

COMMITTEE ON PETITIONS

(EIGHTH LOK SABHA)

FIFTH REPORT



[Presented to Lok Sabha on 4.5.1988]

LOK SABHA SECRETARIAT
NEW DELHI

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Corrigenda to the Fifth Report of the
Committee on Petitions (Eighth Lok Sabha)

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COMPOSITION OF THE COMMITTEE ON PETITIONS

(1987-88)

CHAIRMAN

Shri Balasabeb Vikhe Patil

MEMBERS

2. **Shri Alkha Ram**
3. **Shri Teja Singh Dardi**
4. **Shri Anadi Charan Das**
5. **Shri Digvijaya Singh**
6. **Shri Debi Ghosal**
7. **Shri Mewa Singh Gill**
8. **Shrimati Madhuree Singh**
9. **Shri Nihal Singh**
10. **Shri H.B. Patil**
11. **Shri Satyanarayan Pawar**
12. **Shri P. Penchalliah**
13. **Dr. Sudhir Roy**
14. **Shri Salahuddin**
15. **Ch. Sunder Singh**

SECRETARIAT

Shri K.C. Rastogi—*Joint Secretary*

Shri G.S. Bhasin—*Chief Legislative Committee Officer*

Shri O.P. Chopra—*Senior Legislative Committee Officer*

(iii)

FIFTH REPORT OF THE COMMITTEE ON PETITIONS (EIGHTH 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 Fifth Report of the Committee to the House on the following matters .—

- (i) Representation regarding eviction of occupants from Calcutta Port Trust Land, Cossipore.
- (ii) Representation regarding non-refund of deposits by M/s Lohia Machines Ltd.
- (iii) Representation from Shri Jabez Christopher regarding re-instatement in service.
- (iv) Other representations.

1.2 The Committee considered the above matters at their sittings held on 6 and 27 June, 23 July, 21 August, and 9 September, 1986, and 24 March, 18 and 19 August 1987.

1.3 In connection with the representation regarding eviction of occupants from Calcutta Port Trust Land, Cossipore, the Committee undertook on-the-spot study visits to Calcutta from 22 to 24 October, 1986, with a view to study the problems of the petitioners. The Committee visited the site of the Port Trust Land at Cossipore and held informal discussions with petitioners and the Chairman and officials of Calcutta Port Trust.

1.4 The Committee wish to express their thanks to the Chairman, Calcutta Port Trust for furnishing relevant information to the Committee in connection with the examination of the subject. The Committee also express their thanks to the representatives of North Port Trust Tenant Association, Cossipore, Calcutta, for furnishing the relevant information and suggestions made during the informal discussions with the Committee.

1.5 The Committee would also like to express their thanks to the officers of the Ministries of Transport, Industry, Finance, Health and Family Welfare and Law, Justice and Company Affairs for furnishing information to the Committee.

1.6 The Committee considered the draft Report at their sitting held on 21 April, 1988, and adopted it.

NEW DELHI

21 April, 1988

Vaisakha 1, 1910 (Saka)

BALASAHEB VIKHE PATIL

Chairman

Committee on Petitions,

REPRESENTATION REGARDING EVICTION OF OCCUPANTS FROM THE PORT TRUST LAND IN CALCUTTA

2.1 The President, North Port Trust Tenants Association, Chitpur Ghat Lane Cossipore, Calcutta forwarded a copy of the Memorandum (signed by 29 persons) dated 16 December, 1985 (Appendix I) regarding eviction of occupants from the Port Trust land in Calcutta.

A. Petitioners' Grievances and Prayer

2.2 In their representation, the petitioners stated that they were the tenants of land in the Cossipore area near river Ganges commonly known as Starnd Bank and Khagendra Chatterjee Road. Plots of land were let out to the tenants under the terms and conditions of short term lease and monthly rents were being collected by the Calcutta Port Trust for the demised land since the execution of lease deeds.

2.3 It had been stated that originally the Calcutta Port Trust Railway line was there to connect Chitpur Railway Yard and Eastern side of the said railway line was being used for Port Trust Godown and the rest of the land was lying vacant. These plots of land were let out as these were lying unused and the port Authority was able to derive some income out of that. Now there was no Port Trust Railway as railway tracks had been handed over to the Ministry of Railways for plying circular trains. The Port Trust has, therefore, no use of the land in the Cossipore area for its own purposes.

2.4 The petitioners have been residing in structures and buildings erected on the said land and they had arranged water, electricity, telephones and other amenities at their own cost. Most of the tenants have been occupying the land for more than 50 years. The tenants who were paying Rs. 6 per month as rent, when they first occupied the premises, were now paying Rs. 120 per month. After coming into being of Haldia Port, the Calcutta Port had lost its importance and for the past 30 years the Cossipore area remained unutilised. Moreover, since the Cossipore area was at a distance from the Calcutta Port,

such an area should be excluded from the Port area. It has been further stated that cases were pending in the Sealdah Court for non-payment of rent even though the tenants had already made the payments by cheque or cash. Some plots of land were lying vacant for 15 years inspite of the fact that Port Trust authorities had leased out the plots to those who had applied for them. Earnest money had been collected but the land had not been leased out to the applicants. The Calcutta Port Trust had served eviction notices on those who were *bona fide* tenants and were paying rent, but those who were unauthorisedly occupying the land and were not paying rents were not being disturbed.

2.5 The main grievance of the petitioners is that the eviction proceedings initiated against them by the Port Trust without assessing any reason, be withdrawn.

2.6 They have cited the following main points in support of their grievance :

- (i) That they are the tenants of Port Trust land at Cossipore area and they have built structures and buildings on the said land and they run their business there and are paying rent regularly which have been enhanced several times in the past.
- (ii) That the Port Trust Railway tracks have been removed and Port Trust has no use of their land for its own purposes.
- (iii) That the existing terms of Short Term leases are one sided and the provisions laid down there are not legal.
- (iv) That the Port Trust did not intimate the reasons for serving eviction notices.

B. Comments of the Ministry of Transport (Department of Surface Transport)

2.7 The representation was forwarded to the Ministry of Transport (Department of Surface Transport) on 7 February, 1986, for obtaining their factual comments. In their note dated 11 April, 1986, the Ministry have stated as follows :

“The Board of Trustees of the Port of Calcutta have adopted a ‘Land Use Plan’ for development of the entire Port Estate. In accordance with the Plan, the Trustees Estate at Cossipore is earmarked for

'Residential purposes' with ancilliary constructions of Parks, Plazas, Gardens, Temples, Institutions etc.

The land at Cossipore, in question, was mainly covered by the Trustees' Railway Sidings which have recently been dismantled and removed and as a result a vast area of vacant and valuable Land measuring about 11.4 acres is lying unutilised. The tenants, who applied, occupy only a few strips of land measuring barely about two acres and their purposes of utilising the land do not conform to the purpose of the 'Land Use Plan'. To obtain a compact area for development purposes, it was considered necessary by the Calcutta Port Trust to resume the strips of land held by these lessees to implement Land Use Plan. The West Bengal Housing Board and the Housing and Urban Development Corporation Ltd., have offered to participate in the development of the residential complexes and the matter is under consideration.

In view of the aforesaid circumstances, eviction notices have been served on the tenants to secure vacant possession of strips of two acres of land.

Since the tenancies under Calcutta Port Trust are governed by the provisions of the Transfer of Property Act, termination of monthly leases and licences does not warrant disclosures of the reasons for termination/revocation. Only 15 days' notice on either side expiring with the end of a calendar month is sufficient for such termination/revocation. There are 62 monthly leases and 2 licences. Out of the 62 monthly leases, 24 were under eviction proceedings for breach of covenants like non-payment of rent etc. Ejectment notices have been served recently on 32 monthly lessees and 2 licencees in order to implement the 'Land Use Plan'. Service of notices on the remaining 6 occupiers is already in process.

As regards long-term leases, the agreements provide a 'Resumption' clause which empowers the Trustees to resume the land on six months' notice with payment of compensation for the structures erected on the demised land if the land is required in the interest of the Port or Public purposes. There are in all three long-term leases, out of which one tenant is under eviction proceedings for breach of covenants from 1983. Ejectment notice in respect of one occupation has already been served by giving 6 months' notice and

also stating the reason for eviction, whereas ejectment notice in respect of another occupation is still in the process of service.

Hence, it is evident that the trustees have complied and are complying with all legal requirements in the matter of taking up eviction proceedings against the tenants/licencees at Cossipore."

2.8 The Committee considered the petitioners' representation and the factual comments furnished by the Ministry on the points raised in the petition at their sitting held on 6.6.1986.

2.9 At their sitting held on 9.9.1986, the Committee decided to undertake an on the spot study visit to Calcutta for an indepth study of the problems of the petitioners. The Committee visited the site at Calcutta from 22 to 24 October, 1986, and held informal discussions with the representatives of the North Port Trust Tenant Association and also with the representatives of the Calcutta Port Trust. The Committee also examined the officials of the Ministry of Surface Transport (Ports Wing) at their sitting held on 24.3.1987, in connection with this representation.

