

**SIXTY-SIXTH REPORT  
COMMITTEE ON PETITIONS  
(SEVENTEENTH LOK SABHA)**

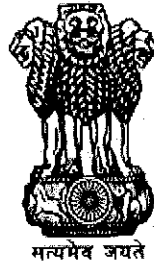
**MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

**MINISTRY OF DEFENCE  
(DEPARTMENT OF MILITARY AFFAIRS)**

**AND**

**MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES**

**(Presented to Lok Sabha on 05.02.2024)**



**LOK SABHA SECRETARIAT  
NEW DELHI**

***February 2024/Magha, 1945 (Saka)***

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## CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE ON PETITIONS .....	(ii)
INTRODUCTION.....	(iii)

### REPORT

Action Taken by the Government on the recommendations made by the Committee on Petitions (Seventeenth Lok Sabha) in their Forty-Ninth Report on the representation of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons Limited.	1
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### ANNEXURE

Minutes of the 31 <sup>st</sup> sitting of the Committee on Petitions held on 02.02.2024.	27
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## COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Harish Dwivedi - *Chairperson*

### MEMBERS

2. Shri Anto Antony
3. Prof. Sanjay Sadashivrao Mandlik
4. Shri P. Ravindhranath
5. Dr. Jayanta Kumar Roy
6. Shri Brijendra Singh
7. Shri Sunil Kumar Singh
8. Shri Sushil Kumar Singh
9. Shri Manoj Kumar Tiwari
10. Shri Prabhubhai Nagarbhai Vasava
11. Shri Rajan Baburao Vichare
12. Shri Bharat Ram Margani
13. Vacant
14. Vacant
15. Vacant

### SECRETARIAT

1. Shri Raju Srivastava - Joint Secretary
2. Shri Tenzin Gyaltzen - Deputy Secretary
3. Shri Vivek Saini - Committee Officer

**SIXTY-SIXTH REPORT OF THE COMMITTEE ON PETITIONS  
(SEVENTEENTH LOK SABHA)**

**INTRODUCTION**

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Sixty-Sixth Report (Seventeenth Lok Sabha) of the Committee to the House on the Action Taken by the Government on the recommendations made by the Committee on Petitions (Seventeenth Lok Sabha) in their Forty-Ninth Report on the representation of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons Limited.

2. The Committee considered and adopted the draft Sixty-Sixth Report at their sitting held on 02 February, 2024.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

**NEW DELHI;**

**HARISH DWIVEDI**  
*Chairperson,*  
*Committee on Petitions*

**02 February, 2024**

**13 Magha, 1945 (Saka)**

## REPORT

### **ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (SEVENTEENTH LOK SABHA) IN THEIR FORTY-NINTH REPORT ON THE REPRESENTATION OF SHRI UMAKANT MISHRA REQUESTING FOR RELEASE OF PAYMENT BY TITAGARH WAGONS LIMITED.**

The Committee on Petitions (Seventeenth Lok Sabha) presented their Forty-Ninth Report to Lok Sabha on 9 August, 2023 on the representation of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons Limited.

2. The Committee had made certain observations/recommendations in the matter and the Ministry of Railways (Railway Board), the Ministry of Defence (Department of Military Affairs) and the Ministry of Micro, Small & Medium Enterprises were asked to implement the recommendations and furnish their action taken replies thereon for further consideration of the Committee.

3. Action Taken Replies have since been received from the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) in respect of the observations/recommendations contained in the aforesaid Report. However, the Action Taken Replies have not been received from the Ministry of Micro, Small & Medium Enterprises. The observations/recommendations made by the Committee and the replies furnished thereto by the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) are detailed in the succeeding paragraphs.

4. In paragraphs 23, 24, 25, 26, 27 and 28 of the Report, the Committee had observed/recommended as follows:-

#### *Ensuring timely payment to the Micro and Small Enterprises*

*"The Committee while meticulously examining the representation of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons*

Limited vis-a-vis the information furnished by the Ministry of Micro, Small & Medium Enterprises vide Office of the Development Commissioner (Micro, Small & Medium Enterprises) Letter dated 21 June, 2022 addressed to the Managing Director, M/s. Titagarh Wagons Limited and endorsed to the Committee on Petitions Branch, Lok Sabha Secretariat, note that Section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, unambiguously stipulates that MSME dues are ought to be paid within 45 days from the date acceptance of goods and/or services. Section 15 (Liability of buyer to make payment) under Chapter V of the MSMED Act, 2006 on 'Delayed Payments to Micro and Small Enterprises' states, as under:-

15. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

Further, Section 18 (Reference to Micro and Small Enterprises Facilitation Council) of the Act *ibid* states as under:-

18. (1) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.
- (2) On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall

apply to such a dispute as if the conciliation was initiated under Part III of that Act.

(3) Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of that Act.

(4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

(5) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference."

Based on the provisions, the Committee further note that there exist express provision(s) for establishment of Micro and Small Enterprise Facilitation Council by the State Governments which acts as 'Dispute Resolution Forums for MSMEs, including those related to delayed payments for their settlement upon getting such references, filings, applications, etc., under the MSMED Act, 2006.

In this context, the Committee also acknowledge that the Ministry of Micro, Small & Medium Enterprises have issued various instructions and notifications to the Central Ministries/Departments/Central PSUs and State Government Departments to ensure timely payment to the Micro and Small Enterprises. Further, the details of application(s) filed by the Entrepreneurs/MSE Units



regarding delayed payment issues and the status thereof are supposed to be uploaded/updated on the MSME-SAMADHAAN Web Portal (Delayed Payment Monitoring System).

