

**STANDING COMMITTEE ON FINANCE
(2004-05)**

FOURTEENTH LOK SABHA

MINISTRY OF COMPANY AFFAIRS

DEMANDS FOR GRANTS

(2004-2005)

FIFTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

*Presented to Lok Sabha on 20 August, 2004
Laid in Rajya Sabha on 20 August, 2004.*

August, 2004/Sravana, 1926(Saka)

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COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2004-2005

Maj. Gen (Retd.) B.C. Khanduri - Chairman

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2. Dr. (Smt.) P.K. Sandhu - Joint Secretary
3. Shri R.K. Jain - Deputy Secretary
4. Shri R.K. Kakkar - Under Secretary

INTRODUCTION

I, the Chairman, Standing Committee on Finance having been authorised by the Committee to submit the Report on their behalf, present this Fifth Report on Demands for Grants (2004-2005) of the Ministry of Company Affairs.

2. The Demands for Grants of the Ministry of Company Affairs were laid on the Table of the House on 23 July, 2004. Under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha, the Standing Committee on Finance are required to consider the Demands for Grants of the Ministries/Departments under their jurisdiction and make Reports on the same to both the Houses of Parliament.

3. The Committee took oral evidence of the representatives of the Ministry of Company Affairs at their sitting held on 12 August, 2004 in connection with examination of the Demands for Grants (2004-2005).

4. The Committee considered and adopted the draft Report at their sitting held on 19 August, 2004.

5. The Committee wish to express their thanks to the Officers of the Ministry of Company Affairs for the co-operation extended by them in furnishing written replies and for placing their considered views and perceptions before the Committee.

6. For facility of reference, the observations/recommendations of the Committee have been printed in thick type.

NEW DELHI;
19 August, 2004
28 Sravana, 1926 (Saka)

MAJ. GEN (RETD.) B.C. KHANDURI
Chairman,
Standing Committee on Finance

REPORT

INTRODUCTORY

The Ministry of Company Affairs is responsible for administration of the following Acts:-

- i) The Companies Act, 1956
- ii) The Monopolies and Restrictive Trade Practices (MRTP) Act, 1969
- iii) The Competition Act, 2002
- iv) The Chartered Accountants Act, 1949
- v) The Cost and Works Accountants Act, 1959
- vi) The Company Secretaries Act, 1980
- vii) The Partnership Act, 1932
- viii) The Societies Registration Act, 1860
- ix) The Companies (Donation to National Fund) Act, 1951

The Ministry has a three tier organizational set-up namely the Secretariat at New Delhi, the Regional Directorates at Mumbai, Kolkata, Chennai and Kanpur, offices of Registrars of Companies in States and Union Territories and Official Liquidators, attached to the High Courts.

The Regional Directors in-charge of the respective Regional Directorates supervise the working of the Offices of Registrars of Companies and Official Liquidators working in their respective jurisdiction. They also maintain liaison with the respective State Governments and the Central Governments in matters relating to the administration of the Companies Act.

2. The overall Demands for Grants pertaining to the Ministry of Company Affairs is as follows:-

Voted

Demand No. 17 – Ministry of Company Affairs 57.50 crore

3. The Detailed Demands for Grants of the Ministry of Company Affairs were laid in Parliament on 23rd July, 2004

4. In the present Report, the Committee have examined following issues:-

- i) Comprehensive Review of the Companies Act, 1956
- ii) Company Law Board – Functioning of Regional Benches
- iii) Serious Fraud Investigation
- iv) Competition Commission of India
- v) Inspection of Companies
- vi) Detailed Demands for Grants – Foreign Travel Expenses
- vii) Detailed Demands for Grants – Publications

Comprehensive review of the Companies Act, 1956

5. Subsequent to the amendments to the Companies Act, 1956 brought about during the period 1999-2002 and to enable a comprehensive review of the Companies Act, 1956, the Companies (Amendment) Bill, 2003 was introduced in the Rajya Sabha on 7.5.2003. Thereafter, in order to enable the changes in the institutional structure for implementation of the Companies Act, 1956 ushered in through the amendments viz. the Companies (Second Amendment) Act, 2002 and the Competition Act, 2002 to be fully reflected in the Companies Act it was decided to take a further comprehensive review of the legislation along with broad based consultations with concerned stake holders.

6. Asked as to whether Comprehensive review of the Companies Act, 1956 would cover the aspects relating to the over regulation and overlapping powers of the DCA, SEBI and Stock Exchange in day-to-day affairs of a company and recommendations made by Naresh Chandra Committee on independent directors etc., the Ministry of Company Affairs in a written reply stated as follows:

“The Government have taken up an exercise for developing a Concept Paper for comprehensive overhaul of the Companies Act, 1956. The objective is to evolve a legislation amenable to easy interpretation and providing flexibility to address the evolving requirements of the corporate sector and the stakeholders. The paper would be widely disseminated soliciting opinions of various stakeholders, professionals, investing public and others.”