2.10 From the information made available to the Committee, it is seen that at the inception, the Trustees' landed property at Cossipore was meant for promotion of trade in minerals and wood for export and import. To implement that objective, railway siding and roads with some structures for covered storage were erected at that time. The open spaces available after such erections were let out to the Port based organisations for putting up establishments. Total area of this space land is about 14.2 acres of which 2.8 acres is occupied by tenants and balance area was mainly covered by C.P.T's Railway lines/road etc. It has been stated that with the abnormal decrease in the traffic specially for navigational disadvantages, the Trustees considered maintenance of railway sidings absolutely uneconomic and as a result adopted a scheme for shrinkage of the same. The Cossipore Yard was considered no more required for the objective for which it was originally laid. The said railway siding was therefore, abandoned and the tracks with all other materials were sold in auction in 1984. As a result, a vast area became open and the area previously let out became insignificant in ratio to the total area of the Trustees' landed property at Cossipore.

2.11 The Committee were informed by the Ministry that small plots of open land along the Railway sidings at Cossipore were let out by Port Trust from various dates. The earliest allotment in respect of two plots pertains to the years 1934 and 1935 respectively for storage of firewood etc. and majority

of tenants were allotted plots during 1970's, the latest being from August, 1979.

2.12 Port Trust had not allotted any land for residential purposes at Cossipore to any of the tenants. However, 9 tenants who have been allotted plots at Cossipore have constructed temporary/semi-pucca structures and are using them unauthorisedly for residential purposes.

2.13 Altogether 67 plots were allotted temporarily for storage of fire-wood and minerals etc. It has been stated that excepting in 9 cases where change of tenancies took place by way of successions, the remaining tenants are in occupation of the land since the dates of possession. According to the Port Trust authorities, the tenants at Cossipore are not utilising any Port facilities and are engaged in various trades, which have no bearing on Port activities. Therefore it was not necessary for these tenants to carry on trade on Port Estates at Cossipore.

The details of the occupations at Cossipore as furnished by the Ministry are as under :

(i) Long term leases	—	3
(ii) Short term leases with the leases executed and registered	—	40
(iii) Short term leases without the leases being executed and registered	—	22
(iv) Licences	—	2
		—
Total		67
		—

2.14 Eviction proceedings have been initiated against the above 67 tenancies at Cossipore. These can be grouped into two categories (a) Eviction proceedings against 25 tenants initiated from time to time due to various breaches of lease term like unauthorised sub-letting, unauthorised construction, non-payment of rent, encroachment etc., much before adoption of Land Use Plan in respect of Port Estate. Against these 25 tenants, suits have been filed and the matter is sub-judice. (b) Eviction notices have been issued in 1985-86 in respect of the remaining tenants in pursuance to the adoption of the Land Use Plan by the Board of Trustees in June, 1984, and to gainfully utilise the

land to implement Port's own development plan of the area. No suits have yet been filed against these tenants who were served eviction notices consequent on adoption of Land Use Plan and not due to breaches of any lease terms.

Land Use Plan

2.15 It has been stated that for proper utilisation of the land in Port Estate and for maximising revenue there from a Land Use Plan was adopted by the Trustees in 1984. Asked to give the broad features of the 'Land Use Plan', as approved by the Calcutta Municipal Development Authority, the Ministry have in a note stated that in pursuance of the guidelines issued by the Ministry, a Land Use Plan was prepared and adopted by the Trustees vide resolution No. 151 of 29th June, 1984. According to original Land Use Plan the land at Cossipore River front was recommended to be developed primarily for residential use besides open space land, gardens, retail commerce and other institutional uses. However, in order to generate more revenue, modifications in respect of the original land use at Cossipore were suggested by CPT and the CMDA on reconsideration, agreed to partial utilisation of the land for commercial and light industrial purpose with the provision that the River front space should be kept open.

2.16 It has been stated that modifications agreed to in the Land Use Plan by CMDA are being followed by Port Trust in disposing of land at present. Discussions are reportedly going on with CMDA in respect of modifications of Land Use Plan of other areas within Port Estate and after finalising of such discussions, a comprehensive proposal would be placed before the Trustees. The Ministry in their written information furnished to the Committee on 8.3.88 stated that the Land Use Plan has not yet been approved by the Calcutta Port Trust. With respect to the difficulties in this regard, it has been stated that 'the delay in placing the modified Land Use Plan before the Board is due to differences between Calcutta Port Trust and Calcutta Metropolitan Development Authority with regard to the proposed Land use in respect of Calcutta Jetty and the matter is still under discussion. The modified Land Use Plan for the entire port estate will be put up to Port Trust Board for its formal approval after the said dispute is resolved.

2.17 The Committee enquired whether there was any plan to rehabilitate the tenants including those who had been served eviction notices. To this, the Ministry had replied :

"Earmarking of the portation of land on the extreme north and also along Turner Road at Cossipore has been made for relocating the

evictees. Necessary action relating to allotment of alternative sites will be undertaken only on their surrendering the existing holdings on payment of all dues and after final decision is taken by Government which has been sought."

2.18 During evidence on the subject, the Secretary, Ministry of Surface Transport informed the Committee :—

"We have not got a complete chart of the comments of the CMDA. On some points they have given their comments, but on others they have said that the comments will follow. So, I am told, they have not as yet been placed before the Port Trust. Only, after all the comments are received the Port can take a total view of the things."

2.19 The Committee wanted to know whether under the Land Use Plan there was any proposal to construct staff quarters for the employees of the Calcutta Port Trust. The Ministry have in written note stated that in the Land Use Plan certain areas within the Port Estate have been recommended for use for residential purposes and construction of staff quarters on such areas would be permissible.

2.20 It has been further stated that 52.5% of the total number of class IV and 3% class III employees of Port Trust at Calcutta have been provided with staff quarters. The employees who have not been provided with staff quarters are given liberal house rent allowance which is 25% of pay at present. Port Trust employees are not eligible for allotment of Central Government/State Government accommodation.

2.21 Considering the financial position of port trust as well as the fact that private residential accommodation is available at Calcutta, no funds have been allocated for construction of staff quarters at Calcutta in the current budget for 1987-88.

Rehabilitation of Evictees

2.22 The Committee enquired whether there were proposals to rehabilitate elsewhere the tenants to whom eviction notices had since been served. In reply, the Ministry have stated :

"So far as the Port Trust is concerned there are no orders from the Government to provide for alternative plots in lieu of the plot held on lease/licence, after the same is terminated. There are no propo-

sals either to rehabilitate the persons against whom eviction proceedings have been initiated."

2.23 When asked what compensation was proposed to be given to the evictees, the Ministry stated :

"There is no proposal to provide for any compensation to the evictees nor is there any such provision under lease term, except in the case of prior determination of the long-term lease, for Port/Public purpose compensation for only the authorised structures is payable."

2.24 Clarifying the position in regard to payment of compensation, the Port Trust have stated that eviction action had already been initiated and suits filed in the court against 25 to 67 tenants at Cossipore for various breaches of the lease terms and, therefore, question of payment of any compensation to these evictees did not and cannot arise. It was further stated :

"Even in the case of other tenants who have been served with eviction notices in pursuance to the adoption of Land Use Plan necessitating re-entry to the demised land held on lease by the tenants for Port's own development work, it is stated that the relevant provision of the lease terms do not provide for payment of any compensation whatsoever. The pertinent clause of Short Term leases reads as under VII(a).

And will at the expiration or sooner determination of the said term or any extended period thereof quietly and peacefully yield up vacant possession of the demise land as a whole upto the Trustees with all buildings erections and other structures, if any, that erected thereon including any alteration, improvements etc. made on the existing standing buildings erections and structures, if any that shall not have been previously removed by the Lessees provided always the Trustees will have the right to remove at any time on the Lessees' failure to do so at the risk and expenses of the Lessees any buildings, erections and structures including any alternations, improvements etc. thereon and the Lessees shall not be entitled to any compensation for the Trustees' retaining or removing the said buildings, erections and structures including any alterations, improve ment etc. thereon."

However, in the case of Long Term leases, the Trustees are to pay compensation for pre-determination of the leases for reasons other than due to breaches of lease terms for the authorised structures made by the tenants on the leased site.

Under the existing terms of the lease of tenancies, Trustees and Landlord have the right to terminate the tenancies at any time and the tenants cannot claim any compensation for any consequence thereof."

2.25 To a question whether there was any proposal to allocate flats and/or any other concessions to the evictees the Ministry replied :—

"Since the tenants are in occupation of the plots of land for trade and commerce, question of allotting residential flats to them would not arise, if and when Port Trust decides to build a residential complex in this land."

2.26 The Committee pointed out that more than 80% of the tenants had been running their business in the area for more than 15 years and about 20% of them were in the area for more than 30 years. Under the circumstances these tenants deserved to be compensated particularly when the Port Trust was going to make huge profits by implementing the new land use plan. In a note, the Ministry have stated :

"The tenants are fully aware that the land allotted to them can be resumed by Port Trust at any time without assigning any reason and without payment of any compensation as per the provisions of the lease terms. Therefore, under law, no compensation is payable for termination of the tenancy by Calcutta Port Trust to resume land for its own purposes. There is no space for any doubt about the legality of Ports' decision in the matter."

The Ministry have further stated :

"We do not feel that non-payment of compensation to the tenants tantamount to denial of justice. On the contrary payment of any compensation for terminating the tenancy for which port trust has no legal liability whatsoever will itself create a bad precedent and will be against the interest of Port, for similar demands are bound to be raised by other tenants, who may have to be evicted to secure possession of land as per terms of lease to meet port's own requirement in future."