Needless to mention that the Micro, Small & Medium Enterprises Sector, particularly the Small Scale Industry or the Small Enterprises sub-sector, has emerged as a highly vibrant and dynamic sector of the Indian economy over the last few decades. As the Small Scale Industry/Enterprise Sector has been emerging as an engine of growth in most of the developed and newly industrialized countries, India's vision of emerging as an economic super power in the 21<sup>st</sup> century could be realized through effective promotion and development of this specific Sector. Over the years, the Government of India have been supporting the Small Scale Sector through various policy measures which acted as a catalyst in promoting this Sector in order to make it more growth oriented and enable it to withstand the pressure from global competition. As a matter of fact, the recently launched 'Atmanirbhar Bharat Abhiyaan' or Self-Reliant India Movement by the Government of India also envisages various policy measures through stimulus packages, tranches, etc., to the MSME Sector for its revival during and post the Covid-19 pandemic period.

In this backdrop, it is evident that the issue of delayed payment of dues particularly to the Micro and Small Enterprises (MSEs) would pose as a threat to the growth and development of the MSME Sector, as a whole. The issue of delayed payment, being one of the major post sale problems, therefore, needs immediate attention of the Government and other stakeholders. In the considered opinion of the Committee, the Government, whose role has to be that of an effective and efficient facilitator in creating a conducive environment for MSME businesses to thrive, must intervene through appropriate policy measures/formulations for effecting prompt payment to the MSEs so that fair and transparent dealing in the matters of payment as well as friendly relations amongst Micro and Small Enterprises/Entrepreneurs can be ensured, which are indeed key to the success of any business. In this context, the Committee urge the Ministry of Micro, Small & Medium Enterprises to ensure strict compliance of the relevant provision(s) under the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 and the Rules, Guidelines, Instructions, etc., made thereunder regarding delayed payments to the Micro

and Small Enterprises (MSEs). Further, the Office of the Development Commissioner for Micro, Small & Medium Enterprises should constantly monitor the implementation of various policies and programmes of the Government for the promotion and development of MSMEs in the country. Besides, the Ministry should also liaise with the Departments concerned of the Central and State Governments/PSUs in order to ensure that the Micro and Small Enterprises Facilitation Councils, which act as Conciliator or Arbitrator for settlement of outstanding dues between the parties, are effectively working and are being monitored properly and constantly, both at the Central as well as at the State levels. In addition to these, the Ministry should also issue necessary Guidelines, Instructions, etc., to all the Central Ministries/Departments/Central PSUs and also to the State Government Departments concerned for resolution of issues regarding non-payment/delayed payment of dues to MSEs in a time bound manner while ensuring that the details/status of the same are updated on the MSME-SAMADHAAN Web Portal on a regular basis."

5. The Ministry of Railways (Railway Board), in their action taken reply, have submitted as follows:-

*"It has already been stated that the issue of non-payment of bills of Shree Sai Puja Enterprise (SSPE) by M/s. Titagarh Wagons Ltd. (TWL) is their internal matter and Ministry of Railways is not involved in this case."*

6. In paragraphs 29, 30, 31, 32, 33, 34, 35, 36 and 37 of the Report, the Committee had observed/recommended as follows:-

Ensuring prompt payments to the Sub-Contractor(s) by the Main Contractor in the MSME Sector

*"The Committee, after painstakingly going through the issues/points raised by the representationist, Shri Umakant Mishra, in his representation and examining the same in the light of comments furnished thereon by the Ministry of Railways (Railway Board) and the Directorate of Armament & Safety Equipment (Air Headquarters), Ministry of Defence, note that M/s. Titagarh Wagons Limited is being awarded contracts by the Indian Railways for supply of finished wagons to be manufactured in the premises of M/s. Titagarh Wagons Limited and by the Indian Air Force (IAF) for commissioning and*

installation of Integrated Field Shelter at 11 Air Bases. However, as per the averments made by the Ministry of Railways (Railway Board), the issue of non-payment of bills of M/s. Shree Sai Puja Enterprise by M/s. Titagarh Wagons Limited is their internal matter and Railway Board is not involved in this case. Further, as per the averments made by the Directorate of Armament & Safety Equipment (Air Headquarters)/Ministry of Defence, Indian Air Force had although entered into Contract vide Contract No. B/28704/NBC-5/GS/WE-6/D(GS-IV)/TWL dated 25 September, 2014 with M/s. Titagarh Wagons Limited, Kolkata for commissioning and installation of Integrated Field Shelter at 11 Air Bases. However, the IAF was not in any contractual obligations with respect to any business transactions with the representationist, Shri Umakant Mishra, the sole proprietor of Shree Sai Puja Enterprise, Khardah, 24 Parganas, (North Kolkata), as their contract was only with M/s. Titagarh Wagons Limited.

The Committee, however, note from the submissions made by the representationist, Shri Umakant Mishra, in his representation, that an amount to the tune of around Rs. 9 crore is pending on the part of M/s. Titagarh Wagons Limited for supply of labour/goods and services rendered by his Company, i.e., M/s. Shree Sai Puja Enterprise. The representationist, Shri Mishra, has therefore, requested for releasing his rightful dues by M/s. Titagarh Wagons Limited so that he could fulfill his statutory obligations in terms of paying all the outstanding GST dues and other liabilities such as salary, PF and ESI dues, etc., towards his employees/workers who are dependent upon his Company for their livelihood.