7. During the oral evidence, the Secretary of the Ministry of Company Affairs has, elaborated further,:-

“In 1957, there were only 29,000 companies with a paid-up capital of Rs. 72 crores. In fact, the number of non-Government companies continued to decline upto 1970 when their numbers stood at 28,000 with a paid-up capital of Rs. 2200 crores. In the decade starting from 1980, there has been 14 percent annual growth of the companies with much more rapid growth in the paid-up capital. The position as on 2002 is that there were nearly 6 lakh companies in non-Government sector with a paid-up capital of about Rs. 400,000 crore and Government companies standing at 1261 with a paid-up

capital of Rs. 1.1 thousand crores. In such a scenario, the structures which were set up and which did not bring about any meaningful technology inputs continue to progressively get strained. In such a scenario, scrutiny, inspection, investigation, etc, became less than optimal. Piecemeal legislative responses to emerging scenarios have been brought in with as many as 24 amendments with decreasing satisfaction of implementation and somewhat resigning to the state of affairs and an unhealthy equilibrium of not expecting much from the system is visible. The situation urgently calls for complete overhaul of almost everything. A silver-lining is that thanks to the ever-vigilant Parliament and its Members, stakeholders and spread of greater awareness steps have been initiated in this direction. Such steps are revamping of the existing law on zero based approach; bringing IT tools in management, retraining of the existing man power and providing for structures reducing delays in areas where time and speed seems to have lost sense.”

He has inter-alia added :-

“...the recent concept paper proposing to revamp the existing Companies Act altogether is another attempt of the Ministry with a view to bringing about legislations in consultation with all the stakeholders well in advance with a view to introducing flexibility, easy interpretation and redefining better corporate governance provisions.”

8. He went on to add further :-

“For supporting the endeavours of the Ministry, the Ministry has not only the mechanism of making consultation with the stakeholders but also has the support of three autonomous professional institutions such as Institute of Chartered Accountants of India, Institute of Company Secretaries of India, Institute of Cost and Works Accountants of India who perform yeomen service by providing various accounting standards, audit standards, cost audit norms and also secretarial audit. Their inputs have led to many meaningful amendments in the past and it is expected that we would receive not only their comments on the concept paper but also corresponding standards for giving meaning to the proposed provisions in the concept parper.”

9. The Committee take note of the fact that till now the Companies Act was being amended in a piecemeal manner and to meet the requirements at a given point of time. Since the commencement of the Act in 1956, it has been amended 24 times. They recall their earlier recommendation made in their Report on Demands for Grants pertaining to Department of Company Affairs in 2003-04 wherein the Government was asked to make comprehensive overhaul of the existing Act.

10. The Committee do appreciate the endeavour of the Government to take up the exercise for developing the concept paper for comprehensive overhaul of the Companies Act, 1956. They are given to understand that the said concept paper has been circulated to all the interested parties e.g. corporates, regulatory bodies, stakeholders and autonomous professional institutions. They want that adequate publicity may also be made through print and electronic media so that public at large may also involve themselves in the exercise and make suggestions. The Committee expect that the exercise would be completed in a fixed time and Government will come forward with a new look Companies Bill which meets the requirements of all concerned without any delay.

Company Law Board

11. The Company Law Board has been functioning as an independent quasi-judicial body w.e.f. 31.5.1991 set up by the Central Government under Section 10 E of the Companies Act, 1956. The procedure followed for filing the applications /petitions before the Company Law Board is as prescribed in the Company Law Board Regulations, 1991. The Central Government has prescribed the fees for making applications/petitions before the Company Law Board (fees on applications and petitions) Rules 1991.

The Board has a sanctioned strength of nine members. The Constitution of Company Law Board as on 31st March, 2004 is as follows:

1. Shri S. Balasubramaniam, Officiating as Chairman
2. Shri K.K. Balu, Member (Southern Bench)
3. Shri K.C. Ganjwal, Member (Northern Bench)

12. The Companies (Second Amendment) Act, 2002, envisages the establishment of NCLT and NCLAT following which the functions of CLB will be transferred to the NCLT/NCLAT which is yet to be constituted.

Further, the Ministry has informed that petitions are pending at various stages of hearings before the Benches. It is not feasible to furnish the details of the same stating that the stages keep varying momentarily. As against 9 members sanctioned for CLB, including Chairman and Vice Chairman Member. Presently there are only 3 members including the acting Chairman and no member is in position in Mumbai and Kolkata. These Benches are managed by other Members.

