

# **PUBLIC ACCOUNTS COMMITTEE (1977-78)**

(SIXTH LOK SABHA)

## **THIRTY-SEVENTH REPORT**

### **FARAKKA BARRAGE PROJECT REPORT**

**MINISTRY OF AGRICULTURE AND IRRIGATION  
(DEPARTMENT OF IRRIGATION)**

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 196th Report (Fifth Lok Sabha) on paragraph 28 of the Report of the Comptroller and Auditor General of India for the year 1973-74—Union Government (civil)].

Presented in Lok Sabha on

20 DEC 1977

Laid in Rajya Sabha on

20 DEC 1977



**LOK SABHA SECRETARIAT  
NEW DELHI**

*November, 1977/Kartika, 1899 (S)*

*Price : Rs. 5.50*

**LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA  
SECRETARIAT PUBLICATIONS**

Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
<b>ANDHRA PRADESH</b>					
1.	Andhra University General Cooperative Stores Ltd., Waltair (Visakhapatnam)	8	12.	Charles Lambert & Company, 101, Mahatma Gandhi Road, Opposite Clock Tower, Fort, Bombay.	30
2.	G.R. Lakshmi pathy Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri, Chittoor District.	94	13.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.	60
			14.	Deccan Book Stall, Ferguson College Road, Poona-4.	65
<b>ASSAM</b>					
3.	Western Book Depot, Pan Bazar, Gauhati.	7	15	M/s. Usha Book Depot, 585/A, Chira Bazar Khan House, Girgaum Road, Bombay-2 B R	5
<b>BIHAR</b>					
4.	Amar Kitab Ghar, Post Box 78, Diagonal Road, Jamshedpur.	37	<b>MYSORE</b>		
			16.	M/s Peoples Book House, Opp. Jaganmohan Palace, Mysore-1	16
<b>GUJARAT</b>					
5.	Vijay Stores, Station Road, Anand.	35	<b>RAJASTHAN</b>		
6.	The New Order Book Company Ellis Bridge, Ahmedabad-6.	63	17	Information Centre, Government of Rajasthan Tripolia, Jaipur City	38
<b>HARYANA</b>					
7.	M/s. Prabhu Book Service, Nai Subzmandi, Gurgaon, (Haryana),	14	18	Swastik Industrial Works 59, Holi Street Meerut City	2
			19	Law Book Company, Sardar Patel Marg, Allahabad-1	48
<b>MADHYA PRADESH</b>					
8.	Modern Book House, Shiv Vilas Palace, Indore City	13	<b>WEST BENGAL</b>		
<b>MAHARASHTRA</b>					
9	M/s. Sunderdas Gianchand. 601, Girgaum Road, Near Princess Street, Bombay-2	6	20	Granthaloka, 5/1 Ambica Mookherjee Road Belgharia, 24 Parganas.	10
10.	The International Book House (Private) Limited 9, Ash Lane, Mahatma Gandhi Road, Bombay-1	22	21.	W Newman & Company Ltd 3 Old Court House Street, Calcutta	44
11	The International Book Service Deccan Gymkhana Poona-4	26	22.	Firma K.L. Mukhopadhyay, 6/1A, Banchharam Akur Lane, Calcutta 12	82
			23	M/s. Mukherji Book House, 8B, Duff Lane, Calcutta-6	4

**CORRIGENDA TO 37TH REPORT OF THE PUBLIC ACCOUNTS  
COMMITTEE (SIXTH LOK SABHA) ON FARAKKA BARRAGE  
PROJECT PRESENTED TO LOK SABHA ON 20.12.1977.**

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
V	2	3	caption	replies
3	1.9	30	Frakka	Farakka
6	1.10	16	evoided	avoided
11	1.16	18	controll	control
20	1.31	34	canales	canals
25	1.37	4	done during 1960-70	done during 1969-70
25	Read para No. 1.39 for 1.30			
25	1.39	34	rate of 2150	rate of Rs. 21.50
26	1.40	2	5th ok	5th Lok
26	1.43	2 (from below)	tf	of
29	1.45	21	revealated	revealed
29	Read para <u>1.46</u> in place of <u>1.146</u>			
38	1.59	16	offices	officers
45	1.74	41	will	well
45	1.74	41	profitions	propitious
45	1.74	41	sight	site

