"Shri Chhatumal is informed that his father Shri Khilumal was paid full compensation on both of his assessed claims i.e. Rs. 1265/- on (i) S/DD-2/917-Rural for Rs. 1825/- and Rs. 646/- on Agri. Land claim assessed for 1 St. Acre 14-5/8 units in Feb. 61 and Aug. 68 respectively by way of adjustment towards property. He was thus tendered a non-claimant during his life time and as no further compensation is payable, the question of appointment of successors in interest in the CAF does not arise.</p> <p>It may be mentioned that the position was intimated earlier vide letter of even No. dated 24-8-1976 also. In so far as the transfer of property in his name is concerned, the case has been referred to the Managing Officer, Bombay for needful. He may address further communication to him."</p>