2.27 The Committee pointed out that even on humanitarian grounds, the tenants deserved to be rehabilitated after eviction from the land they had occupied for long period. To this, the Ministry have replied :

“Port Trust is not under any legal obligation to provide land to any of the evictee tenants or to pay compensation towards the structures or otherwise. However, purely on humanitarian ground Port Trust is agreeable to offer alternative land of equal area as that of the existing allotments to enable them to continue their business in the same locality which also will have suitable road access. Port Trust does not provide water or electricity to any of its tenants. These are to be arranged by the tenants for which Port Trust will give no objection if requested. As many as 13 tenants will not be required to be shifted as their existing plots fall within the area selected by Port Trust for relocating the evictee tenants at Cossipore.”

2.28 As to the alternative accommodation to be provided for industries, which were having permanent structures there for a long time and who had spent a lot of money on them, the representative of the Ministry state that basically that property belonged to the Port and its rights had to be protected. They had been given space for just keeping their goods for short duration on short-term leases or even on long-term leases. All those were leases only and no compensation could be given as the property was basically of the Port. If Government agreed to pay compensation on compassionate grounds even in one case, the premises would never be cleared and it would lead to lot of litigation. It was stated that some people might be quite poor, but there were also big companies like Indian Steel Equipment Company, Union Carbide India Limited etc. On a survey made by Government it had been found that somebody took a place for cycle stand and a factory but he had not even utilised it so far yet he wanted to hold on to it. Then, somebody had a general merchandise store and he had sublet it. It was only to overcome such difficulties that they were forced to extend the Public Premises Eviction Act to Ports.

2.29 During the visit of the Committee to Calcutta in October, 1986, the petitioners had suggested that in the alternative accommodation to be offered to them some additional land should be allotted to compensate them for the losses involved in dismantling rehabilitation. In this context, the Ministry have stated :

“Purely on humanitarian ground, Port Trust is agreeable to offer equal quantum of land in lieu of the existing allotted plots in the immediate neighbourhood. It is not at all reasonable, therefore to suggest that any extra land would be needed for their comfortable and honourable rehabilitation.”

The Ministry have further stated :

“The tenants at Cossipore will be offered alternative land on the same terms and conditions as at present and are applicable to all other short term tenancies in Port Eastate. Port Trust does not propose to liberalise these terms while offering alternative lands to the petitioners as and when a decision in this regard will be finally arrived at ”

2.30 On the question of providing basic amenities like drinking water, electricity, approach roads etc. to the tenants in the new sites to be offered to them, the Secretary of the Ministry stated :

“I may assure that once we give them alternate sites which we have no obligation to do, we will see there should be no difficulty this point. I would also like to point out that the existing sites on which they are located most of them do not have water and electricity. This is a basic need and I do not think Port would stand in the way of providing these amenities.”

2.31 When asked to state whether they had arranged any meeting with the petitioners in regard to providing alternative accommodation, the representative of the Ministry replied in negative. He added that they had not felt it necessary since the Committee was now seized of the matter. However, if the Committee desired, they could go ahead and settle it on that basis and they would also report the results to the Committee.

In their note dated 8.3.1988, the Ministry of Surface Transport (Ports Wing) have informed that a formal meeting was held by Land Manager on 30 June, 1987, with the President, North Port Tenant's Association and other members. The tenants were informed that to avoid hardship, the Trustees would consider allotment of equivalent land to the affected tenants on similar terms and conditions as per the existing tenancies at the Norther fringe and on Turner Road at Cossipore upon their agreeing to peacefully surrender the vacant possession of the existing holdings and on payment of arrears of dues. The tenants were requested to apply for withdrawal of the eviction notices and allotment of alternative equivalent land on the site mentioned above. In the meeting the tenants agreed to apply accordingly. However, no such requests have yet been received from the tenants by Port Trust.

C. Observations/Recommendations of the Committee

2.32 The Committee note that some plots of lands had been let out by the Calcutta Port Trust to the petitioners in Cossipore area of the port estate, as those plots were then lying unused and by doing so the Port Authorities were able to derive some income. Altogether 67 plots were allotted temporarily for the purpose of storage of fire wood, minerals etc. Allotment of 3 plots was against long term leases, while 62 plots were let out on short term lease and allotment of 2 plots was against licences. The Committee have been informed that some tenants, had even constructed structures and made arrangements for supply of water, electricity, telephones and other amenities at their own cost. All the tenants have been paying rents which have been enhanced several times in the past.

2.33 With the dismantling of Railway sidings in the recent past about 11.4 acres of vacant and valuable land in addition to about 2 acres of land occupied by tenants became available for utilisation. A 'Land Use Plan' was accordingly prepared and adopted by the Port Trustees in June, 1984. To obtain a compact area for development purposes, it was considered necessary by the Port authorities to resume the strips of land held by these lessees and eviction notices were served on the tenants for securing vacant possession of the plots occupied by these tenants.

2.34 The Committee are of the view that while the eviction notices served on the tenants to secure vacant possessions of the strips of two acres of land may well be legally enforceable in terms of lease or licence agreements, these tenants who are in legal occupation of plots of land for periods ranging from 9 to more than 50 years cannot be thrown out without providing them suitable alternative accommodation. These tenants cannot be equated with unauthorised occupants who may have encroached upon the vacant land of the Port Trust.

2.35 The Committee are glad that taking a practical view of the situation, it has now been decided to earmark a portion of the land on the Port Trust estate for relocating the evictees from the existing sites. The Committee will like the Port Trust Authorities to mutually sort out with all the 67 tenants how best they can be rehabilitated, after they are displaced from the existing sites. The Committee need hardly stress that the case of each tenant will be considered in a sympathetic and amicable manner.

2.36 The Committee expect that each tenant will at least be given a strip of land equal to their existing occupation. The Committee would feel satisfied if as a result of their intervention, the tenants are also offered some sort of compensation for the expenses involved in dismantling and rebuilding the structures/

constructions on the new sites. The Secretary, Ministry of Surface Transport has already promised that necessary amenities such as water and electricity etc. would be provided by the Port Trust at the new sites.

2.37 The Committee recommend that the 'Land Use Plan' of the Cossipore area be got approved by the Trustees of the Calcutta Port without further delay, after necessary consultations with the Calcutta Metropolitan Development Authority and other concerned agencies.

2.38 The Committee would like Government to tackle this question of rehabilitation of evictees on humanitarian grounds and also keeping in view the fact that this land is no longer going to be used for port development purposes. The basic amenities like drinking water, electricity, approach roads, etc., should be provided while rehabilitating the evictees. The Committee also hope that with the provision of alternative accommodation to the evictees, the cases pending in the courts will be withdrawn by them early and unconditionally.

III

REPRESENTATION REGARDING NON-REFUND OF DEPOSITS BY M/S LOHIA MACHINES LIMITED

3.1 Sarvashri Vinay Khakhar and Shyam J. Chandnani and Mrs. Mohini G. Chandnani addressed representations dated 17.12.1985 and 2.1.1986 regarding non-refund of deposits by LML (formerly M/s. Lohia Machines Limited).

3.2 The above representations were referred to the Ministry of Industry on 12 February, 1986 for furnishing their factual comments for consideration by the Committee on Petitions. The Ministry of Industry furnished their comments *vide* their communication dated 4 April, 1986. The points raised by the petitioners and replies furnished by the Ministry of Industry are given below *seriatum* :

Points raised by Petitioners	Replies furnished by Government
1	2

(a) Shri Vinay Khakhar

I would like to inform you that I sent by Registered Acknowledgement. Due a letter on 23 September, 1985 and the said letter was received by the Company on 30 September, 1985 and by virtue of condition of cancellation and statement made by concerned Minister, I would have received my refund by 30 November, 1985 but till 17.12.85 I have not received any refund.

According to M/s. Lohia Machines Ltd. the request of Shri Vinay Khakhar for cancellation of booking and refund of deposit was received by them in the first week of October, 1985 and after the entire process of cancelling of booking was completed the Refund pay order (No. 0920 1235/019 dated 30.11.1985 for Rs. 587.50) was made on 30 November, 1985. However, due to some problems this could not be posted on time. It was posted to him on

1

There will be thousands like me who may not inform you about the false information given by M/s. Lohia Machines Ltd. that they are refunding the application money to customers within 60 days.

(b) Shri, Shyam J. Chandnani and Mrs. Mohini G. Chandnani

We take this opportunity to bring to your kind knowledge and for seeking relief through your "Action line" column for getting the refund of scooter deposits from M/s. Lohia Machines Ltd., Kanpur. The facts of our case are as under :

We had submitted three applications two for we both and one for Mrs. Saroj C. Chandnani) for VESPA XE scooters to M/s. Lohia Machines Ltd., C-3, Pankaj Industries Estate, Kanpur and had remitted a consolidated amount of Rs. 1500/- (Rs. 500/- for each) vide cheque No. SB/85 753625 dated 19.9.82 of State Bank of India, Rajkot.

Out of the aforesaid three applications, our two applications were accepted by the Company and the amount of third, Smt. Saroj C. Chandnani, was refunded by the Company.

The letters of the allotment of scooters issued by the Company were misplaced. Therefore, we immediately requested the company for the issue of duplicate allotment letters to us, but

2

28 December, 1985. According to the company, ordinarily, all intimation of booking and delivery No. cards received during a particular month are processed in the following month and after verification the Refund Pay Orders are mailed.