## CONTENTS

	Page
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (1977-78)	
INTRODUCTION	
CHAPTER I —Report . . . . .	1
CHAPTER II —Recommendations/observations which have been accepted by Government . . . . .	46
CHAPTER III —Recommendations/observations which the Committee do not desire to pursue in the light of the replies of Government . . . . .	65
CHAPTER IV —Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration . . . . .	77
CHAPTER V —Recommendations/observations in respect of which Government have furnished interim replies . . . . .	112
APPENDIX —Main Conclusions/Recommendations . . . . .	113

**PUBLIC ACCOUNTS COMMITTEE**  
(1977-78)

**CHAIRMAN**

Shri C. M. Stephen

**MEMBERS**

*Lok Sabha*

2. Shri Balak Ram
3. Shri Brij Raj Singh
4. Shri Tulsidas Dasappa
5. Shri Asoke Krishna Dutt
6. Shri Kanwar Lal Gupta
7. Shri P. K. Kodiyan
8. Shri B. P. Mandal
9. Shri R. K. Mhalgi
10. Dr. Laxminarayan Pandeya
11. Shri Gauri Shankar Rai
12. Shri M. Satyanarayan Rao
13. Shri Vasant Sathe
- \*14. Shri Sheo Narain
- \*15. Shri Jagdambi Prasad Yadav

*Rajya Sabha*

16. Smt. Sushila Shanker Adivarekar
17. Shri Sardar Amjad Ali
18. Shri M. Kadershah
19. Shri Piare Lal Kureel *urf* Piare Lal Talib
20. Shri S. A. Khaja Mohideen
21. Shri Bezawada Papireddi
22. Shri Zawar Hussain

**SECRETARIAT**

1. Shri B. K. Mukherjee—*Joint Secretary.*
2. Shri T. R. Ghai—*Senior Financial Committee Officer.*

---

\*Ceased to be a member of the Committee on his appointment as Minister of State w.e.f 14-8-1977.

## INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this Thirty-seventh Report on the action taken by Government on the recommendations of the Public Accounts Committee contained in their Hundred and Ninety-sixth Report (Fifth Lok Sabha) on Farakka Barrage Project. [Paragraph 28 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil)—Department of Irrigation.]

2. On 10th August, 1977, an 'Action Taken Sub-Committee consisting of the following Members, was appointed to scrutinise the cepties received from Government in pursuance of the recommendations made by the Committee in their earlier Reports.

1. Shri C. M. Stephen—*Chairman*
2. Shri Asoke Krishna Dutt—*Convener*

Members

3. Shri Gauri Shankar Rai
4. Shri Tulsidas Dasappa
5. Shri Kanwar Lal Gupta
6. Shri Zawar Hussain
7. Shri Vasant Sathe

3. The Action Taken Sub-Committee of the Public Accounts Committee (1977-78) considered and adopted the Report at their sitting held on the 17th October, 1977. The Report was finally adopted by the Public Accounts Committee on 18th November, 1977.

4. For facility of reference the conclusions|recommendations of the Committee have been printed in thick type in the body of the Report. For the sake of convenience, the conclusions|recommendations of the Committee have also been appended to the Report in a consolidated form.

5. The Committee place on record their appreciation of the assistance rendered to them in this matter by the Comptroller and Auditor General of India.

NEW DELHI;  
November 18, 1977  
Kartika 27, 1899 (S).

C. M. STEPHEN,  
*Chairman,*  
*Public Accounts Committee.*

## CHAPTER I

### REPORT

1.1. This Report of the Committee deals with the action taken by Government on the recommendations/observations contained in their 196th Report (5th Lok Sabha) on paragraph 28 of the Report of the Comptroller and Auditor General of India for the year 1973-74—Union Government (Civil) regarding Farakka Barrage Project (Ministry of Agriculture & Irrigation—Department of Irrigation), which was presented to the Lok Sabha on the 30th January, 1976.