13. As per information available in the reply furnished to the Committee, it is found that the pendency of petitions/applications as on 31.3.2004 is as follows:-

Composition of Bench and Section	Opening Balance	Receipts	Total	Disposed of	Pending
Single Member Bench	6886	7447	14333	12664	1669
Double Member Bench	117	101	218	52	166
Principal Bench	282	479	761	115	346
Total	7285	8027	15312	12831	2181

14. When the Committee desired to know the reasons of pending cases before single, double and principal bench of CLB, the Secretary of the Ministry of Company Affairs has stated as under:-

“If you see the overall return, the pendency is going down.

Actually pendency will depend upon the number of cases which are being filed.”

The Secretary also informed :-

“disposal of cases is more in comparison to the filing of new cases.

Pendency is gradually going down as rate of disposal is going up and filing of new cases is less.”

When the Committee desired to know what steps could be taken for a speedy disposal of cases, the Secretary informed that the concern of the Committee would be conveyed to the CLB.

15. The Committee note with serious concern that affairs of the Company Law Board (CLB) are being managed by only 3 members as against the sanctioned strength of 9 members. They are dismayed at the apathetic attitude of the Government with regard to Company Law Board otherwise such a body would not have been allowed to function with one third of the sanctioned strength. This affects the disposal of petitions substantively. They deplore the sorry state of affairs. They are given to understand that functions of Company Law Board will be transferred to the newly created National Company Law Tribunal (NCLT) which is not functional at present due to stay granted by High Court . Till the stay is vacated and NCLT made fully operational, the Government should take steps to fill the vacant posts in the Company Law Board.

Serious Fraud Investigation Office

16. The Government in the backdrop of major failure of non-banking financial institutions, phenomenon of vanishing companies, plantation companies and the recent stock market scam had decided to set up Serious Fraud Investigation Office (SFIO), a multidisciplinary organization to investigate financial frauds. The Organisation has been established and it has started functioning since 1st October, 2003.

17. The SFIO which is a multi-disciplinary organisation comprises of experts drawn from different fields. The head of the organisation is the Director, SFIO. To advise and assist him, there are a number of Addl. Directors/Joint Directors coming mainly from the following fields of specialisation.

- i) Company Law, Chartered accountants/company secretaries with experience in corporate management;
- ii) Taxation;
- iii) Investigation/Criminal Investigation/prosecution in the areas of economic offences;
- iv) Information technology, with ability to conduct IT audits (computer forensics);
- v) Forensic auditing;
- vi) Capital markets, with experience in regulation of capital markets and internal financing
- vii) Banking.

Each Addl. Director/Joint Director will be assisted by a team of Assistant Directors, who also have been drawn from different specialisations.

The investigations by the SFIO will be conducted by the teams consisting of the above experts.

18. During the oral evidence, the Secretary of the Ministry of Company Affairs in response to the query on the functions of SFIO and justification for allocation in Demands for Grants for SFIO informed as under:-

“This office was set up as a sequel to the recommendation of the JPC, on the lines of Serious Fraud Office of Britain. This Institution came into being

in October 2003. Director, SFIO is heading this institution. He is assisted by a multi disciplinary team. It is totally officer-oriented office, in which officers of income tax, bank, police, and investigative agencies are put together. They are referred certain cases where larger public interest is involved and issue of manipulation of money is involved. Since October 2003, they have been referred to six such cases on selective basis. There is section 235 which gives powers to the Government to order investigations into these cases.

The Secretary of the Ministry of Company Affairs added:-

“SFIO is a small, compact, multi-disciplinary team which has got together to do investigation and they are getting powers from the Government under the Companies Act. This budget which was given to them was towards locating their officers and for salaries and travel costs etc.”

19. As regards the status of cases referred to this organization it was informed that five cases were referred by Department of Company Affairs for investigation. Investigation in one case has been completed and the report has been submitted in the month of February 2004. In remaining 4 cases, Interim Stay has been granted by the respective High Courts. One more case has recently been referred to this office for investigation.

20. The Committee asked about the efforts made by the Government for vacation of stay orders, the Ministry in their reply stated that they are pursuing the cases for vacation of stay granted by the Hon'ble High Courts.

Asked whether the investigation order to SFIO or action of SFIO has been stayed by the Court, the Secretary of the Ministry of Company Affairs informed the Committee as under:-

“The order of investigation given by the Ministry under Section 235 of the Companies Act was challenged in the High Court and the hon. High Court stayed the operation of that order.”

The Secretary has inter-alia stated that “We have filed out rejoinders to this and the cases are under progress in the High Court.”

21. The Committee desired to know the action taken on the report submitted by the SFIO, the Ministry has stated in a written reply that an Expert Committee has been

constituted for examination of the report submitted by SFIO. The said report is under examination of the Committee.

It has inter alia stated that in the enquiry report submitted by the SFIO, some suggestions have been made on improving the system, laws and procedures. These recommendations will be processed after report of the Expert Committee is available.