Normally, for refund of deposit of advance paid for booking of vehicles the customer is required to send the intimation of booking and delivery No. card duly discharged. On receipt of the intimation of booking and delivery No. card, the company cancels the booking and arranges to refund the deposit. Where the intimation of booking and delivery No. card is misplaced or lost and refund is sought, on furnishing Indemnity Bond the Company issues a duplicate card. When the duplicate card is duly discharged and returned to the company, the company cancels the booking and makes arrangement to refund the deposit.

In the instant case, Smt. Mohini C. Chandnani and Shri Shyam J. Chandnani misplaced the intimation of booking and delivery No. card. According to M/s. Lohia Machines Ltd. they have not received the requests for issue of duplicate intimation of booking and delivery No. card. However they are writing to Smt. Mohini C. Chandnani and Shri Shyam J. Chandnani requesting them to

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there was no response from the Company.

Thereafter *vide* our Registered A/D letter dated 13.7.85 and subsequent reminder dated 5.8.85 by Registered A/D post we requested to the company for the refund of our deposits of Rs. 1000/- (Rs. 500/- each) as we were now not in need of scooters. Both the letters are received by the Company which is evident from the Postal acknowledgement signed by the official of the Company, but till date nothing has been heard from the company, and since last more than three years company has withheld our deposits, despite our repeated requests.

Due to aforesaid reasons and circumstances, we are compelled to seek justice and get our deposits refunded from the company through your "Action line".

You are requested to please arrange for our refund of deposits as per details mentioned above from M/s. Lohia Machines Ltd., Kanpur and for the said act of kindness, we shall ever remain thankful to you.

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collect duplicate card from their authorised representative at Rajkot after submitting Indemnity Bond to them. According to the company they have to send the duplicate intimation of booking and delivery No. card duly discharged to the company to enable them to cancel the booking and as per the terms of booking the refunds shall be made within 60 days of the receipt of cancellation advice.

The Ministry has also impressed upon the officials of the Lohia Machines Ltd. that they must ensure that refund of deposit on booking of vehicles are made within the stipulated period of 60 days.

3.3. The Committee recorded the evidence of the representatives of M/s. LML, including the Chairman and Managing Director of the Company at their sitting held on 18.8.87. The representatives of the Ministry of Industry and Department of Company Affairs were thereafter examined on 19.8.1987.

3.4. From the information furnished by the Ministry of Industry it is seen that 2,39,030 applicants had applied for Lohia Machines vehicles and an amount of Rs. 116 crores had been deposited by them with the Company as advance deposits. As on 30th March, 1987, the Company had delivered 1,80,864 vehicles and the number of persons yet to be allotted vehicles was 9,54,742. Asked to state the number of cases where the applicants could not get their deposits refunded by the Company within 60 days after applying for

refund, the Ministry informed that out of the total cancellations received till then, in the following cases refund took longer than 60 days :

- (a) Approximately 8500 cases where cancellation requests were not supported by proper documents or signatures differed or addresses were changed without intimation etc.
- (b) In other cases of requests for cancellation received prior to October, 1986, refunds were made in time.
- (c) In approximately 95,000 cases of requests for cancellation received during the months of October, November and December, 1986, the Company could not make refunds in time as funds of the Company were deployed with public sector companies, namely Cement Corporation of India and Hindustan Aeronautics Limited which became available only at the end of February, 1987. Further some funds deployed as the working capital were also not available for making refunds because the company's request for enhanced cash credit was pending with SBI/RBI.

The representative of M/s. LML informed the Committee during evidence that in all there were about ten lakh requests for cancellations. In 9.24 lakh cases refunds were made in time and in five per cent cases only there was delay. Asked to give reasons for large scale cancellations, it was stated : "the Sellers market which used to prevail in the automobile sector, has gradually become a Buyer's market with a number of new models of modern vehicles becoming available off-the-shelf at a competitive price. This offered a wider choice to the customer for getting a vehicle without any undue waiting".

3.5. The representatives of M/s. LML informed the Committee during evidence that in all the 95,000 cases of cancellations from October, 1986 to December, 1986 refunds had been given by March 1987. In all these cases there had been delay in that refunds were not made within 60 days of the receipt of request for cancellation. In reply to a question it was stated that apart from these 95,000 cases, the Company had not made any default in the refund of deposits.

3.6 Requests for cancellations received since January, 1987 had been pending with the Company and till the end of July, 1987, 1,50,892 requests for refunds pending for more than sixty days. When the Committee enquired

by what time refunds will be made in these cases, a representative of M/s. LML stated that with the release of funds from the various Banks the Company should be in a position to clear the back-log by October, 1987.

3.7 The Committee had then desired that efforts should be made to clear the back-log by Dewali.

3.8 In his letter, addressed to the Chairman on 18.11.1987, the Managing Director, M/s. LML stated :

- "1. We had anticipated release of working capital funds from various banks by September/October, 1987, but unfortunately, the full tie up of enhanced working capital facilities amongst the various consortium members has not taken place till date resulting in non-release of working capital funds to us although the same was cleared by Reserve Bank of India in July, 1987.
2. The operating cashflow of the Company was seriously affected as a result of lock-out which had to be declared following labour unrest and serious violence in our Scooter Division in the last week of August, 1987. The lock out has been lifted with effect from 8 October, 1987, but we have as yet not reached full level of production. It is expected that we shall reach full level of production in three months time. The lock-out has caused a cash loss of several crores.
3. We once again assure you that refunds would be mailed to the applicants along with appropriate interest on receipt of funds from banks against additional working capital limits and against clearance of our proposal from Term Lending Institutions for disposal of Fibre Division of the Company.
4. We may further clarify that no prejudice would be caused to the customers as additional interest would be paid to them for the period of delay.
5. We, therefore, request you to kindly grant us permission for payment of cancellations upto March, 1988."

3.9 The contents of the above letter were placed before the Committee on 18.1.1988. The Committee decided to grant extension of time upto March, 1988 to M/s. LML Ltd. for payment of all refunds where cancellation requests had been received for payment. The Committee also directed that M/s. LML should make payment of all refunds with additional interest latest by 31-3-1988.

Payment of Interest on Advance Deposits

3.10 The Committee were informed that M/s. LML Ltd. was paying 7 per cent interest to those depositors who wanted to cancel their bookings before delivery of vehicles and interest @ 9% was paid to depositors who actually took delivery of their vehicles. Replying to a query about the difference in the interest paid to the depositors by the Company and the interest earned by the Company on its own investments, a representative of the Company stated that the company earned about 11 to 12 per cent interest on its investments.

The Committee pointed out that since the company was earning much more in the form of interest on investments as compared to the interest payable on deposits, the Company should pay a higher rate of interest to depositors whose refunds had been delayed. It was also pointed out that since the company earned interest on the depositors' money it had no right to keep that money itself. It should appropriately be transferred to the depositors.

3.11 In this connection a representative of the company stated :

"As far as interest earning is concerned, it was according to the guidelines issued by the Government of India in November, 1983 that the company cannot keep all these deposits with it. So, fifty per cent of it has to be invested. Of course there is interest benefit. We never thought that we would get the interest. In the meantime we have suffered very serious losses. So, we have not earned any profit out of this.

As far as the delayed period is concerned only in five per cent cases there was some delay. We are not deliberately withholding any refunds just for getting interest."

3.12 When the Committee enquired whether the company was prepared to pay a higher rate of interest for delayed refunds, the Managing Director of the Company stated :

"On an average we are earning about 11.5% out of this we are spending about 1 to 2% as cost of computer operation, book keeping and record keeping. We are left with 10.2%. We can find out the exact figure. At the moment all that we can offer is the difference between 7% and what we are actually getting for the delay."

3.13 The Committee desired that the company should work out the interest income on its investments and furnish the same to the Committee. In pursuance of this, the following information was furnished to the Committee on 18.8.87 :

“The average interest income to the Company on the funds deployed as on 20th August, 1987 is 11.40% per annum.

We also wish to bring to your kind notice that the book-keeping cost works out to 1.05% approximately. However, since we have been directed by the Committee to deduct only 0.5% as book keeping cost from the gross interest income, the net interest income works out to 10.90% per annum.”

Monitoring By Government

3.14 The Committee enquired how the Ministry of Industry was monitoring the complaints from the depositors to see that there was no delay in refunds to the depositors. The Committee also wanted to know about legal protection provided to the depositors so that they were not cheated by the company. The representative of the Ministry of Industry explained :

“Lohia Machines is one of the scooter manufacturers and like any other automobile manufacturers, it is in the habit of taking deposits from customers as advance booking for their products. This was not in any way treated as an advance deposit but it was really a kind of contract between the customer and the manufacturer. There were however complaints that the manufacturers were not making refunds in time. Many customers were approaching the Ministry to see what we could do to help the customers in getting their refunds.

The Department of Industrial Development had in 1983, in response to several suggestions from customers and also due to many issues raised in Parliament framed certain guidelines on the recommendations of a Committee which laid down in an advisory way, the methods for the utilisation of funds which the companies were collecting. The basic motive behind these guidelines was, there should be some kind of safeguard for the customers for the deposits. The Department had written to all the companies asking them to observe these guidelines. The advances collected by the automobile manufacturers, however, are not covered under the Acceptance of Deposits (Companies) Act, 1975.”