Juxtaposing the aforementioned averments made by the Ministry of Railways (Railway Board) and the Ministry of Defence with the solemn submission and request made by the representationist in his representation, one aspect becomes evident that M/s. Shree Sai Puja Enterprise had been, in fact, hired by M/s. Titagarh Wagons Limited for supply of labour/goods and services and/or for execution of works eventually meant for Indian Railways and Indian Air Force.

The Committee while noting the grievances of the representationist, Shri Umakant Mishra about the non-payment of outstanding dues by M/s. Titagarh Wagons Limited to M/s. Shree Sai Puja Enterprise are dismayed to note that

the Ministry of Railways (Railway Board) and the Ministry of Defence, though not being the Principal Employers, have failed to ensure the timely payment by their main supplier, i.e., M/s. Titagarh Wagons Limited to its sub-contractor, i.e., M/s. Shree Sai Puja Enterprise in spite of the goods and services supplied/provided by M/s. Shree Sai Puja Enterprise to M/s. Titagarh Wagons Limited to the best of their ability even in the restrictive situation during Covid-19 pandemic period, M/s. Titagarh Wagons Limited have failed to release the outstanding dues. The representationist, Shri Mishra has also informed that the inordinate delay in releasing the payment by M/s. Titagarh Wagons Limited had led to serious functional/operational as well as financial hardships to the representationist such as non-payment of Goods & Services Tax, non-compliance of various statutory obligations like delayed payments of salary to the employees, workers/labourers, vendors, etc., and depositing employers' share of Provident Fund, ESI dues, etc.

As far as 'Liability of buyer to make payment to supplier' vis-a-vis problem with regard to non-payment or delayed payment in the Micro and Small Enterprise Sector is concerned, the Committee are of the view that the intents behind incorporation of Section 15 in the Micro, Small and Medium Enterprise Development Act, 2006 which provides for payment of MSME dues by the buyer to the supplier within 45 days from the day of acceptance or the day of deemed acceptance for supplying any goods or rendering any services, would not serve the purpose unless the main contracting firm(s) make prompt payment to its sub-contractor(s) for supplying any goods and/or hiring their services, thereby making the Act ibid as a whole or the Rules made thereunder ineffective.

The Committee feel that the Government should set an example of being a good employer by not only ensuring timely payment to its main contracting firm(s) on one hand but also at the same time ensure expeditious release of the payment by the main contracting firm(s) to the sub-contracting firm(s) so that the poor labourers/workers who had been employed by any such sub-contracting firm(s) should not be deprived of their legitimate rights in terms of their remunerations and end up becoming the ultimate pitiable sufferers. Besides, it should be an endeavour of the Government to be an effective facilitator for time bound resolution/settlement of issues/complaints regarding non-payment or delayed payment of outstanding dues through various existing

*Alternative Dispute Resolution Mechanism(s), statutory or otherwise, which would enable settling of any dispute without getting into the intricacies of the Court thereby saving precious time and resources. This would not only obviate the unnecessary and avoidable litigations but would also reduce the burden of our Courts.*

*Indian Railways, being the single largest and the most extensive employer in the Country which provides direct or indirect employment to millions of people and secondly, the Indian Air Force which is an Organisation of strategic importance having connotation of National Security, are indeed the face of the Government. As these Government Organisations have been availing the services of M/s. Titagarh Wagons Limited for supply of goods/services, any complaint(s) by the third party contractor(s) against M/s. Titagarh Wagons Limited, would eventually dent the reputation of the Government in terms of accountability and professionalism as the supplied goods or rendered services/works are ultimately meant for the Government.*

*Notwithstanding the foregoing stipulations, the Committee are of the view that whenever the Main Contractor enters into any formal agreement with the Sub-Contractor(s) for execution of work or supply of goods/services, it should be ensured by the Government Authorities concerned that the agreement shall clearly define the scope of work supposed to be carried out by the Sub-Contractor(s) besides the terms and conditions in regard to payment in an unambiguous manner. In this context, the Committee recommend that the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) should explore the feasibility for formulating a mechanism whereby, the Principal Employer/Buyer could obtain a written declaration from their Main Contractor(s) to the effect that the payments are released promptly to their Sub-contractor(s), failing which legal action would be initiated against them including black-listing of such errant Contractor(s). Such mechanism would certainly act, on one hand, as a deterrent for such errant Contractor(s) who deliberately delay the release of payments to their Sub-contractor(s) which eventually cause unnecessary delay in execution/supply of contracted work/goods and services and also compromise quality thereof; and on the other hand, it would also act as a protective shield for the vulnerable Sub-contractor(s) who do not find mention in the Contract/Agreement Documents between the Principal Employer/Buyer and the Main Contractor(s).*

*In this sequel, the Committee further recommend that the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) should ensure that the Rules/Guidelines regarding payments to Micro and Small Enterprise under the MSMED Act, 2006 and Instructions/Notifications issued by the Ministry of Micro, Small and Medium Enterprises from time to time should be scrupulously followed and at the same time, their implementation should also be monitored constantly by the Organisations/PSUs under their control. The Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs), in this regard, are now required to work out on a workable mechanism to bring in transparency and resolving complaints related to payments to the Micro, Small and Medium Enterprises hired by the Organisations/PSUs under them in a time bound manner."*

7. The Ministry of Railways (Railway Board), in their action taken reply, have submitted as follows:-

*"It has already been stated that the issue of non-payment of bills of Shree Sai Puja Enterprise (SSPE) by M/s. Titagarh Wagons Ltd. (TWL) is their internal matter and Ministry of Railways is not involved in this case. However, as directed by the Hon'ble Committee on Petitions, mediation efforts through meetings were carried out by Ministry of Railways but both parties maintained their stand with claims/ counter claims/ legal recourse being taken by them. Details of mediation efforts and latest status is summarized in response to the observation/recommendation made by the Committee in para 40 of their 49 th Report."*

8. The Ministry of Defence (Department of Military Affairs), in their action taken reply, have submitted as follows:-

*"It is brought out that as per the extant provisions of Government procurements, sub-letting of Government contracts is not allowed. It is, therefore, submitted that since the issue pertains to all the Ministries of Government of India, the Competent Authority may be directed to look into the aspect of authorizing sub-letting in Government contracts and thereafter, to also consider incorporation of the clause in the Government contracts for*

obtaining a written declaration from the Main Contractor(s) as recommended by the Committee.