22. To a specific query on whether any time limit has been fixed for investigation, the Ministry has replied that in the following five cases no time limit as such was prescribed for investigation :-

1. Daewoo Motors India Ltd.
2. DSQ Software Ltd.
3. Design Auto Systems
4. Bonanza Biotech Ltd.
5. Ispat Industries Ltd.

However, in the case of **M/s Vatsa Corporation Ltd.** six months time has been given for the investigation.

Presently, Vatsa Corporation is under investigation. This corporation started with a very small share capital and ultimately went up to a paid up capital of around Rs. 5000 crore with an authorized capital of Rs. 50,000 crore. The magnitude of growth of corporation and issues concerning investors' interests have led to investigation through SFIO.

23. Supplementing the query during oral evidence regarding follow up action on cases referred to SFIO and stayed by Courts, the Ministry has in a written reply stated as under:-

S. No.	Name of the company	Case referred to SFIO on	SFIO started investigation on	Date of High Court order granting interim stay	Date of Certified copy served on Ministry	Affidavit in opposition finalized by Ministry	Last hearing date	Next date of hearing
1	DSQ Software Ltd; Chennai	23.10.2003	30.10.2003	20.11.2003	23.12.2003	In June 2004. Additional counter affidavit on 02.04.2004	19.07.2004	Four weeks from 19.07.2004
2&3	Design Auto Systems Ltd Pithampur (M.P.) &	16.12.2003	19.12.2003	15.01.2004	20.01.2004	20.04.2004	06.08.2004	18.08.2004

	Bonanza Biotech Ltd; Indore							
4	Ispat Industries Ltd; Kolkata	13.02.2004	19.02.2004	27.02.2004	27.02.2004	13.03.2004	28.06.2004	10 weeks from 28.06.2004

24. The Committee note that Serious Fraud Investigation Office (SFIO) was set up recently in October, 2003. So far till date only six cases have been referred to the SFIO and it has been able to complete its investigation only in one case, while another case is still under investigation and in the case of another four cases stay has been granted by the Hon'ble High Court. The Committee have been apprised that in the Enquiry Report submitted by SFIO some suggestions have been made on improving the system, law and procedure etc. and these recommendations are being looked into by the Expert Committee and the action on the recommendations will be taken after the report is made available by this Committee. The Committee desire that Government should take necessary action with regard to getting the stay orders vacated and also take expeditious action on the report submitted by the Expert Committee.

DEMAND NO. 17
Ministry of Company Affairs
Major Head: Competition Commission of India
Head Code : 56

25. This head caters to the Competition Act which provides for the establishment of a Competition Commission of India. The Competition Commission of India has accordingly been established on 14 October, 2003. Subsequent to a writ petition challenging certain aspects of the constitution of the Competition Commission of India, the matter is sub judice in the Supreme Court of India.

Year	B.E.		R.E.		Actual	
	Plan	Non-Plan	Plan	Non-Plan	Plan	Non-Plan
2003-2004		45,40		15600		
2004-2005	0	0				

26. When asked during the oral evidence, about why there is no provision for allocation for Competition Commission of India which is envisaged to get operationalised in the near future, the representative of the Ministry of Company Affairs has stated as under:-

“As far as the Competition Commission of India is concerned, there is a Grant-in-aid Head in the Demands for Grants. Actually, the Competition Commission of India being an autonomous institution, the allocation may be made as a grant from the finance, so Rs. 5 crore is included in as Grant-in-aid.”

27. Whereas there are ‘nil’ budgetary provisions for CCI, Rs. 28300 thousands has been sought as budgetary allocation 2004-05 for National Company Law Tribunal under non-plan which has not yet been fully operational.

28. In reply to a specific query about time limit fixed for the expeditious setting up of NCLT, the Ministry in a written reply has stated as under:-

“The Government had initiated steps to set up the NCLT expeditiously. However, in a writ petition filed in the Madras High Court, the Hon’ble Court has ruled that certain provisions of Companies (Second Amendment) Act 2002 should be reviewed, failing which the NCLT shall be unconstitutional. The Government has preferred an SLP in the Supreme Court which has been admitted and the matter is sub-judice. The establishment and constitution of

NCLT is, therefore, subject to the outcome of the case pending before Hon'ble Supreme Court."

29. The Committee are surprised to note that 'nil' budgetary allocation has been sought in favour of the Competition Commission of India. Whereas the Government has sought Rs. 28300 thousands for National Company Law Tribunal, the operation of both these organizations has been stayed by the Courts.

30. They are not convinced by the Government's reply in regard to allocations for Competition Commission of India. They are of the opinion that 'nil' allocation gives an impression as if the government does not intend to make the organization functional in the near future. They, therefore, want that in order to ward off such an impression the Government should make at least notional provision in such cases.