3.15 During evidence before the Committee, a representative of the Ministry state :

“The advance are governed by the terms and conditions agreed to between the party and the company. It was more like a contractual agreement or an obligation between the customer and the company and we have tried to use our persuasive powers, our direction and our intervention to the extent possible to ensure that the customer gets the refund in time. Whenever we received a complaint, that complaint is immediately transferred to the company. We write letters and in our experience whenever we have taken up a case, the company has refunded the amount. But that does not absolve the company of the responsibility of refunding the amount in any case even if directly approached by any customer and I think this interest that the Committee on Petitions is taking and the Parliament has taken in this matter will have a very salutary effect which will bring sufficient pressure on the company to honour its commitments to the customer because in the absence of any kind of legal binding, it is the moral power of Parliament and the moral value that are involved in the protection of the customer.”

3.16 The guidelines issued by Government to all the vehicle manufacturers in November, 1983, regarding deployment of funds taken as advances *inter alia* provide as under :

“It is, essential that amounts received from depositors are deployed in a manner which would enable the company to make prompt refunds of the principal amount alongwith the interest. With a view to maintaining adequate security of depositors money, Government have considered it desirable to prescribe the following guidelines :

1. Not less than fifty percent of the deposits received should be deposited with nationalised banks/public sector financial institutions/public sector undertakings/Unit Trust of India and HDBC.
2. The balance amount could be utilised by the company as its working capital or for deposit with private sector companies. However, deposits with the private sector will not be more than twenty five per cent of the total deposits received by the company.
3. The deployment of funds on this basis will be relatable to the depo-

sits available with the company on 30.6 1984 and at the end of each of the subsequent quarters on 30.6.1984, 30.9.1984 and so on.

4. The minimum interest payable on the deposits should be seven per cent per annum compounded annually."

3.17 In another letter dated 18th December, 1985, the Ministry of Industry impressed upon the automobile manufacturers the need for implementation of the guidelines issued in November, 1983. In this letter, it was *inter-alia* stated :

"The Ministry has been receiving frequent complaints that automobile manufacturers, at times, do not make prompt refund of deposits taken against booking of vehicles when approached by the consumers. While it is appreciated that some cases may be due to incomplete details furnished by the consumers there could be other cases attributable to procedural delays. It would be appreciated if manufacturers take steps to arrange early refund of deposits as and when approached in order to avoid complaints."

3.18 The Committee enquired how the Ministry was monitoring the implementation of the guidelines. A representative of the Ministry replied :

"Our guidelines are only advisory in nature. They are not legal binding because this is purely a kind of advance paid by a customer in order to purchase a scooter or in the case of other companies in order to buy a car or whatever it is. But that does mean that we are not monitoring. In the case of Lohia Machines, we have insisted on the company collecting all the complaints from us every week and we are watching whether those complaints have been attended to by the company by refunding the deposits wherever it has been asked for."

3.19 To Committee's query whether any guidelines had been issued by the Ministry for refund of money by the companies within a stipulated period, the representative of the Ministry replied that the guidelines did not lay down any time limit for the refund of deposits. He added that each company followed its own practice of stipulating the period and the rate of interest to be given for delayed payment beyond that period.

3.20 The details regarding time prescribed for refunds by various manufacturers are given in Annexure 'A'. It is seen therefrom that the period of

refund prescribed varies and is in the range of 21 days to a maximum of 90 days provided the request is complete in all respects. According to the Ministry, the majority of manufacturers have prescribed a period of 30 days and 60 days which the Ministry feels is reasonable taking into account the time involved in processing, finalising, and mailing the refund orders.

3.21 It was stated that the manufacturers are not required to take permission of the Ministry for collecting advance deposits from the customers for booking vehicles.

3.22 Asked whether it was not possible for the Ministry of Industry to formulate certain guidelines so that they could be made applicable to all the companies, the representative of the Ministry stated :

“The commercial practice in respect of advance bookings varies from product to product and from company to company. Now you are considering two wheelers. It all depends on the supply and demand situation. If there is a scarcity in the market, then this kind of restrictions are put by the manufacturers. When the demand is less than the supply, then automatically ceases. It may not be a relevant comparison. In the housing sector, if you want to rent a house, you pay ‘Pugri’. It is exploitation of the customer but it goes on. In these cases it is not so much exploitation. It is openly done. They need working capital. It would entail a lot of examination if we want to lay down certain guidelines. The Government would certainly consider it if the situation demands it at any time. But we hope that with the favourable industrial climate in most of these consumer products, such a situation will decline, it will not increase.”

3.23 The representative of Department of Company Affairs added :

“On the question of amending the Company law with regard to deposits, as of now there is no thinking to amend these rules. Moreover, any such amendment requires consultation with the RBI. I only wanted to clarify the position with regard to the present thinking. We are not considering any amendment as on date..... The procedure required consultation with the Reserve Bank.....The Reserve Bank will have to consider all aspects like the implications, the advances, etc.”

3.24 To a query whether for violation of any clause of Company Law, the licence of the company could be cancelled, the representative of the Ministry replied in the negative. He stated—“Legally speaking, we cannot intervene in cancelling the licence or intervene in the matter or in any other fashion..... the licence is given under Industrial Development Regulations Act.

3.25 The Committee called for information about the companies that had collected huge amounts of public money through deposits for booking of vehicles but were not refunding the deposits within reasonable time. In this connection, the Ministry of Industry have stated :

“Almost all the major manufacturers who have taken large advances for booking of vehicles have informed that they are refunding the advance money within a stipulated and reasonable time, provided the request is complete in all respects.”

3.26 The details of the complaints received from the public in the Ministry and by the companies about non-refund or delay in refunds, as furnished by the Ministry are given in Annexure II.

3.27 When asked how the complaints received from public were processed the Ministry have in a note stated :

“Such complaints received from the public are forwarded to the concerned manufactures for taking appropriate action under intimation to this Department. The manufacturers have also confirmed that complaints forwarded by the Ministry are promptly attended to.”

3.28 During evidence a representative of the Ministry stated that in the case of LML they had insisted on the Company to collect all the complaints from them every week and the Ministry kept a watch whether the complaint had been attended to or not. The Secretary, Department of Company Affairs, further informed the Committee that from October, 1986, onwards the Company had kept a complaint box, which had been displayed at a prominent place in the office of the Director General of Investigations and Registration. He stated that a register was also maintained to monitor the complaints. The officials of the Company visited the office every week and the complaints were amicably settled expeditiously.

3.29 To a question about the number of complaints received till July, 1987 and the action taken by the Ministry, the reply given was that there were 970 complaints and the same were forwarded to the Company for taking appropriate action under intimation to them. The Secretary, Department of Company Affairs, during evidence on the 19.8.87 informed the Committee that out of 1600 complaints received since October, 1986, 1400 complaints had been amicably settled.

C. Observations/Recommendations of the Committee

3.30 The Committee note that like several other automobile manufacturers, M/s Lohia Machines Ltd., invited applications for allotment of scooters manufactured by them. Each applicant was required to make a deposit of 500/- as advance alongwith the application. As many as 2,31,903 perspective buyers had applied for vehicles and deposited a sum of about Rs. 116 crores in the form of advances with the company. These deposits earned interest @ 9% when repaid at the time of delivery of vehicles. However, in case the deposits were refunded on cancellation of bookings, depositors were entitled to interest @ 7% only.

3.31 With a view to maintaining adequate security of depositors money, Government have laid down some guidelines about the development of funds collected by various companies in the form of advance deposits. These guidelines provide that not less than fifty per cent of the deposits received should be kept with nationalised banks/financial institutions public sector undertakings etc. The rest of the deposits could be used by the company as its working capital or for deposits with private sector companies. The guidelines also provided that the minimum interest payable on the deposits should be seven percent per annum compounded annually. The guidelines issued by the Government however do not stipulate any time limit for refund of money by the companies. Each company is, therefore, free to lay down its own conditions with regard to the period for refund and the rate of interest to be given for delayed payment beyond that period.

3.32 It is seen that M/s Lohia Machines Limited had stipulated that refunds of deposits would be made within 60 days of the receipt of a request for cancellation of booking. According to the information furnished to the Committee in approximately 8500 cases where requests for cancellations were not supported by proper documents the refunds took longer than 60 days but in all other cases of requests for cancellation received prior to October, 1986, refunds were reportedly made in time. However, in approximately 95,000 cases of requests for cancellation received during the months of October, November, 1986, the company did not make refunds in time. Payments of refunds in these cases were cleared only by March, 1987. The reasons for delay were attributed to the fact that the funds of the company deployed in the public sector undertakings in terms of the Government guidelines on the subject available only by the end of February, 1987. Further some funds deployed as working capital were also not available for making refunds because the company's request for enhanced cash credit limit was pending with the Reserve Bank of India.

3.33 During evidence before the Committee in August, 1987, the representatives of M/s. Lohia Machines Ltd., deposed that in case of

requests for cancellation received from January, 1987 onwards, refunds had not been made and till the end of July, 1987, as many as 1,50,892 cases of refunds were pending. At the instance of the Committee, M/s. Lohia Machines Ltd., undertook to clear the backlog by the end of October, 1987. Subsequently, the Managing Director of the Company requested for extension of time upto March, 1988 for making payment in respect of all refunds where cancellation requests had been received by the company. This had been agreed to by the Committee in the context of the position explained by the company. The Committee trust M/s. Lohia Machines Ltd., have fulfilled their assurance that payments in respect of all requests for funds would be made latest by the 31st March, 1988. The Committee would like to be apprised of the exact position in this behalf.