Further, the Ministry of Defence ensures that the Rules/Guidelines regarding payments to Micro and Small Enterprises under the MSME Development Act, 2006 and Instructions/Notifications issued by the Ministry of Micro, Small and Medium Enterprises from time to time are followed by all the Services and Organizations under its administrative control. A monthly return is sought from all organizations/subordinate offices indicating summary of payments pending as on 1st of every month to Micro, Small and Medium Enterprises (MSME) which are due beyond 45 days of supply/services provided. The prescribed format also requires to indicate reasons for pendency and steps taken to facilitate early release of due payments to MSMEs. The status of payments is centrally monitored on regular basis by Ministry of Defence (Finance)."

9. In paragraphs 38, 39 and 40 of the Report, the Committee had observed/recommended as follows:-

Amicable resolution of payment dispute between M/s. TWL and M/s. SSPE through mediation and negotiation

"Based on the information furnished by the Ministry of Railways (Railway Board) and the Directorate of Armament & Safety Equipment (Air Headquarters), Ministry of Defence, the Committee note that in pursuance of the Committee's directions during the briefing meeting held on 13 July, 2022, with the representatives of both the Ministries, a meeting was organised on 15 July, 2022 at Dilbagh Hall at Air Headquarters (Antyodaya Bhawan), CGO Complex, New Delhi under the Chairmanship of Air Cmde ASE with respect to the representation of Shri Umakant Mishra requesting release of payment by M/s. Titagarh Wagons Limited, Kolkata, which was attended by the representative(s) of Indian Air Force, M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise. During the course of said meeting, the Chairman had directed M/s. Titagarh Wagons Limited to resolve the issue in a time bound manner. Besides, another meeting was also arranged on 18 July, 2022 under the aegis of the Ministry of Railways (Railway Board), wherein, efforts were made to bring, both the Firms/Parties across the table to enable them to sort out their differences in an amicable manner. Subsequently, M/s. Titagarh

Wagons Limited, in their communication dated 19 September, 2022, had submitted that they have cleared all the valid and legitimate dues of M/s. Shree Sai Puja Enterprise.

In this connection, the Committee further note that another meeting was held by the Indian Air Force with M/s. Titagarh Wagons Limited under the Chairmanship of ACAS (Wpn) on 16 August, 2022 to check the progress of the case, wherein, M/s. Titagarh Wagons Limited had confirmed that discussions are being held with the firm for settlement of dues, as informed by the Directorate of Armament & Safety Equipment (Air Headquarters), Ministry of Defence. The Committee were informed by the Ministry of Defence that M/s. Titagarh Wagons Limited vide their communication dated 19 September, 2022 had responded that the Company had paid and cleared all the valid and legitimate dues in respect to M/s. Shree Sai Puja Enterprise and the claim made by Shri Umakant Mishra was fictitious and without any supporting document(s) or Purchase Order(s) given by M/s. Titagarh Wagons limited.

The Committee acknowledge with appreciation that the efforts made by the Ministry of Railways (Railway Board) and the Ministry of Defence for inviting the representatives of M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise and arranging meetings for settlement of payment-related dispute at the behest of the Committee. Notwithstanding the efforts made, it appears that both the firms are not making much headway on resolution of the dispute despite having discussions on three occasions. The Committee are, therefore, of the opinion that both the Ministries, viz., the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) should look into the matter by not confining themselves to the technical or legal aspects but also applying the principles of natural justice. It is desirable that the Ministries should endeavour to extend all possible help and support to both the Parties while having sympathetic and humanitarian considerations in order to resolve the long pending issue amicably and in a time bound manner so that small enterprises such as M/s. Shree Sai Puja Enterprises do not suffer due to non-payment of outstanding dues by the main contractors/bigger enterprises; and at the same time, the poor workers/labourers who are working with the small enterprises/sub-contractors also should not suffer from financial difficulties due to non-payment/delayed payment of salaries/wages while safeguarding their social security in terms of regular payments towards ESI and PF schemes. The



Committee, therefore, would like to urge the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) to adopt a legally acclaimed approach by way of again inviting the representationist, Shri Umakant Mishra, the Proprietor of M/s. Shree Sai Puja Enterprise and the Senior Executives of M/s. Titagarh Wagons Limited and arrange a meeting under their aegis so that their respective claims can be verified and the long drawn payment dispute between them can be resolved amicably once and for all through mediation and negotiation and also up to the satisfaction of both the Parties. The Committee would like to apprise of the requisite efforts taken by both the Ministries in this direction and would also like to await the positive outcome of this case in the form of a final settlement."