1.2. Out of 50 recommendations/observations contained in the Report, Government have indicated the action taken or proposed to be taken by them in respect of all the recommendations.

1.3. The Action Taken Notes received from Government have been broadly categorised as follows:

(i) Recommendations/observations which have been accepted by Government.

S. Nos. 1, 5, 7, 8, 14, 23, 28, 32, 35, 37, 39, 40; 41; 43; 44; 45, 47, 48, 49 and 50.

(ii) Recommendations/observations which the Committee do not desire to pursue in the light of the replies of Government.

S. Nos. 4, 10, 13, 15, 16, 19, 22, 29 (part), 30 (part) and 36.

(iii) Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration.

S. Nos. 2, 3, 6, 9, 11, 12, 17, 18, 20, 21, 24, 25, 26; 27, 29, 30; 31, 33, 34, 38, 42 and 46.

1.4. After presentation of 196th Report (5th Lok Sabha) to the Lok Sabha on the 30th January 1976, Government were requested to furnish Action Taken replies on all the recommendations contained in the above mentioned Report by the 30th July, 1976.

Advance (un-vetted)\* replies to the recommendations concerning the Ministry of Agriculture & Irrigation (Department of Irrigation) were furnished to the Committee on the 29th July, 1976\*\*. By that time, replies from the Ministry of Shipping & Transport, the Ministry of Tourism & Civil Aviation, the Ministry of Industry & Civil Supplies (Department of Industrial Development) and the Ministry of Energy (Department of Power) had also been received by the Committee.

In the light of Audit comments on some of the advance replies, the Ministry of Agriculture and Irrigation (Department of Irrigation) suitably modified those replies and the revised replies were furnished by that Department on the 24th January, 1977.†.

1.5. It was only in the case of one recommendation (S. No. 34), which concerned both the Ministry of Agriculture & Irrigation (Department of Irrigation) and the Ministry of Law, Justice & Company Affairs (Legislative Department) that the reply from the Ministry of Law, Justice & Company Affairs was received on the 11th August, 1976.

1.6. The Committee are glad that the replies of the Government to all the recommendations contained in the Report were furnished to the Committee within the time prescribed for the purpose.

1.7. The Committee will now deal with the Action Taken on some of the recommendations.

#### *Delay in completion of the Project*

1.8. The Farakka Barrage Project was initially due to be completed by 1970-71, but in actual effect only the barrage was completed in 1971 and the essential canal work took another four years. Commenting upon this delay, the Committee, in para 2.4 of their 196th Report (5th Lok Sabha), had observed:

“The Committee are greatly perturbed to find that while in 1961 and again in 1965, it was decided that in view of the character of the project, its essentiality and the benefits which were likely to be derived from the various works, it should be completed by 1970-71, in actual fact only the

---

\*Intimation about vetting of some of the advance replies was given to the Committee on 11-8-1976.

\*\*Vide Deptt. of Irrigation O. M. No. 6/2/76-FBP, dt. 29-7-66.

†Vide Deptt. of Irrigation O M. No. 6/2/76-FBP dt. 24-1-77.



barrage was completed in 1971, but the essential canal work for taking the headwaters from the Ganga to feed the Bhagirathi-Hooghly system and save the deterioration in the Calcutta Port was completed only four years later in 1975. It appears that the requisite firmness and determination to see that the canal work was taken up in right earnest and completed as per schedule was lacking. The Committee see no reason why the canal work could not be initially started from September, 1962 as per the original schedule. The delay of one year at that point is sought to be explained on the not very tenable ground that special details concerning finalisation of canal sections, disposition of spoil banks, proportion of manual labour to dredger excavation etc. had to be settled with the German expert. The Committee are unable to accept Government's plea that explorations and investigations with the soil properties also caused delay in finalising the detailed estimate for invitation of tenders. Since the scheme was envisaged many years earlier and there was a decision in October, 1961 to complete the project in eight years i.e. from 1962 to 1970, the Committee see no reason why in 1961-62 itself Government could not consult experts, whether our own or from abroad, and settle all essential details."

[S. No. 2, Appendix-VII, Para 2.4 of 196th Report of the P.A.C. (5th Lok Sabha.)]

