

duate Institute of Medical Education and Research, Chandigarh, for the year 1972-73 together with the Audit Report thereon, under sub-section (4) of section 18 of the post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1986. [Placed in Library. See No. LT-6886/74].

REVIEW AND ANNUAL REPORT OF REHABILITATION INDUSTRIES CORPORATION LTD.,
CALCUTTA

THE DEPUTY MINISTER IN THE MINISTRY OF SUPPLY AND REHABILITATION (SHRI G. VENKATASWAMY): I beg to lay on the Table a copy of the following papers (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956:

- (1) Review by the Government on the working of the Rehabilitation Industries Corporation Limited, Calcutta, for the year 1972-73.
- (2) Annual Report of the Rehabilitation Industries Corporation Limited, Calcutta, for the year 1972-73 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon. [Placed in Library. See No. LT-6887/74].

PAPERS UNDER EMPLOYEES STATE INSURANCE ACT, 1948, ETC.

THE DEPUTY MINISTER IN THE MINISTRY OF LABOUR (SHRI BALGOVIND VERMA): I beg to lay on the Table—

- (1) A copy of the Revised Estimates for the year 1973-74 and Budget Estimates for the year 1974-75 (Hindi and English versions) of the Employees' State Insurance Corporation under section 36 of the Employees' State Insurance Act, 1948. [Placed in Library. See No. LT-6888/74].
- (2) A list (Hindi and English versions) of industries in respect of which no order was issued for constitution of Joint Management Councils, under sub-

section (1) of section 3A of the Industrial Disputes Act, 1947 and sub-section (1) of section 53A of the Bombay Industrial Relations Act, 1946 read with clause (c) (iii) of the Proclamation dated the 9th February, 1974 issued by the President in relation to the State of Gujarat. [Placed in Library. See No. LT-6889/74].

12.24 hrs.

STATEMENT ON CONSTITUTIONAL POSITION REGARDING SUPPLEMENTARY DEMANDS FOR GRANTS, PONDICHERRY FOR 1973-74

MR. SPEAKER: Shri Chavan.

SHRI SEZHIYAN (Kumbakonam): When I raised this issue on Monday, I made a specific request that in the event of a prepared statement being made to the House by the Minister, a copy of that be made available to me earlier. I had raised it on 23rd April, 1974 and waited patiently. I wrote to you....

MR. SPEAKER: A copy will be made available to you.

SHRI SEZHIYAN: It should be made available earlier so that I could go through it. This is common courtesy. Why could this not be made available to me?

MR. SPEAKER: He can read the statement now.

THE MINISTER OF FINANCE (SHRI YESHWANTRA CHAVAN): Sir, on the 23rd April, 1974, Shri Era Sezhiyan raised the question regarding non-passing in time of the Supplementary Demands for Grants for 1973-74 of the Union Territory of Pondicherry. The point raised by the Hon'ble Member which is important had also been considered.

As I understand, Sir, the main issues raised by the Hon'ble Member were:

- (i) The Supplementary Demands of Pondicherry for 1973-74, which had been presented to the Union Territory Assembly on the 26th March, were not

[Shri Yeshwant Rao Chavan]

passed by the Assembly before it was dissolved under Presidential Order of the 28th March, 1974. Under the Presidential Order, the Legislative functions of Pondicherry Assembly vest in Parliament but the Supplementary Demands were neither presented to, nor approved by, Parliament before the end of the financial year 1973-74. Consequently, the expenditure incurred on the items contemplated in the Supplementary Demands was not covered by the Appropriation Act and was, therefore, illegal; and

(ii) Some of the items included in the Supplementary Demands were specifically for New Service not contemplated in the original Budget and, although adequate savings were available in the relevant Grants, the expenditure incurred on any such New Service, without appropriate Legislative approval, could not come within the purview of Excess Grants contemplated in clause (b) of sub-section (i) of section 30 of the Government of Union Territories Act, 1963.