10. The Ministry of Railways (Railway Board), in their action taken reply, have submitted as follows:-

"As directed by the Committee, a meeting to resolve long drawn payment dispute through mediation and negotiation to the satisfaction of both the parties was conducted on 24<sup>th</sup> August, 2023 at 15:00 Hrs. in the chamber of EDRS(S), Railway Board, Ministry of Railways. In the meeting held on 24<sup>th</sup> August, 2023, Shri Umakant Mishra and the representative of M/s. Titagarh Wagons Ltd., were present. During the meeting, Shri Umakant Mishra informed that there has not been any progress from M/s. Titagarh side in making payment due to him. It was stated by Shri Umakant Mishra that he had met concerned authorities in the office of M/s. Titagarh and have handed over all his legitimate claims for settlement, on which after examination by neutral party selected by M/s. Titagarh, verbal assurance was given by Titagarh officials for making due payment after consultation with their top management. However, the representative of M/s. Titagarh denied any assurance of payment of any amount to Shri Umakant Mishra as nothing was found to be payable and stated that on the contrary, there is counter claim of return of advance payment with applicable interest from M/s. Shree Sai Puja Enterprise (SSPL) due to them.

Shri Umakant Mishra informed that M/s. Titagarh Wagons Title Suit No. 126 of 2023 before the Ld. 3<sup>rd</sup> Civil Judge (Sr. Division) at Barasat has been heard on 24<sup>th</sup> July, 2023 and no relief was granted to M/s. Titagarh. M/s. Titagarh representative informed that they have challenged the matter in Hon'ble High Court of Calcutta and this matter is now listed for mentioning through the

advocate on record on 25<sup>th</sup> August, 2023. However, Shri Umakant Mishra informed that they are not in knowledge of any such action/intimation either from M/s. Titagarh or from Hon'ble Calcutta High Court on this account.

EDRS(S), Railway Board again suggested to both the parties to sort out the differences with mutual dialogue and understanding, however, representative of M/s. Titagarh requested to wait for Hon'ble Calcutta High Court's directive in this regard as the matter is already sub-judice.

Shri Umakant Mishra and M/s. Titagarh wagons Ltd., were asked to inform further developments, if any, in this regard to Railway Board in writing through e-mail.

Reply from M/s. Titagarh Wagons Ltd., have been received on 19.09.2023, wherein, they have requested to let the law be allowed to take its own course since the matter is sub-judice before the court of competent jurisdiction.

However, no reply from Shri Umakant Mishra has been received till date."

11. The Ministry of Defence (Department of Military Affairs), in their action taken reply, have submitted as follows:-

"As recommended by the Committee, Air HQs conducted two tripartite meetings under the chairmanship of Air Commodore, Armament and Safety Equipment (ASE) on 21<sup>st</sup> September, 2023 and 05<sup>th</sup> October, 2023 with both firms viz., M/s. Titagarh Wagons Limited (TWL), Kolkata and M/s. Shree Sai Puja Enterprises, Kolkata to resolve the payment dispute between them. Despite repeated efforts by Air HQ, the dispute between both the firms is still unresolved. Both the parties made counter claims. - M/s. Shree Sai Puja Enterprises stated that a balance amount of Rs. 5.18 crore (approximately) is due for payment by M/s. TWL to them, whereas, M/s. TWL countered that there is no amount due for payment to M/s. Shree Sai Puja Enterprises. Representative of M/s. TWL has also informed that their Company has filed a Title Suit in Barasat Court praying for a decree and a perpetual injunction against Shri Umakant Mishra. As the matter before Barasat District Court was adjourned on several dates, M/s. TWL has also filed an appeal before Hon'ble High Court of Calcutta with an injunction application. The matter is now sub-judice."

## Observations/Recommendations

### Ensuring timely payment to the Micro and Small Enterprises

12. The Committee after conducting meticulous examination of various issues/points raised in the representation of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons Limited in light of the comments furnished by the Ministry of Micro, Small & Medium Enterprises thereon, had pointed out that the issue of delayed payment of dues, being one of the major post sale problems, particularly in case of the Micro and Small Enterprises (MSEs) pose as a threat to the growth and development of the MSME Sector, as a whole and therefore, needs immediate attention of the Government and other stakeholders. In this context, the Committee while underscoring the role of Government as an effective and efficient facilitator in creating a conducive environment for MSME businesses to thrive, had suggested that the Government must intervene through appropriate policy measures/formulations for effecting prompt payment to the MSEs so that fair and transparent dealing in the matters of payment as well as friendly relations amongst Micro and Small Enterprises/Entrepreneurs can be ensured, which are indeed key to the success of any business. In this sequel, the Committee had urged the Ministry of Micro, Small & Medium Enterprises to ensure strict compliance of the relevant provision(s) under the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 and the Rules, Guidelines, Instructions, etc., made thereunder regarding delayed payments to the Micro and Small Enterprises (MSEs). The Committee had further recommended that the Office of the Development Commissioner for Micro, Small & Medium Enterprises should

constantly monitor the implementation of various policies and programmes of the Government for the promotion and development of MSMEs in the country. Besides, the Committee had also recommended that the Ministry of Micro, Small & Medium Enterprises should liaise with the Departments concerned of the Central and State Governments/PSUs in order to ensure that the Micro and Small Enterprises Facilitation Councils, which act as Conciliator or Arbitrator for settlement of outstanding dues between the 'Parties', are effectively working and are being monitored properly and constantly, both at the Central as well as at the State levels. In addition to these, the Ministry should also issue necessary Guidelines, Instructions, etc., to all the Central Ministries/Departments/Central PSUs and also to the State Government Departments concerned for resolution of issues regarding non-payment/delayed payment of dues to MSEs in a time bound manner while ensuring that the details/status of the same are updated on the MSME-SAMADHAAN Web Portal on a regular basis.