INSPECTION OF COMPANIES

31. Section 209A of the Companies Act empowers the Registrar of Companies and other Officers of the Central Government to inspect the books of accounts and other records of the Companies.

During the last four years, inspection of books of accounts and other records of companies under Section 209A of the Companies Act, 1956 was conducted as under:-

Year	No. of Inspections conducted
2000-2001	221
2001-2002	244
2002-2003	150
2003-2004	109

32. Asked to furnish the total number of existing companies, the representative of the Ministry of Company Affairs has stated that there are about 6,52,000 companies as on June, 2004.

33. Asked about the adequacy of the existing staff strength in the inspection wing of the Ministry and the steps taken in this regard, the Ministry has stated

“At present a few posts are vacant in the inspection wing, steps are being taken to fill up these vacancies and further to augment the overall sanctioned strength in the Indian Company Law Service, the Ministry has constituted an internal committee for the Cadre Review of the Indian Company Law Service.

34. As regards outsourcing of routine inspection under Section 209A of the Companies Act, 1956 the Government has set up an Expert Group under the convenorship of Shri Shardul Shroff to examine, inter-alia, making inspections under Section 209A of the Companies Act, 1956 more effective, including the possibility of inducting professionals. The final report of the Group is yet to be received by the Government.

35. Supplementing the query raised during the oral evidence, the Ministry in a written reply has stated as under:-

"The expert group has finalized its draft report after a series of meetings. Shri Shardul Shroff has been requested to give the final report urgently and the same is expected to be received in about one months time.

In addition, the following is the strategy for augmenting the inspection wing:

- (i) When in about 15 months time, the computerization programme is completed, it is anticipated that some surplus officers would join inspection wing, which would increase its activities significantly as the inspection would become the primary programme of the Ministry's field organization.
- (ii) An internal committee on cadre review has already been constituted. Action has been taken for ascertaining the views of cadre officers and 2 meetings have already been held by the committee. The internal committee would finalise their report soon and thereafter the Ministry will be able to undertake inter-Ministerial consultations with an endeavour to complete the process of cadre review within the current financial year.
- (iii) Officers have been put on training in batches with premier institutions with twin objectives of improving the quality of the inspection and expectation of better prosecution results.
- (iv) Legislative mechanism is proposed to be brought in through revamping present Companies Act for facilitating speedier inspection. Action in this regard is already initiated by placing Concept Paper in the Ministry's website for eliciting stakeholders' opinion."

36. Asked as to whether all the inspections were done which were supposed to be done as a result of Stock Market Scam 2001, and the capacity of existing mechanism to undertake more inspections, the Secretary of the Ministry of Company Affairs during oral evidence stated as under:-

"I would just address the concern expressed by hon. Member that the number of inspections have come down. It is a fact that 96 inspections were ordered by the MOCA on the basis of inspection report of SEBI on the scam enquired into by JPC and they have been completed. After doing the supplementary inspection during 2003-04 as we were in a hurry to

complete all those 96 cases in which more time than normal inspection takes. We had to respond to the JPC and complete that task."

37. Asked to furnish the major deficiencies noticed during these inspections and the follow up action taken by Ministry of Company Affairs against the defaulting companies, the Ministry in their written reply has stated as under:-

"During the course of inspection, violation of various provisions of the Companies Act were detected such as 211 read with Sch VI, 58A, 205/207, 383A, 370/372/372A, 269, 295, 297, 628 etc for which necessary prosecutions have been ordered/launched against the companies and their directors/officers in default."

38. The Committee note with serious concern that the number of inspections are coming down year after year. The Government has accounted for less inspections during 2003-04 which is minuscule when compared to the number of Companies as on date. At present, there are 6,52,000 companies operating in the country. As such not even 1% of the companies are being inspected. They are of the view that such a casual approach of the Government towards inspections has made the mockery of the system. The earlier recommendations of the Committee in this regard have not been taken seriously by the Government. They are given to understand that the Government does not have adequate staff to carry on such a stupendous task and a cadre review exercise is being carried out in the Ministry which will, on implementation augment the staff of inspection wing. They also express their satisfaction that the expert Committee (Shardul Shroff Committee) on outsourcing the routine inspections under Section 209A has finalized its report which is yet to be submitted to the Government. They expect that both the reports viz. Cadre Review and Shardul Shroff Committee will be expedited and implemented by the Government as early as possible.