3.34 The Committee were informed that as a result of the investment of company's funds in public undertakings etc. the company was earning an average interest income of 11.40 per annum. Taking into account the book keeping cost of 0.5%, the company's net interest income works out to 10.90% per annum. Against this the company was required to pay an interest of 7% to the depositors who asked for refund before allotment of scooters and 9% to those depositors who took delivery of the vehicles against their bookings. Since the company had been earnings profit on the depositor's money, it was only reasonable that the company should share this additional income with the depositors. As suggested by the Committee, the company has agreed that in, all cases of refunds, where payment is not made within sixty days of the receipt of request for cancellation, interest @ 10.90% will be paid by the company for the delayed period in future. Thus all cases of refunds pending with the company from January, 1987 are entitled to this higher rate of interest. The Committee hope that the company will honour its commitment made before the Committee in this behalf.

3.35 The Committee will like the Ministry of Industry to keep a watch and see to it that refunds are made by the company within the stipulated period of 60 days. In cases where there is delay in refund payments, the company should be made to pay enhanced rate of interest for the total delay period. The Committee would await a compliance report within three months of the presentation of this report.

3.36 The Committee also desire that the Ministry of Industry should review the guidelines issued to various manufacturers in regard

to refund of deposits with a view to laying down a uniform time limit for making refunds and that in cases of delay in payment of refunds, the manufacturers should be required to pay enhanced rate of interest for the delayed period. This rate of interest will have to be worked out in each case separately.

3.37 The Committee further suggest that keeping in view the large number of complaints about delay in refunds as published in various newspapers and periodicals, the arrangement agreed to by M/s. Lohia Machines and the revised guidelines should be adequately publicised for the benefit of the general public.

**REPRESENTATION FORM SHRI JABEZ CHRISTOPHER
REGARING REINSTATEMENT IN SERVICE**

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4.1. Sarvashri P.R. Kumaramangalam and R. Dhanuskodi Athithan, M.Ps., forwarded on 30 April, 1986, a representation from Shri Jabez Christopher regarding termination of his services by the Indian Bank.

A. Petitioner's grievances, demands and prayer

4.2. In his representation (See Appendix II) the petitioner *inter-alia* stated as follows :—

“I am an erstwhile officer of the Indian Bank. My services were terminated in November, 1975 without any disciplinary proceedings, chargesheet or enquiry of any nature while I was under suspension pending investigations of a private case not connected with Bank which later ended in honourable acquittal.

While I was declared innocent in the case for which my services were suspended the Bank ought to have reinstated me with honour. But I am surprised that the Bank chose to terminate my services that too after twenty years of service with unblemished record without enquiry of any nature.

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In December 1979 the Ministry of Finance has informed the Bank that “the action taken by the Management and the Banking department against me is wrong.” But it is only in record.

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The Minorities Commission, who examined my personal papers had written in a D.O. No. 3/TM/1/82-MC, to the Joint Secretary (Banking), that “the Commission had felt that natural justice was denied to Shri Christopher”. I understand no reply has been sent to them inspite of repeated reminders.

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I hail from a very backward village in Tirunelveli District. I belong to the most backward Community. Being the son of village school master I have no influence or money to fight against a particular General Manager who does everything to prevent me from entering the Bank and

stands in the way of an enquiry being done or an opportunity given to me."

4.3. The petitioner demanded an impartial enquiry in his case.

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

4.4. The representation was forwarded to the Ministry of Finance on 14 May, 1986 for furnishing their factual comments thereon.

4.5. The Ministry of Finance (Department of Economic Affairs—Banking Division), while furnishing their comments on 16 June, 1986, stated as follows :—

"Shri Jabez Christopher while functioning as an Officer of Coimbatore Branch of Indian Bank, was not attending office since 11.3.74 and was continuously availing leave on medical ground without proper application or sanction of leave, particularly when he was not having enough leave at his credit. During such leave period, he was arrested by Police on 6.4.1974 in connection with a cheating case and was released on conditional bail on 19.10.74. He had suppressed the fact of his arrest and the subsequent remand while applying for leave under false pretext. While he applied for leave on medical grounds, an enquiry with the doctor who had issued the medical certificate in that case, revealed that Shri Christopher approached him from time to time requesting for issue of a medical certificate on the ground that he was suffering from Chest pain etc. The Board of Directors of Indian Bank, at their meeting held on 30.10.1975, decided to discharge him from the service of the Bank under the then existing rules governing the officers, holding that the Bank has lost confidence in him and that he was not capable of holding a post in the bank involving trust; and he was accordingly discharged on 8.11.1975. Shri Christopher challenged his discharge in the High Court of Madras and the High Court, by its judgement dated 1.3.1979, upheld the order of discharge holding that it was in conformity with the relevant rules of the Bank.

Since then, Shri Christopher has been making numerous representations through various dignitaries to the Bank. In view of these representations, the matter was again placed before the Board of Directors on three different occasions for reconsideration and the Board, at their meetings held on 7.9.79, 24.6.80 and 18.5.85 decided not to rescind their earlier decision as there was no merit or justification warranting reconsideration."

4.6. The Committee considered the matter at their sitting held on 21.8.1986 and noted that the Ministry of Finance (Department of Economic Affairs—Banking Division), while furnishing their factual comments on the representation, on 16.6.1986 did not comment upon the following point raised by the petitioner and decided to specifically call for the facts from the Ministry :—

“In December, 1979 the Ministry of Finance has informed the Bank that ‘the action taken by the Management and the Banking Department against me is wrong.’ But it is only in record.”

The Committee also desired that the particulars of the private case in which the petitioner had been acquitted by the Court may be ascertained and directed that a copy each of the judgement of the Court and the Bank rules under which he was discharged from service be obtained from the Ministry.

4.7. The Ministry of Finance (Department of Economic Affairs—Banking Division) forwarded the following documents *vide* their U.O. dated 25 February, 1987 :—

- (1) Copy of the judgement of XIII Metropolitan Magistrate, Madras on CC No. 30707 of 1975 dated 6.1.1978 which gives the details of the case and the reasoning for the acquittal of the accused.
- (2) Copy of the judgement of Madras High Court dated 1.3.1979 upholding the order of discharge of the petitioner.
- (3) Extracts of the then existing Bank Rules under which services of the petitioner were discharged.

In March, 1987, the Ministry further informed that during 1978, the case was considered by the Board of the Bank which rejected the case on an appeal received from the above employee. In 1979, on receipt of various letters from certain dignitaries, the case was again considered in the Ministry and it was held that it was a fit case for review by the Board of the Bank. Accordingly, the Bank was advised to review the case. The entire case was again reviewed by the Board of the Bank, on the recommendations of the Government. The Bank however, regretted that it could not resile from its earlier stand. The case had been dealt with at various levels at different points of time since 1978. The Board of the Bank had considered the case in 1979, 1980 and 1985 and decided not to rescind the earlier decision. During 1986, the case was once again referred to the Bank. The Bank did not favour it for reconsideration.

4.8. The Committee considered the reply of the Ministry at their sitting held on 23.7.1987 and being satisfied with Government's reply decided to report the matter to the House.

C. Observations/Recommendations of the Committee

4.9. A petition was received from Shri Jabez Christopher on 30 April, 1986 alleging that his services had been terminated by Indian Bank—where he was working, without any disciplinary proceedings or any inquiry having been initiated by the Bank. The petitioner had mentioned that he had been placed under suspension pending investigations in a private case not connected with the bank. Later on he had been honourably acquitted but was not re-instated by the bank.

4.10. The facts as furnished by the Ministry of Finance (Department of Economic Affairs—Banking Division) reveal that Shri Jabez Christopher while functioning as an officer of Coimbatore Branch of Indian Bank had not been attending office since 11.3.74 and had been continuously availing leave on medical grounds without proper application or sanction of leave. During such leave period he had been arrested by police on 6.4.74 in connection with a cheating case and was released on conditional bail on 19.10.74. Shri Christopher had suppressed the facts of his arrest and the subsequent remand while applying for leave under false pretext. Under the circumstances the Boards of Directors of Indian Bank at their meeting held on 30.10.75 decided to discharge him from the services of the bank holding that the bank had lost confidence in him and that he was not capable of holding the post in the bank involving trust. He was accordingly discharged on 8.11.75. Shri Christopher challenged his discharge in the High Court of Madras and the High Court by its judgement dated 1.3.1979, upheld the order of discharge holding that it was in conformity with the relevant rules of the Bank. It has been further stated that since then Shri Christopher has been making numerous representations through various dignitaries to the bank and in view of these representations the matter had been placed before the Board of Directors on three different occasions for re-consideration but the Board decided not to rescind their earlier decision as it was felt that there was no merit or justification warranting reconsideration.

4.11 Considering the factual position stated by the Ministry, the Committee are satisfied that Shri Christopher's case has been reviewed

several times by the Board of Indian Bank and they have not considered it desirable to rescind their earlier decision. The Committee also note that the order of discharge of Shri Christopher was upheld by the Madras High Court. The Committee are satisfied with the position explained by the Ministry and have come to the conclusion that there is no justifiable cause for their intervention on behalf of the petitioner.

OTHER REPRESENTATIONS

5.1 During the period under report (*i.e.*, 27 June, 1986 to 23 July, 1987), the Committee have considered three other representations and letters (*See* Appendix III) addressed to the House, the Speaker or the Committee by different individuals which were inadmissible as petitions.

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

NEW DELHI :

BALASAHEB VIKHE PATIL

Dated : 21 April, 1988

Vaisakha 1, 1910 (Saka)

*Chairman
Committee on Petitions*

APPENDIX I

(See para 2.1. of the Report)

[Representation from the President, North Port Trust Tenants Association, Chitpur Ghai Lane Cossipore, Calcutta dated 16 December, 1985 regarding eviction of occupants from the Port Trust land in Calcutta].