13. The Committee on Petitions, to their utter dismay, note that although the Committee had presented their 49<sup>th</sup> Report on the subject to Lok Sabha on 9 August, 2023 wherein observations/recommendations were made on the number of issues raised in the representation of Shri Umakant Mishra and also urged the Ministry of Railways (Railway Board), the Ministry of Defence (Department of Military Affairs) and the Ministry of Micro, Small & Medium Enterprises to take necessary action thereon and apprise the Committee accordingly, within three months of presentation of their Report to the House,

the Ministry of Micro, Small & Medium Enterprises have not submitted their Action Taken Replies in the matter, even after a lapse of stipulated time period.

14. The Committee are, therefore, unhappy over the non-serious attitude of the Ministry of Micro, Small & Medium Enterprises resulting into inordinate delay on their part in furnishing Action Taken Replies, in response to observations/recommendations made by the Committee in their 49<sup>th</sup> Report. Instead of taking a proactive approach in the matter, the Ministry had maintained an intriguing silence on the issue of wider public interest. The Committee, while taking strong exception to the failure of the Ministry in furnishing the Action Taken Replies on the observations/ recommendations made by the Committee on Petitions in their Report in a time bound manner, expect that the observations/recommendations made by a Parliamentary Committee should be considered with due alacrity and a detailed Action Taken Notes/Replies thereon be furnished within the stipulated time for consideration and perusal of the Committee.

15. Notwithstanding non-fulfilling of the procedural requirement as stated above, the Committee wish to reiterate that the Ministry of Micro, Small & Medium Enterprises should at least now, take all necessary and appropriate measures/steps to ensure strict compliance of the relevant provision(s) under the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 and the Rules, Guidelines, Instructions, etc., made thereunder regarding delayed payments to the Micro and Small Enterprises (MSEs). In this sequel, the Committee once again recommend that the Office of the Development

Commissioner for Micro, Small & Medium Enterprises should take proactive measures to constantly monitor the implementation of various policies and programmes of the Government for the promotion and development of MSMEs in the country. Besides, the Ministry of Micro, Small & Medium Enterprises should take appropriate and necessary action for establishing better co-ordination with the Departments concerned of the Central and State Governments/PSUs for ensuring that the Micro and Small Enterprises Facilitation Councils functioning under them, are effectively working and are being monitored properly and constantly, both at the Central as well as at the State levels. In addition to the above, the Ministry should also issue necessary Guidelines, Instructions, etc., to all the Central Ministries/Departments/Central PSUs and also to the State Government Departments concerned for resolution of issues regarding non-payment/delayed payment of dues to MSEs in a time bound manner while ensuring that the details/status of the same are updated on the MSME-SAMADHAAN Web Portal on a regular basis. The Committee would like to be apprised of the necessary measures/steps taken or proposed to be taken by the Ministry in this regard.

**Ensuring prompt payments to the Sub-Contractor(s) by the Main Contractor in the MSME Sector**

16. The Committee while suggesting that whenever the Main Contractor enters into any formal agreement with the Sub-Contractor(s) for execution of work or supply of goods/services, it should be ensured by the Government Authorities concerned that the agreement shall clearly define the scope of work supposed to be carried out by the Sub-Contractor(s) besides the terms and

conditions in regard to payment in an unambiguous manner had recommended that the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) should explore the feasibility for formulating a mechanism whereby, the Principal Employer/Buyer could obtain a written declaration from their Main Contractor(s) to the effect that the payments are released promptly to their Sub-contractor(s), failing which legal action would be initiated against them including black-listing of such errant Contractor(s). In this context, the Committee had pointed out that such mechanism would certainly act, on one hand, act as a deterrent for such errant Contractor(s) who deliberately delay the release of payments to their Sub-contractor(s) which eventually cause unnecessary delay in execution/supply of contracted work/goods and services and also compromise quality thereof; and on the other hand, it would also act as a protective shield for the vulnerable Sub-contractor(s) who do not find mention in the Contract/Agreement Documents between the Principal Employer/Buyer and the Main Contractor(s).

17. In this sequel, the Committee had further recommended that the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) should ensure that the Rules/Guidelines regarding payments to Micro and Small Enterprise under the MSMED Act, 2006 and Instructions/Notifications issued by the Ministry of Micro, Small and Medium Enterprises from time to time should be scrupulously followed and at the same time, their implementation should also be monitored constantly by the Organisations/PSUs under their control. The Committee, in this connection, had suggested that the Ministry of Railways (Railway Board) and the Ministry of Defence

(Department of Military Affairs) are required to work out on a workable mechanism to bring in transparency and resolving complaints related to payments to the Micro, Small and Medium Enterprises hired by the Organisations/PSUs under them in a time bound manner.

18. In response to the above recommendations of the Committee, the Ministry of Railways (Railway Board), in their action taken reply, have submitted that the issue of non-payment of bills of Shree Sai Puja Enterprise (SSPE) by M/s. Titarh Wagons Ltd. (TWL) is their internal matter and Ministry of Railways is not involved in this case. However, as directed by the Hon'ble Committee on Petitions, mediation efforts through meetings were carried out by Ministry of Railways but both the 'Parties' maintained their stand with claims/ counter claims/ legal recourse being taken by them.