Demand No. 17
Ministry of Company Affairs
Major Head : Foreign Travel Expenses
Head Code : 05.03.12

39. This head covers all expenses on account of travel on duty outside India including deputation of Scientists abroad. This also include the expenditure on TA/DA to non-official members going on tour abroad. The Budgetary Estimates, Revised Estimates and Actuals are given below:

Year	B.E.		RE		Actual	
	Plan	Non-Plan	Plan	Non-Plan	Plan	Non-Plan
2001-2002	-	8,00	-	8,00	-	4,73
2002-2003	-	8,00	-	28,00	-	22,30
2003-2004	-	8,00	-	24,00		2202
2004-2005	-	29,00				

40. While responding to the observations of the Committee from the above given data to explain the reasons for steep rise in allocations at RE stage during 2002-2003 and 2003-2004 of the Ministry in their written replies has stated that :-

“Important developments are taking place at the International level in areas such as Corporate Governance, Insolvency Law, Accounting Standards, Competition Policy & Law and Computerisation of Company Registries. Various meetings, workshops, symposiums, etc are held in regard to matters such as these. It is important for the Ministry of Company Affairs to participate in and be aware of these important developments. Accordingly, decision is taken from time to time to depute officers at various levels for the above mentioned meetings, workshops, symposiums, etc. for this reasons increase in the provision in 2002-2003 was considered necessary.”

41. The Ministry has also stated that in the beginning of the financial year 2003-2004, the number of persons going on foreign tour could not be anticipated and accordingly lower BE was fixed. The actuals during 2002-2003 was high due to deputation of officers at various levels for the International meetings, Workshops, Symposiums etc.

42. In response to a query about DFPR (Delegation of Financial Powers Rules), the Secretary of the Ministry of Company Affairs, during the oral evidence stated as under:-

“...the foreign travel expenses are in relation to the jobs of this Ministry. Normally, the officers of the Ministry or even if we take some professionals outside for the purposes of the job of this Ministry, the foreign travel expenditure is debited at that stage through a process as described under the delegated financial powers.

There is a mechanism of approvals by the competent authority to approve the foreign travel. So, the total budget is Rs. 29 lakh. This statement has been quoted as a general provision from DFPR where the word ‘scientist’ somehow appears.”

43. The Committee do not approve the casual manner in which the Government is apparently content with furnishing its replies in regard to higher expenses in foreign travel expenses. The Committee are not inclined to accept the explanation advanced by the Government. None of the reasons adduced by the Ministry which necessitated unforeseen expenditure are such which could not have been foreseen in advance. The Government has furnished a trivial pretext that the higher actuals during 2002-03 were due to deputation of officers at various levels for the international meetings, workshops, symposiums etc. The Committee are deeply concerned to note that actual expenditure under this head is higher than the budgetary estimates. They note that the austerity and economy instructions have been recommended from time to time but continuously ignored which has resulted in variations between BE and Actuals. The entire budgetary exercise thus goes haywire. In view of the foregoing, the Committee are of the view that no serious efforts are being made by the Government either in anticipating and projecting realistic demand or in making a judicious and economical use of funds allocated under the foreign travel expenses.

Demand No. 17
Ministry of Company Affairs
Major Head : Publications
Head Code : 05.03.16

44. The head deals with publication of Annual Statutory/Administrative Reports i.e. Annual Report on Working and Administration of Companies Act, Annual Report of the Ministry and Annual Report of the MRTP Act and also publication of notifications, forms etc.

45. While examining the Demands for Grants under the head "Publications", the Committee cited the following figures year-wise from the detailed Demands for Grants:

Year	B.E.		R.E.		Actual	
	Plan	Non-Plan	Plan	Non-Plan	Plan	Non-Plan
2001-2002	-	5,00	-	4,50	-	1,24
2002-2003	-	5,00	-	4,50	-	1,81
2003-2004	-	5,00	-	5,00		3,82
2004-2005	-	5,00				

46. The Committee asked to explain the reasons for the BE during 2002-03 and 2003-04 as compared to actuals in previous years and the reasons for under utilization of funds during 2001-02 and 2002-03.

In their reply the Ministry of Company Affairs has written that the Budget Estimates (BE) during 2002-03 and 2003-04 were more than the actuals as provisions were kept to make payment for printing of publications and under utilization is on account of the fact that the actual bills for publications received during the years were less than expected amount of expenditure.

47. The Committee are not satisfied with the explanation of the Government accounting for the under utilisation of the expected amount of expenditure. The Government has not provided a convincing explanation for under utilisation of the amount. The Committee are concerned that the Government is not making realistic anticipation in respect of its demands. They strongly disapprove the explanation advanced by the Ministry and opine that while preparing budget estimates, actual requirement should be kept in view. The Committee feel that realistic demands would make the funds available for other significant areas.