— — —

Respected Sir,

We, the undersigned are tenants in respect of Lands in the Cossipore area besides river Ganges commonly known as stand Bank Road and Khagendra Chatterjee Road. The referred lands were let-out under the terms and conditions of short term lease and land (individual) and monthly rents are being collected by the Calcutta Port Trust for the demised land subject to several enhancement of additional charges since the execution of lease.

At present we are residing in the structures and buildings erected on the said land and we depend on the income derived from the business run by us in the said land. We are holding Municipal Trade Licences and previous permission also obtained from the Authority for construction thereof. Most of the tenants are as old as 50 years and they have no other alternative accommodation elsewhere.

Originally the Calcutta Port Trust Railway line was there to connect Chitpur Railway Yard and eastern side of the said railway line were being used for Port Trust Godown and rest lands were lying vacant. Subsequently these lands were let-out as those were lying useless and Port Authority deriving income out of that. At present there is no existence of Port Trust Railway and railway tracks have been handed over to Ministry of Railways for Plying Circular Train and thus Port Trust have no use of the lands in the Cossipore area for its own use.

It may be mentioned here that the short term lease between the Port Trust Authority and tenants are nothing but one sided agreement and provisions laid down there are not legal. But since the lapse of 50 (fifty) years if the Calcutta Port Trust Authority thinks that the parties should act upon in the terms thereof then it should be considered first whether the circumstances on which the lands

were demised and also the law of the land of that time are unchanged. Otherwise every action on behalf of Port Trust would be taken as undue advantages out of mis-deeds which will appear from the referred short-term lease.

As instance, the Calcutta Port Trust Authority issued several notices to quit the Port Trust land within a specified period and also threatened the occupiers that steps will be taken for eviction under the process of law without disclosing and/or mentioning the grounds of eviction provided under the law.

The notice itself shows that the Port Trust Authority have some *malafide* intention to dispossess the occupier who are *bonafide* tenants and who are entitled to have the legal remedies under the present law of the land. The circumstances and the present position of the Calcutta Port Trust shows no light about the use of the demised land by the Authority other than to fulfil illegal *malafide* motive of some tactful brains.

With reference to the above and being the occupier tenants we have no other alternative but to draw your attention regarding the unknown future actions - which the Authority of Calcutta Port Trust are going to execute without considering the inhabitants of the Vast Port Trust land who are being maintained out of the business income and who along with their family members living there having fulfilling all the formalities. This alarming situation compelled the undersigned to draw the attention of your goodness of the following points :-

1. Most of the tenants were living since 50 (fifty) years—where they will go ?
2. Whether the tenants who are occupying the land since several years can claim their right over the said land ?
3. Whether the occupiers who have arranged the water, electric, telephone and other amenities at their own cost as owner thereof can be evicted by notice ?
4. Whether the occupier tenants can urge for relief under the tenancy law prevailing in this State ?
5. Whether the permanent structures and buildings can be removed under the huims of Calcutta Port Trust Authority.

6. Whether the tenants who have secured their right over the land by compensating the recurring losses of the Authority i.e., by paying enhanced rate or rent can be deprived of their earned and established right ?
7. Is it justified to serve notices upon the tenants who are paying rents regularly but not to disturb those unauthorised occupiers who are enjoining the land without paying any further to the Authority ?
8. Is it justified to oust those persons who are living since there generations and who have secured their position having lost other means at their native places ?
9. Whether the Port Trust Authority can claim ownership of the land and/or as landlord under which their Authority to serve notices upon the tenants ?
10. Whether the tenants who were inducted @; Rs. 6/- per month and now paying Rs. 120/- per month can be ignored of their ownership right similar to the provision of West Bengal Government ?
11. Whether it is known to the Authority that the lands demised in the part were vacant but the pucca-buildings and structures erected there upon at the cost of the tenants, are lying thereof ?
12. Whether the old autocratic tenancy rules of the Port Trust Authority needs changes in accordance with the modified land laws ?
13. Whether the Port Trust Authority can gain out of the arbitrary and faulty rules ?
14. Whether it is known to the Chairman that his good officers are not even obeying the order of the highest court of Law of this State ?
15. Whether it is known the Chairman that general cases pending in the Sealdah Court for non-payment of rent but the Authority already received the amount by cheque and/or Cash.

In the above premises we apprehend that some designed person inconnivance with the departmental officers trying to play some filthy game at the cost of unfortunate people like us and also wants to take undue advantages of the legal implications which were unknown to us and/or we never thought of our eviction from the Port Trust land and/or which cannot be thought over. Any-

way if those persons allowed to fulfil their hums then we the occupants all 5000 people are involved and also the poor paid several labourers who are working under the individual tenant. Not only we will be homeless but also the families depends thereon.

Your kind intervention requires immediately to overall discussion to overcome the referred difficulties there should be :—

- (i) Representative of tenants in the Calcutta Port Trust.
- (ii) Major Port Trust Act should be implemented in the Calcutta Port Trust.
- (iii) The building and structures which have been erected more than 12 years back and no cases pending against those the same should be considered made with the sanctioned plan.
- (iv) The tenants who are occupying lands since 50 years on payment of rent should be declared owners of the same and legal documents be distributed, accordingly.
- (v) The dispute regarding port Trust land being Central issue, the Government should declare general rules which should be common for all major ports.
- (vi) After the Haldia Port there are no such importance of the Calcutta Port and Cossipore area remain unutilised since 30 years as such this area should be excluded from the jurisdiction of the Calcutta Port Trust. Moreover, the Cossipore Area is far distance from the Calcutta Port such area must be excluded.
- (vii) At present each and every department of the Calcutta Port Trust is running at a loss and only profit earning department is land department. And the tenants who are feeding the Calcutta Port Trust they have been ignored rather vested interested persons are ready to crush them at any cost.
- (viii) The vast port trust area was acquired for the own use of Port Trust. As such the area which are remain unutilised should be released. Under what authority those lands have been let out.

Yours faithfully.

Sd/—

29 persons.

APPENDIX II
(See para 4.2 of the Report)

From

JABEZ CHRISTOPHER
26, Laxmi Buildings,
Aminjikarai,
Madras—600029.

To

**The Speaker,
Lok Sabha,**

Honourable Sir,

**Ref : Anti Labour policy of Indian Bank Justice requested at
your end.**

— — — —

I am an erstwhile officer of the Indian Bank. My services were terminated in November 1975 without any disciplinary proceedings, chargesheet or enquiry of any nature while I was under suspension pending investigations of a private case not connected with Bank which later ended in honourable acquittal.

While I was declared innocent in the case for which my services were suspended the Bank ought to have reinstated me with honour. But I am surprised that the Bank chose to terminate my services that too after twenty years of service with unblemished record without enquiry of any nature. My personal record in the Bank is very good. This gross injustice is unconstitutional and against the principles of natural justice. If the Bank authorities had felt anything wrong on my part they could have proceeded against me departmentally instead of taking such a drastic action. I am the only person in the history of Indian Bank to be penalised in the most undemocratic way. I belong to the Minority Christian Community. When persons who brutally assassinated our beloved Prime Minister, spies and traitors are given an opportunity of enquiry, why not a person who has put in twenty years of unblemished record of service in the institution, be given an opportunity to defend ?

In December 1979, the Ministry of Finance has informed the Bank that "the action taken by the Management and the Banking department against 'me is wrong" but it is only in record.

In spite of numerous representations, I was refused even an enquiry I am afraid that my case had been looked into with prejudice and under misrepresentation of facts. Only an impartial enquiry will reveal this truth.

The minorities Commission, who examined my personal papers had written a D.O. letter to the Joint Secretary (Banking) D.O. No. 3/TM/1/82-MC dated 28.12 1984, that "the Commission had felt that natural justice was denied to Shri Christopher" I understand no reply has been sent to them in spite of repeated reminders.

Permit me to mention for your information that officers involved in CBI Bank fraud case and those who had absconded from the Bank for years have been reinstated with honour in Indian Bank.

I hail from a very backward village in Tirunelveli District. I belong to the most backward Community. Being the son of Village school master I have no influence or money to fight against a particular General Manager who does everything to prevent me from entering the Bank and stands in the way of an enquiry being done or an opportunity given to me.

I request justice at your hand. Only an impartial enquiry will reveal this truth since I suffer from November, 1975.

Thanking you,

Yours faithfully,

Sd/—

(JABEZ CHRISTOPHER)

APPENDIX III

(See para 5.1 of the Report)

[Other representations which were not admissible as petitions]

S. No.	Name and Address of petitioner	Brief subject and points raised	Facts perused by the Committee
1	2	3	4
1.	Shri C. Ramanujacharyulu, MIG-C-49, Dr. A.S. Rao Nagar, Hyderabad-500762.	Regarding income tax relief to employees who have spent their savings on housing.	<p style="text-align: center;">Ministry of Finance (Department of Revenue)</p> <p>In their factual note dated 18.12.86, the Ministry of Finance (Department of Revenue) stated as follows :</p> <p style="text-align: center;">“The representation contains the following two suggestions :</p>

Many salaried employees are constructing houses by taking loans from financing institutions as well as by withdrawing amounts from their Provident Fund accounts. By withdrawing the amounts from the PF accounts, employees are losing their interest which would have accrued otherwise. Hence Income Tax Act should consider this and treat the interest lost on PF on par with the interest paid to financing institutions by amending the Income Tax Act 1961, section-24 sub-section (1) Clause (vi) to include the interest lost on PF along with interest paid to financing institutions. Also, the section-24 sub-section (2) first proviso should be amended by deleting the words “of an amount not exceeding five thousand Rupees” to give relief to the middle

(i) While computing income from house property in the case of an assessee who has made withdrawals from the provident fund for the purpose of constructing house property, interest foregone on the amount withdrawn from the provident fund should be treated on par with interest paid to financial institutions and should be allowed as a deduction in computation of income under the Income-tax Act, 1961.