19. On the other hand, the Ministry of Defence (Department of Military Affairs), in their action taken reply, have submitted that as per the extant provisions of Government procurements, sub-letting of Government contracts is not allowed and since the issue pertains to all the Ministries of Government of India, the Competent Authority may be directed to look into the aspect of authorizing sub-letting in Government contracts and thereafter, to also consider incorporation of a clause in the Government contracts for obtaining a written declaration from the Main Contractor(s) as recommended by the Committee. Further, the Ministry of Defence have ensured that the Rules/Guidelines regarding payments to Micro and Small Enterprises under the MSME Development Act, 2006 and Instructions/Notifications issued by the



Ministry of Micro, Small and Medium Enterprises from time to time are scrupulously followed by all the Services and Organizations under its administrative control. For the purpose, a monthly return is sought from all organizations/subordinate offices indicating summary of payments pending as on 1<sup>st</sup> of every month to Micro, Small and Medium Enterprises (MSME) which are due beyond 45 days of supply/services provided. In this connection, the Ministry of Defence have informed the prescribed format also requires to indicate reasons for pendency and steps taken to facilitate early release of due payments to MSMEs; besides, the status of payments is centrally monitored on regular basis by Ministry of Defence (Finance).

20. Upon perusal of the action taken reply furnished by the Ministry of Railways (Railway Board), the Committee are constrained to note that the Ministry have merely reiterated their earlier position stating that the issue of non-payment of bills of Shree Sai Puja Enterprise (SSPE) by M/s. Titagarh Wagons Ltd. (TWL) is their internal matter and Ministry of Railways is not involved in this case. Although, mediation efforts through meetings with both the parties were carried out by Ministry of Railways but to no avail. In this regard, the Committee observe that the Ministry of Railways (Railway Board) are conveniently shying away from their responsibilities in terms of taking any corrective measures by formulating and incorporating a provision whereby, the Principal Employer/Buyer could obtain a written declaration from their Main Contractor(s) to the effect that the payments are released promptly to their Sub-Contractor(s), failing which legal action would be initiated against them

including black-listing of such errant Contractor(s) in order to protect the interests of the vulnerable Sub-contractor(s).

21. The Committee are though satisfied to note the assurance given by the Ministry of Defence (Department of Military Affairs) that the Rules/Guidelines regarding payments to Micro and Small Enterprises under the MSME Development Act, 2006 and Instructions/Notifications issued by the Ministry of Micro, Small and Medium Enterprises from time to time are being followed by all the Services and Organizations under their administrative control. The Committee are further satisfied to note that a monthly return on the due payments to the Micro, Small and Medium Enterprises (MSME) are sought from all their organizations/subordinate offices and the status of payments is monitored on a regular basis.

22. The Committee, however, would like to point out here that the success of any big projects being undertaken by any Government Organisation heavily depends upon the uninterrupted supply of goods and services provided by the Sub-Contractor(s) who are generally from the MSME/MSE Sector through the Main Contractor(s). In such a scenario, it should be the endeavour as well as moral responsibility of the Government to safeguard the interests of Sub-Contractor(s) as well by ensuring their legitimate claims are not left unheeded and grievances related to timely payment of outstanding dues are settled amicably and urgently. In order to give the above stipulation a shape of statutory obligation, the Committee would like to reiterate their earlier recommendation that the Ministry of Railways (Railway Board) and the Ministry

of Defence (Department of Military Affairs) while revisiting their existing practice should take necessary action for formulating a mechanism whereby, the Principal Employer/Buyer could obtain a written declaration from their Main Contractor(s) to the effect that the payments are released promptly to their Sub-Contractor(s), failing which legal action would be initiated against them including black-listing of such errant Contractor(s). In this sequel, the Committee further recommend both the Ministries that the extant Rules/Guidelines regarding payments to Micro and Small Enterprise under the MSMED Act, 2006 and Instructions/Notifications issued by the Ministry of Micro, Small and Medium Enterprises from time to time should be followed scrupulously while ensuring their effective implementation in the Organisations/PSUs under their control. The Committee would like to be apprised of the necessary measures/steps taken or proposed to be taken by the Ministry in this regard.

*Efforts for out-of-Court settlement of the dispute between M/s. TWL and M/s. SSPE*

23. The Committee while acknowledging the efforts made by the Ministry of Railways (Railway Board) and the Ministry of Defence for inviting the representatives of M/s. Titagarh Wagons Limited and M/s. Shree Sai Puja Enterprise and arranging meetings for settlement of payment-related dispute at their behest, had urged the Ministry of Railways (Railway Board) and the Ministry of Defence (Department of Military Affairs) to adopt a legally acclaimed approach by way of again inviting the representationist, Shri Umakant Mishra, the Proprietor of M/s. Shree Sai Puja Enterprise and the Senior Executives of

M/s. Titagarh Wagons Limited and arrange a meeting under their aegis so that their respective claims can be verified and the long drawn payment dispute between them can be resolved amicably once and for all through mediation and negotiation and also up to the satisfaction of both the 'Parties'.

24. In response to the above recommendation of the Committee, the Ministry of Railways (Railway Board), in their action taken reply, have informed that a meeting to resolve long drawn payment dispute through mediation and negotiation to the satisfaction of both the parties was conducted on 24<sup>th</sup> August, 2023 in the chamber of EDRS(S), Railway Board, Ministry of Railways. During the said meeting, Shri Umakant Mishra had informed that he had met the Authorities concerned in the office of M/s. Titagarh and handed over all his legitimate claims for settlement, upon which verbal assurance was given by Titagarh officials for making due payment after consultation with their Top Management, but no progress has been made in this regard. However, the representative of M/s. Titagarh had denied any assurance of payment of any amount to Shri Umakant Mishra as nothing was found to be payable and stated that on the contrary, there is counter claim of return of advance payment with applicable interest from M/s. Shree Sai Puja Enterprise (SSPL) due to them. As per the Ministry of Railways (Railway Board), Shri Umakant Mishra had informed that M/s. Titagarh Wagons had filed a Title Suit No. 126 of 2023 before the Ld. 3<sup>rd</sup> Civil Judge (Sr. Division) at Barasat which was heard on 24<sup>th</sup> July, 2023, however, no relief was granted to M/s. Titagarh. However, as per M/s. Titagarh representative, they have challenged the matter in Hon'ble High Court of Calcutta and the matter was listed for mentioning through the advocate on

record on 25<sup>th</sup> August, 2023. On the contrary, Shri Umakant Mishra had informed that they are not in knowledge of any such action/intimation either from M/s. Titagarh or from Hon'ble Calcutta High Court on this account. The Committee were further informed that the EDRS(S), Railway Board had again suggested to both the parties to sort out the differences with mutual dialogue and understanding, however, representative of M/s. Titagarh had requested to wait for Hon'ble Calcutta High Court's directive(s) in this regard as the matter is already sub-judice.