NEW DELHI;
19 August, 2004
28 Sravana, 1926(Saka)

MAJ. GEN (RETD.) B.C. KHANDURI
Chairman,
Standing Committee on Finance

STATEMENT OF CONCLUSIONS/RECOMMENDATIONS OF THE STANDING COMMITTEE ON FINANCE IN THE FIFTH REPORT (2004-05)

Sl. No.	Para No.	Ministry/Department concerned	Conclusions/Recommendations
1.	9, 10	Ministry of Company Affairs	<p>The Committee take note of the fact that till now the Companies Act was being amended in a piecemeal manner to meet the requirements at a given point of time. Since the commencement of the Act in 1956, it has been amended many times. They recall their earlier recommendation made in the Report on Demands for Grants pertaining to Department of Company Affairs in 2003-04 wherein the Government was asked to make comprehensive overhaul of the existing Act.</p> <p>The Committee do appreciate the endeavour of the Government to take up the exercise for developing the concept paper for comprehensive overhaul of the Companies Act 1956. They are given to understand that the said concept paper has been circulated to all the interested parties e.g. corporate regulatory bodies, stakeholders and autonomous professional institutions. They want that adequate publicity may be made through print and electronic media so that public at large may also involve themselves in the exercise and give their suggestions. The Committee expect that the exercise would be completed in a fixed time and Government will come forward with a new look Companies Bill which meets the requirements of all concerned without any delay.</p>
2.	15	Ministry of Company Affairs	<p>The Committee note with serious concern that affairs of the Company Law Board (CLB) are being managed by only 6 members as against the sanctioned strength of 9 members. They are dismayed at the apathetic attitude of the Government with regard to Company Law Board otherwise such a Board would not have been allowed to function with one third of the sanctioned strength. This affects the disposal of pending cases substantively. They deplore the sorry state of affairs. They are given to understand that functions of Company Law Board will be transferred to the newly created National Company Law Tribunal (NCLT) which is not functional at present as stay granted by High Court . Till the stay is vacated and the NCLT is made fully operational, the Government should take steps to fill the vacant posts in the Company Law Board.</p>
3.	24	Ministry of Company Affairs	<p>The Committee note that Serious Fraud Investigation Office (SFIO) was set up recently in October, 2003. So far till date only six cases have been referred to the SFIO and it has been able to complete its investigation only in one case, while another case is still under investigation and in the case of another four cases stay has been granted by the Hon'ble High Court.</p>

			<p>The Committee have been apprised that in the Enquiry Report submitted by SFIO some suggestions have been made on improving the system, law and procedure etc. and these recommendations are being looked into by the Expert Committee and the action on the recommendations will be taken after the report is made available by this Committee. The Committee desire that Government should take necessary action with regard to getting the stay orders vacated and also take expeditious action on the report submitted by the Expert Committee.</p>
4.	29, 30	Ministry of Company Affairs	<p>The Committee are surprised to note that 'nil' budgetary allocation has been sought in favour of the Competition Commission of India. Whereas the Government has sought Rs. 28300 thousands for National Company Law Tribunal, the operation of both these organizations has been stayed by the Courts.</p> <p>They are not convinced by the Government's reply in regard to allocations for Competition Commission of India. They are of the opinion that 'nil' allocation gives an impression as if the government does not intend to make the organization functional in the near future. They, therefore, want that in order to ward off such an impression the Government should make at least notional provision in such cases.</p>
5.	38	Ministry of Company Affairs	<p>The Committee note with serious concern that the number of inspections are coming down year after year. The Government has accounted for less inspections during 2003-04 which is minuscule when compared to the number of Companies as on date. At present, there are 6,52,000 companies operating in the country. As such not even 1% of the companies are being inspected. They are of the view that such a casual approach of the Government towards inspections has made the mockery of the system. The earlier recommendations of the Committee in this regard have not been taken seriously by the Government. They are given to understand that the Government does not have adequate staff to carry on such a stupendous task and a cadre review exercise is being carried out in the Ministry which will, on implementation augment the staff of inspection wing. They also express their satisfaction that the expert Committee (Shardul Shroff Committee) on outsourcing the routine inspections under Section 209A has finalized its report which is yet to be submitted to the Government. They expect that both the reports viz. Cadre Review and Shardul Shroff Committee will be expedited and implemented by the</p>

			Government as early as possible.
6.	43	Ministry of Company Affairs	<p>The Committee do not approve the casual manner in which the Government is apparently content with furnishing its replies in regard to higher expenses in foreign travel expenses. The Committee are not inclined to accept the explanation advanced by the Government. None of the reasons adduced by the Ministry which necessitated unforeseen expenditure are such which could not have been foreseen in advance. The Government has furnished a trivial pretext that the higher actuals during 2002-03 were due to deputation of officers at various levels for the international meetings, workshops, symposiums etc. The Committee are deeply concerned to note that actual expenditure under this head is higher than the budgetary estimates. They note that the austerity and economy instructions have been recommended from time to time but continuously ignored which has resulted in variations between BE and Actuals. The entire budgetary exercise thus goes haywire. In view of the foregoing, the Committee are of the view that no serious efforts are being made by the Government either in anticipating and projecting realistic demand or in making a judicious and economical use of funds allocated under the foreign travel expenses.</p>
7.	47	Ministry of Company Affairs	<p>The Committee are not satisfied with the explanation of the Government accounting for the under utilisation of the expected amount of expenditure. The Government has not provided a convincing explanation for under utilisation of the amount. The Committee are concerned that the Government is not making realistic anticipation in respect of its demands. They strongly disapprove the explanation advanced by the Ministry and opine that while preparing budget estimates, actual requirement should be kept in view. The Committee feel that realistic demands would make the funds available for other significant areas.</p>

Minutes of the Third sitting of Standing Committee on Finance
The Committee sat on Thursday, 12 August, 2004 from 1100 to 1300 hrs.