1.9. To the above-quoted observation of the Committee, the Ministry of Agriculture and Irrigation in their O.M. dated 24-1-77, furnished the following reply to the Committee:—

After approval of the Frakka Barrage Project in 1960, detailed surveys were commenced for finalising the alignment of the canal. This included carrying out soil testing and planning the spoil banks. While the construction schedule for the project in 8 years was drawn up in October, 1961, it was decided that this pre-construction plan should be completed in one year and construction should be taken up from September, 1962. The work pertaining to this date, turned over to the Government of West Bengal for the alignment of the feeder canal. The work was completed in December, 1962. The

1962 had in fact to be modified by the Technical Advisory Committee on account of the following reasons—

- (a) Some reaches were located in Bihar which was not considered desirable from navigation point of view since this would have resulted in entry/exit problems in a short reach twice.
- (b) Certain reaches of the alignment were found, on detailed considerations, to have been located in thickly populated areas near Bagmari river which would have needed displacement and rehabilitation of many people.
- (c) Certain reaches of canal were close to river Ganga and there was risk of river attack.

After the final alignment of the Feeder Canal had been decided in December, 1962, some time was needed for preliminaries like taking longitudinal section and cross sections along the final alignment, demarcating the same on the ground, issue of Notice Inviting Tenders, acquiring of the land, etc., which were finalised by June/July, 1963 to enable start of the excavation work by the small contractors from September, 1963, i.e., beginning of 1964 working season.

As regards the expert advice obtained from Dr. Lackner this mainly pertained to excavation below general water table which was very high through out the length of the feeder canal. Out of an average 22 ft. depth of digging the lower 14 ft. were below general water table.

Dr. Lackner gave his opinion in January, 1963 and based on his expert advice as well as other available reports on dredging, the Government of India constituted a Committee headed by Admiral B. Bose to advise on the specifications and the numbers of dredgers as well as the best method of procurement of dredgers. This Committee gave a report in July, 1963 by which time sufficient land could be acquired as brought out above, to commence the canal excavation work. Thus, apart from timing of the advice, Dr. Lackner and subsequent period during which Bose Committee worked out details of specifications of the dredgers, the delay of one year can be attributed to the difficulties in finalising the canal alignment as well as acquisition of land. If the earth-work had to be

excavated by dredgers, then, apart from a special organisation to be built up, the number of dredgers required would have been much more besides high cost, which could not be worked out because of lack of data on working of dredgers on such a large scale in conditions similar to those prevailing in Farakka canal. Also, this would have prevented employment of local agencies and particularly, the smaller firms. In fact, these were the considerations which led the Government to employ small local agencies as an experimental measure. However, as explained to the Committee at length, these agencies for various reasons, could not complete the work. In the meanwhile, as the Committee are aware, some contracting firms quoted for excavation of the canal work both above the general water table as well as below, by using heavy earthmoving equipment (drag lines etc.). The work was divided into different reaches and put to tender and the Committee are aware of the problems which arose during implementation of the work covered under each.

While the Government of India and the State Governments did possess experience on excavation of irrigation canals, it must be mentioned that Farakka canal was by far the largest irrigation-cum-navigation canal to be constructed in the country. There were special problems associated with the construction of the canal, namely high water table which necessitated bulk of the excavation to be carried out below the ground water table. Secondly, the canal banks had to be designed so as to resist the flood pressure from both the sides. The canal section had to be so designed that excavation by manual labour, by heavy earth moving equipment, as well as by dredgers (during operational stage) was feasible within economic costs. Unless such flexibility was provided in the design of canal sections, there could have been situations which would have created real difficulty."