Sir, it had been submitted, both to this House as well as to the other, that, following the dissolution of the Legislative Assembly of Pondicherry on 28th March, 1974, information about the Union Territory's Budget Estimates for 1974-75 was received here late in the forenoon of the 29th March, 1974. For the Supplementary Demands for 1973-74 also, information was received on that day. It was not possible to give a final shape to the Supplementary Demands, for the purpose of presentation to Parliament, translate them in Hindi, get printed copies in Hindi and English, obtain President's approval and, therefore, present the Supplementary Demands to this House, which alone was in Session, and get them passed—all within the few hours left of the same day, namely 29th March, 1974, which was the last working day of Lok Sabha before the end of the financial year. Rajya Sabha was not in Session and, therefore, even if the House had passed the Demands and

the connected Appropriation Bill, the later could not have become a law within the year. I may add, Sir, that in the matter of getting the Supplementary Demands and connected Appropriation Bill passed, the position was no different from getting the Budget for 1974-75 passed, except that the non-availability of Supplementary Grants for 1973-74 would not create for the Union Territory Administration a situation same as the non-availability of funds for expenditure to be incurred from 1st April, 1974 inasmuch as, by the 29th March, 1974, the expenditure of 1973-74 would have been incurred for all but one working day of that year. This is the reason why it was not considered either necessary or desirable to have Presidential authorisation for the Supplementary Expenditure of 1973-74, although such an authorisation had to be resorted to in respect of the expenditure to be incurred from 1st April, 1974, pending sanction by Parliament.

Moreover, as my Hon'ble friend himself pointed out, the Government of Union Territories Act, 1963 envisage a situation of excess expenditure at times and provide for Post Facto regularisation thereof by the Legislature. Such regularisation is usually done after the Appropriation Accounts, certified by the Comptroller and Auditor General, are submitted to the Legislature and the Public Accounts Committee thereof has examined the Excesses and recommended their regularisation. In this case also, the same procedure will have to be observed. That is to say, the excess expenditure, as may be revealed in the Appropriation Accounts, will not be left out of the powers of the Legislature in regard to the regularisation of such excess expenditure. However, I do not deny, Sir, that the expenditure on New Service may not strictly come within the scope of excess expenditure contemplated in section 30(1) (b) of the Government of Union Territories Act, 1963, in case such expenditure on New Service had been incurred from the Consolidated Fund of the Union Territory.

Actually, in respect of such cases of New Service, the expenditure has been incurred by obtaining advances from the Contingency Fund of the Union Territory, established under section 48 of the Act. The Contingency Fund, not only at the Centre and the States but also in the Union Territories, I should like to clarify, are meant precisely for such occasions. Sir, I should also like to add that, according to section 48(2) of the Government of Union Territories Act, 1963, advances from the Contingency Fund are made for meeting expenditure pending authorisation of such expenditure by Legislative Assembly of the Union Territory under appropriation made by law. In other words, these too will eventually come within the purview of regularisation by the appropriate Legislature in due course. As the expenditure on the items of New Service has been met from advances from the Contingency Fund, it is not correct to say that the expenditure so incurred has been illegal.

Hence, the expenditure, whether on New Service or otherwise, that may have been incurred in Pondicherry in excess of the appropriation for 1973-74 as may be revealed in the accounts for that year will be regularised in the manner prescribed in the Government of Union Territories Act, 1963 and this will have to be processed in due course in the appropriate Legislature.

SHRI SEZHIAN: I am not satisfied with this statement. I am quite clear in my mind that the demands for supplementary grants should be passed before the financial year is over. I have seen many decisions given by the Public Accounts Committee and also by the Attorney General of India. Therefore, I should like to have a detailed discussion on this matter which has got constitutional implica-

tions. The executive cannot arrogate to itself the powers of legislatures. Therefore, I want you to fix some time. The hon. Speaker should also give his ruling on this very vital point. This is something atrocious and it is against the Constitution.

SHRI SHYAMNANDAN MISHRA (Begusarai): This statement should be circulated.

SHRI H. N. MUKERJEE (Calcutta North-East): On an earlier occasion when a reference to such a course of action was suggested, I did not favour the idea of calling in the Attorney General. The position has now become so complicated and we should have a full-dress discussion here. The Attorney-General should be asked to come and assist the House in this regard. I know our schedule is tight and it is difficult to get time. Even so this is a question of such paramount constitutional importance that we should find time to discuss it to the extent that we can possibly do.

SHRI ATAL BIHARI VAJPAYEE (Gwalior): Was the Attorney General consulted in this matter at any stage?

SHRI YESHWANTRAO CHAVAN: No; but the Law Ministry and the Law Minister were consulted.

SHRI SHYAMNANDAN MISHRA: The time should be fixed at the earliest for the discussion. Otherwise the illegality of the situation will continue. No further time should be allowed for the continuance of this illegality.

श्री मधु लिमये (वांका) : आज जो बिजनेस एडवाइजरी कमेटी की बैठक होने वाली है, उस के एजेन्डे में आप इसको रखें।

अध्यक्ष महोदय : देखेंगे इस को भी।