25. The Ministry of Defence (Department of Military Affairs), in their action taken reply, have informed that Air HQs had conducted two tripartite meetings under the Chairmanship of Air Commodore, Armament and Safety Equipment (ASE) on 21<sup>st</sup> September, 2023 and 05<sup>th</sup> October, 2023 with both the firms, viz., M/s. Titagarh Wagons Limited (TWL), Kolkata and M/s. Shree Sai Puja Enterprises, Kolkata to resolve the payment dispute between them. However, despite repeated efforts by Air HQ, the dispute between both the firms is still unresolved. The Committee were further informed that both the 'Parties' made counter claims wherein M/s. Shree Sai Puja Enterprises had stated that a balance amount of Rs. 5.18 crore (approximately) is due for payment by M/s. TWL to them, whereas, M/s. TWL had countered that there is no amount due for payment to M/s. Shree Sai Puja Enterprises. In this connection, the Committee were also informed that as per representative of M/s. TWL, their Company had filed a Title Suit in Barasat Court praying for a decree and a perpetual injunction against Shri Umakant Mishra and as the matter before Barasat District Court was adjourned on several dates, M/s. TWL had also filed an appeal before

Hon'ble High Court of Calcutta with an injunction application and the matter is now sub-judice.

26. Juxtaposing the information furnished by the Ministry of Railways (Railway Board) and Ministry of Defence (Department of Military Affairs) in response to the Committee's recommendation on finding out an amicable resolution of payment dispute between M/s. TWL and M/s. SSPE through mediation and negotiation, the Committee acknowledge the efforts made by both the Ministries for bringing both the 'Parties' together for amicable settlement of their long drawn payment related dispute. In this context, the Committee are, however, constrained to note that a relatively resolvable dispute has been unnecessarily stretched, which could otherwise have been settled through timely intervention of the Authorities concerned of the Ministries of Railways (Railway Board) and Defence (Department of Military Affairs). As the matter stands *sub-judice* at present, it has lead into a long drawn dispute. At this juncture, the Committee however, would like to recommend that both the Ministries should at least once again make efforts towards bringing both the 'Parties' together while impressing them to resolve the matter as out-of-court settlement, up to the acceptance and satisfaction of both the 'Parties'. The Committee trust that genuine efforts by the Ministries in this direction would certainly bring out a positive outcome leading to final settlement of the dispute. To this extent, the Committee would also like to suggest that the Ministry of Railways (Railway Board) and Ministry of Defence (Department of Military Affairs) may bring out an appropriate and comprehensive SOP in regard to payment of Contractors/Sub-Contractors in order to obviate such

entanglements in future as part of ease of doing business initiatives, which would undoubtedly boost the morale of the entrepreneurs in MSME/MSE Sector as well as increase the trust and confidence amongst them and ultimately improve overall business environment

NEW DELHI;

HARISH DWIVEDI,  
Chairperson,  
Committee on Petitions.

02 February, 2024

13 Magha, 1945 (Saka)

**MINUTES OF THE THIRTY-FIRST SITTING OF THE COMMITTEE ON PETITIONS  
(SEVENTEENTH LOK SABHA)**

The Committee met on Friday, 2 February, 2024 from 1500 hrs. to 1630 hrs. in Room No.117, 'B' Block, (Chairperson's Chamber), Parliament House Annexe Extension, New Delhi.

**PRESENT**

Shri Harish Dwivedi - Chairperson

**MEMBERS**

2. Prof. Sanjay Sadashivrao Mandlik
3. Shri P. Rabindhranath
4. Shri Brijendra Singh
5. Shri Sushil Kumar Singh
6. Shri Prabhubhai Nagarbhai Vasava
7. Shri Rajan Vichare

**SECRETARIAT**

1. Shri Raju Srivastava - Joint Secretary
2. Shri Tenzin Gyaltzen - Deputy Secretary

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

3. The Committee, thereafter, took up for consideration the following Draft Reports :-

- |       |      |      |      |      |
|-------|------|------|------|------|
| (i)   | XXXX | XXXX | XXXX | XXXX |
| (ii)  | XXXX | XXXX | XXXX | XXXX |
| (iii) | XXXX | XXXX | XXXX | XXXX |
| (iv)  | XXXX | XXXX | XXXX | XXXX |

- (v) Action Taken by the Government on the recommendations made by the Committee on Petitions (Seventeenth Lok Sabha) in their Forty-Ninth Report on the representation of Shri Umakant Mishra requesting for release of payment by Titagarh Wagons Limited.



4. After discussing the above mentioned Draft Reports (3 Original Report and 2 Action Taken Report) in detail, the Committee adopted all the five Reports without any modification. The Committee also authorised the Chairperson to finalise the Draft Reports and present the same to the House.

5. XXXX XXXX XXXX XXXX

The Committee, then, adjourned.

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XXXX Not related to Report.