**1.10. The Committee are unhappy that Government do not appear to share their grave concern over the delays that have taken place and the implication that have flowed there from. It is senseless to cry over spilt milk but it is always wise to learn from experience. While recognising, of course, some force in the reasons for the delay that Government's reply indicates, the Committee cannot avoid an impression of near-complacency over the issue. The fact of detailed sur-**

veys having to be made is not contestable, but this requirement was by no means unknown when in 1961 and again in 1965, clear-cut projections were made. Indeed, Dr. Lackner's opinion was elicited and the Bose Committee reported much before 1965. Credit will be ungrudgingly given for having at last completed "by far the largest irrigation-cum-navigation canal" in the country, but this should not extend to unqualified exoneration of a certain failure, which was not inevitable, to anticipate the required pace of construction and concomitant problems. Government are correct in stressing flexibility as an element in construction of the magnitude and complexity of Farakka, but long deferment of presumably well thought-out target dates cannot be justified on the plea of flexibility. The Committee have great confidence in our own engineers and other scientific-technical personnel, and that is exactly why it is a matter of concern that delays and defaults were not, to the extent possible, avoided.

*Delay in execution of work of the Feeder Canal—lack of realisation of urgency*

1.11. Commenting further on the delay in the excavation of the Farakka Feeder Canal, the Committee, in para 2.5 of their 196th Report (5th Lok Sabha), had observed:

"The Committee cannot appreciate the delay in calling for tenders or in settling the rates for work. Government with its vast experience of excavation of canals should have been able to settle these details firmly and in time. The Committee are also not prepared to accept the plea of helplessness when the contractors to whom the work was awarded in 1963 did not proceed with it with the requisite speed. The Committee feel that it should have been possible for Government to give the widest publicity *ab initio* to these tenders so as to facilitate adequate response. Government should have ensured that the tenders were scrutinised and finalised with due promptitude and on a realistic basis, having regard to the prevalent rates. Another basic aspect where a clear decision was necessary, concerned the work to be done through contractors and the extent to which the dredgers were to be utilised. The Committee consider that there was avoidable delay in this crucial area. The Committee are also perturbed that on the plea of paucity of funds, tenders were not fixed till the end of 1967 for reaches beyond R. D. 68. This

administrative inaptitude and lack of realization of the urgency of the project was responsible for the loss of nearly three years in the beginning and it is this 'original sin', as it were, which is responsible basically for the long delayed completion of the project."

[S. No. 3, Appendix-VII, para 2.5 of 196th Report of the P.A.C. (5th Lok Sabha)].

1.12. In their reply dated the 29th July, 1976, the Ministry of Agriculture & Irrigation stated—

"While barrage work, though un-precedented in magnitude and character, was concentrated at one place, the canal work was distributed over 25 miles and involved construction of large number of canal structures including a syphon, inlets and bridges which also posed a number of problems during their implementation. Although the barrage was completed in 1971, the gates became fully operational only by 1973. The canal even if completed before the barrage became operational, would not have enabled diversion of waters into the Bhagirathi. This was pointed out to the Committee—*vide* reply to point 28 (a) and (b) arising out of the oral evidence. The progress on the excavation work of the canal up to June, 1971, was 104 crores cft. out of 155 crores cft. The same at the end of June, 1973, by which time the barrage became operational, was 146 crores cft.

It would thus be seen that most of the works were completed by 1973. No doubt, certain critical works remained to be completed such as pakur bridge at R.D.62 due to failure of the bridge contractor, and excavation of some gaps due to non-handing over of land by the villagers who insisted on construction of road bridges, although the Government of India in consultation with the State Government, had agreed to provide ferry crossings, at each road crossing. Thus, all possible efforts were made but due to unforeseen difficulties, there was some delay in implementing the canal works. However, the Committee's concern has been noted and it is hoped that the experience gained by the Indian Engineers and technicians in implementation of such a big canal would help in planning and implementation of works on similar Projects of large magnitude in future.

As soon as the decision was taken by the Control Board in November, 1964 to carry out full depth excavation through contractors, the tenders in hand were finalised and contract for 75 crores cft. of earthwork in the reach R.D. 10 to R.D. 68.00 was awarded in January, 1965. As regards the lower reaches below R.D. 68.00 it was decided to invite tenders later after having seen the performance of the contractor in the Reach R.D. 10 to R.D. 68 in carrying out full depth excavation and the difficulties experienced therein. Tenders were accordingly invited in August 1966 after the close of 1965-66 working season but while these tenders were being processed, there prevailed acute financial stringency on the project as a result of Pakistani aggression. Consequently, the Control Board decided in May, 1966 that no expenditure should be incurred on excavation of the feeder canal below R.D. 68 till April, 1967. In the meantime, negotiations were continued with the tenderers in regard to their special conditions involving advance payments, release of foreign exchange etc. These could be finalised by August, 1967 and were considered by the Tender Committee in September, 1967. Clearance from the Ministry of Finance was obtained in October, 1967 and these were approved by the Control Board on 3-11-67. Work was commenced in 1967-68 working season.