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

1. Shri Jaswant Singh Bishnoi
2. Shri P.S. Gadhavi
3. Shri Shyama Charan Gupt
4. Dr. Rajesh Kumar Mishra
5. Shri Madhusudan Mistry
6. Shri Shriniwas D. Patil
7. Shri K. S. Rao
8. Shri Ajit Singh
9. Shri M.A. Kharabela Swain
10. Shri Vijoy Krishna

RAJYA SABHA

11. Shri Murli Deora
12. Shri R.P. Goenka
13. Shri Jairam Ramesh
14. Shri M. Venkaiah Naidu
15. Shri Yashwant Sinha
16. Shri Mangani Lal Mandal

Secretariat

1. Shri. P.D.T. Achary	- Additional Secretary
2. Dr.(Smt.) P.K. Sandhu	- Joint Secretary
3. Shri R.K. Jain	- Deputy Secretary
4. Shri R.C. Kakkar	- Under Secretary

WITNESSES

Ministry of Company Affairs

1. Shri MMK Sardana, Secretary, MCA
2. Sh. M. Deendyalan, Joint Secretary & Financial Adviser
3. Dr. (Mrs.) Sheela Bhide, Joint Secretary
4. Shri Jitesh Khosla, Joint Secretary
5. Shri O.P. Arya, Director, SFIO
6. Shri Paul Joseph, Economic Adviser
7. Shri A.K. Kapoor, Advisor, Cost
8. Shri R.D. Joshi, DGI&R
9. Smt. Usha Nigam, Secretary, MRTP Commission

10. Shri Vyas Ji, Secretary, CCI
11. Shri V.S. Rao, Director, Inspection & Investigation
12. Shri R.Vasudevan, Director, Inspection & Investigation
13. Smt. Vibha Pandey, Chief Controller of Accounts
14. Shri Neerabh Kumar Prasad, Director
15. Shri Aditya Prakash, Director
16. Shri R.S. Kanade, Director, CR&S
17. Shri Pawan K Kumar, Director
18. Shri Syed Nasir Ali, Director
19. Smt. Mukta Nidhi Samnotra, Deputy Secretary
20. Shri K.K. Sabharwal, Director (Finance)

2. At the outset, the Chairman welcomed the representatives of the Ministry of Company Affairs to the sitting of the Committee and invited their attention to the provisions contained in direction 55 of the Directions by the Speaker.

3. The Committee then took oral evidence of representatives of the Ministry of Company Affairs on Demands for Grants (2004-05) of the Ministry of Company Affairs and other related matters.

4. Thereafter, the Chairman requested the representatives of Ministry of Company Affairs to furnish notes on certain points raised by the Members to which replies were not readily available with them during the discussion.

5. The evidence was concluded
6. A verbatim record of proceedings has been kept.

The witnesses then withdrew.

(The Committee then adjourned)

**Minutes of the Fourth sitting of Standing Committee on Finance
The Committee sat on Wednesday, 19 August, 2004 from 1500 to 1630 hrs.**

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri Jaswant Singh Bishnoi
3. Shri Bir Singh Mahato
4. Shri Rupchand Pal
5. Shri K. S. Rao
6. Shri Lakshman Seth
7. Shri G.M. Siddeshwara

RAJYA SABHA

8. Shri Murli Deora
9. Shri Jairam Ramesh
10. Shri Mangani Lal Mandal

Secretariat

1. Shri. P.D.T. Achary	- Additional Secretary
2. Dr.(Smt.) P.K. Sandhu	- Joint Secretary
3. Shri R.K. Jain	- Deputy Secretary
4. Shri R.C. Kakkar	- Under Secretary

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

3.	XX	XX	XX	XX
4.	XX	XX	XX	XX
5.	XX	XX	XX	XX
6.	XX	XX	XX	XX

7. The Committee then considered the draft report on the Demands for Grants (2004-2005) of the Ministry of Company Affairs and adopted the same without any changes.

8. The Committee authorised the Chairman to finalise the Reports in the light of modifications as also to make verbal and other consequential changes arising out of the factual verification and present the same to both the Houses of Parliament.

The Committee then adjourned.