(ii) Section 24(2) of the Income-tax Act provides for deduction of interest upto Rs. 5,000/- paid by the assessee on amount borrowed for acquisition of the house, if the house is self-occupied and is not let out. It has been suggested that the monetary

class citizens who have spent their savings on housing. If this amendment is not considered, the employees who have withdrawn their P.F. amounts will have more tax burden.

limit of Rs. 5,000/- laid down in the said provision should be removed.

The suggestions made by Shri Ramanujacharyulu have been examined. As regard the first suggestion, it may be pointed out that while the Income-tax Act, 1961 provides for deduction of interest paid on amounts actually borrowed for acquisition repairs, etc. of the house/property, no deduction can be allowed in respect of a notional amount of interest foregone by the assessee. It would be illogical to allow deduction in respect of an expenditure which is not incurred by the assessee. Further, fixing the rate of notional interest foregone, will unnecessarily complicate the provisions of the Income-tax Act.

As regards the second suggestion, it may be pointed out that the Income-tax Act, 1961 provides that annual value of one self-occupied house property will be taken at 'nil' Deduction in respect of interest paid on amounts borrowed and invested in acquisition of such a house is however allowed, subject to the ceiling of Rs. 5000/-. This provision is itself a sufficient concession and an incentive to promote housing. The concession in the form of deduction for interest paid in respect amount borrowed and invested in acquisition of self occupied house has to be limited to a reasonable monetary limit. because the annual value of one self-occupied house property is taken at nil under the Income-tax Act.

1

2

3

4

For the foregoing reasons, it has been decided, with the approval of Finance Minister, that the suggestions made by Shri Ramanujacharyulu may not be accepted."

2. Shri Ramlal Nagar Regarding enactment **Ministry of Health and**
 General Secretary of law about family **Family Welfare (Depart-**
 Kandere Samaj Kalyan planning programme. **ment of Family Welfare).**
 Songathan E II/103,
 Gali No. 3, Shastri
 Nagar, Delhi-110052.

That under the Family Planning Programme of the Government, the Petitioner Shri Ram Avadh Kabari (Harijan) had got his wife Shrimati Dhannaji sterilized on 2.5.1985 in Hindu Rao Hospital, as the petitioner had no adequate source of income and was unable to bear the burden of bringing up his family and the financial condition of the petitioner is still serious.

After sterilization Shrimati Dhannaji, wife of Shri Ram Avadh, gave birth to a child on 28.9.1986 for which the doctors of Hindu Rao Hospital are responsible. They are also responsible for the maintenance, education, marriage etc. of the newly born child. In these circumstances the petitioner however, arranged for Rupees one thousand five hundred to meet the expenses of the delivery etc. but now he is unable even to feed him.

Many such cases have come to notice in the country as a whole and a

In their factual note dated 9 January. 1987, the Ministry of Health and Family Welfare (Department of Family Welfare) stated as follows :

"Tubectomy/vasectomy are not fully foolproof terminal methods of contraception. There are, however, chances of failure ranging between 0.5 to 1% even in the best hands. The sterilisation operations are performed only by qualified and trained doctors. If a woman conceives even after the operation, the couple can avail the facilities of M.T.P. which are available in all Government and private institutions recognised under the Medical Termination of Pregnancy Act. In view of the above, there is no need to enact a separate law as prayed in the petition.

It will also not be possible to make the doctors of Hindu Rao Hospital responsible for the expenses required for the upbringing, education, etc. of the child born to Shrimati Dhannaji."

1	2	3	4
	number of families have faced consequences thereof. Therefore, you are requested to consider enacting a law so that such corrupt practices indulged into by these experienced doctors could be checked.		
3.	Shri M. Veerabhadra Rao, 251 West Marredpally, Secunderabad-500 026.	Regarding courts decision	Ministry of Law, Justice and Company affairs (Department of Legal Affairs).

That in India the Courts are the Courts of Law and not the Courts of Justice. Under the Constitution of India, the Courts have to act within the frame work of the law of the land. Under Articles 32 and 226 of the Constitution, however, a right is vested in the Supreme Court of India and the High Courts of various states to interpret the law and decide whether a particular law that might have been enacted is intra-wires or ultra-wires the Constitution and in case the Supreme Court or the High Court decides that any law that might be passed by the Parliament or the State Legislature is ultra-wires the constitution, the Supreme Court or the High Court is vested with a right to strike down the law on the said ground. Hands of the various courts including the Supreme Court of India are fettered and they shall not act beyond the purview of the law of the land as laid down by the Parliament or the State Legislature.

It is of late, become very common for the Supreme Court of India to

In their factual note dated 5.6.1986 the Ministry of Law, Justice and Company Affairs (Department of Legal, Affaires) stated as follows :

“Shri Veerabhadra Rao’s grievance mainly appears to be that Indian courts are not courts of justice but courts of law and that the intervention of the Supreme Court or the High Courts in public interest litigation and in matters like death sentence etc. are beyond their purview. Several judgement of the Supreme Court which are pending under Article 141 of the Constitution have discussed the nature, ambit and parameters of public interest litigation. So far as the death sentence is concerned, the Supreme Court has been expressing its views either in the course of deciding the criminal appeals from judgements of the High Courts or in petitions filed under Article 32 of the Constitution. Therefore, Shri Veerabhadra Rao’s apprehension is mis-conceived and may not require any further action.”

entertain writs and other proceedings which were clearly out of the purview by jurisdiction of the court. For instance the appeal against the presidential order rejection of pardon and the writs with reference to the mode of hanging resulting in prolongation of agony to the accused and waste of public money. It has also been noticed of late that there is a proliferation of litigation in various High Courts and the Supreme Court of India—which incidentally was the trend setter of the so called public interest litigation. The matters that are being agitated by parties under public interest litigation and at times being taken note of suo-motu by the various High Courts and Supreme Court are cases in which the individual has a remedy to follow.

Any deviation or minor infraction of an order of the Supreme Court or High Courts are being viewed severely by the Courts and proceedings of contempts of court have become common and in the very recent past that is for the past about four or five years the proliferation of public interest litigation and the judgement intended solely for catching the public eye from various courts is on the increase. The Citizens of this land will be left without a remedy should the Supreme Court for instance act beyond the scope of the law and without reference to the law of the land. It is respectfully submitted that while no disrespect to either the Supreme Court or various High Courts is intended, it has become a matter of grave concern that judges of various

courts should become publicity minded, *e.g.* the recent judgement of Rajasthan High Court about hanging in public place, etc.

The Parliament and Legislatures constituted under the Constitution of India owe a duty to the citizens to curb the attitudes of the various High Courts and the Supreme Court in going beyond the purview of the law of the land as laid down by the Parliament.

I request you to kindly take steps to get an opinion on these aspects and take steps to protect the sovereignty of the Parliament and thereby the citizens and to curb the courts from acting beyond the scope of law as framed by the Parliament and the State Legislatures.

ANNEXURE I

Details of Time Stipulated by the Manufacturers for Refund of Advance Money

Name of Manufacturers	Time Stipulated
1. M/s LML Ltd.	60 days
2. M/s Andhra Pradesh Scooters Ltd.	90 days
3. M/s Bajaj Auto Ltd.	90 days within first six months. 45 days if the request is cancelled after six months.
4. M/s Scooter India Ltd.	60 days
5. M/s Arvind Benelli Ltd.	90 days
6. M/s Kinetic Honda Motors Ltd.	60 days
7. M/s Kinetic Engg. Ltd.	60 days
8. M/s TVS-Suzuki Ltd.	30 days
9. M/s Hero Honda Motors Ltd.	30 days
10. M/s Enfield India Ltd.	45 days
11. M/s Ideal Jawa Ltd.	Not Stipulated
12. M/s Automobile Products of India Ltd.	21 days
13. M/s Majestic Auto Ltd.	Not Stipulated
14. M/s Hindustan Motors Ltd.	Not Stipulated
15. M/s Standard Motor Products of India Ltd.	Not Stipulated
16. M/s Sipani Automobiles Ltd.	30 days.

ANNEXURE II

S. No.	Name of the company	No. of the complaints received by the company			By the Ministry		
		1985	1986	1987	1985	1986	1987
1.	M/s LML Ltd.	5,000	8,000	20,000	172	250	554
2.	M/s Bajaj Auto Ltd.	July 1985 to June, July-86-June-87	1986-604	523		3	16
3.	M/s M/s Hindustan Motors	36	26	45			1
4.	M/s Premier Automobiles	Total till end	July-87-340				10
5.	M/s Escorts Ltd.	Total 11					1
6.	M/s TVS Suzuki Ltd.			106			37
7.	M/s Kinetic Honda Ltd.	131		649		1	8
8.	M/s Standard Motor Ltd.			700			40

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