In view of the reasons explained above, the delay in execution of works of Feeder Canal as mentioned by Public Accounts Committee in this para, may be considered as unavoidable.

1.13. The Committee are constrained to reiterate that Government should do well to acknowledge the fact of delay being at least, in part, due to deficiencies in the organisation of work on such a vital national project. A gap of some two years between the barrage becoming operational and the canal being constructed is a serious matter. The three-year procrastination over tenders (1964—67) can hardly be explained away by acute financial stringency allegedly occasioned (May 1966) by the 1965 war with Pakistan. The Committee are of the view that the delays referred to, while not inexplicable, were at the same time not "unavoidable".

1.14. The Committee, had, in para 2.6 of their 196th Report (5th Lok Sabha), also suggested further investigation of the matter and fixation of responsibility on those who did not show leadership

and understanding in settling all the requisite details in time. To quote the Committee, they had observed:—

“The Committee would like Government to investigate the matter thoroughly with a view to deducing lessons and fixing responsibility on those who did not show leadership and understanding in settling all the requisite details in time, in inviting and finalising the tenders and in effectively co-ordinating the execution of the works in the field with an upright adherence to the time schedule.”

[S. No. 3, Appendix-VII, Para 2.6, of 196th Report of the PAC (5th Lok Sabha)].

1.15. The Committee have been informed in reply that it would not serve the cause of building up expertise in design and implementation of such projects, if enquiries are conducted in this case. The full reply of the Ministry dated 29-7-76, is reproduced below for ready reference:

“A review of the action taken at various levels for execution of the work of Farakka Barrage Project and the Feeder Canal has been undertaken. Before tenders are invited for any components, the estimate has to be prepared and sanctioned on the basis of detailed designs, detailed specifications are drafted and approved by competent authority. Similarly, after tenders are received, detailed scrutiny and evaluation of tenders is undertaken and often negotiations are necessary. All these operations do take time and, inspite of best efforts, some slip may occur in one or more of a series of operations outlined above. A three-tier organisational machinery was established for executing the Project expeditiously and economically and effective co-ordination at various levels was also ensured. At the field level which was the executing agency, the Chief Engineer and other officers were given sufficient powers to deal effectively with the various matter relating to the execution of the works. The Chief Engineer, who was subsequently designated as the General Manager had been declared as the Head of the Department for purposes of Fundamental and Supplementary Rules and the General Financial Rules and has also been delegated the same powers as are exercised by his counter-part in the Central Public Works Department. The General Manager and the other officers

of the Project had also been delegated specific powers relating to the works etc. of the Project.

The Farakka Barrage Central Board is in over-all charge of the Project, including its technical and financial aspects. The Chairman of this Central Board had been the Minister of Irrigation and Power and now Minister of Agriculture & Irrigation. The Board comprises Ministers and representatives of the West Bengal Government and representatives of the Calcutta Port Commissioner of the Ministry of Shipping and Transport, Central Water Commission, Ministry of Railways, Department of Irrigation and the General Manager, Farakka Barrage Project. The Board is assisted by a full-time Secretary of the rank of Superintending Engineer and a Financial Adviser & Chief Accounts Officer. The Board has various advisory committees comprising technical officers of appropriate status. Some of the important Committees are the Technical Advisory committee which advises on the technical aspects relating to the design and execution of the Project and the Tender Committee which advises on the acceptance of the Tenders. The Board also had in the past the various committees such as the Local Committee and the Plant and Equipment Committee etc.

As the Project is being executed by the Central Government, the work, of the Project is being supervised by the Department of Irrigation. All important matters relating to the scrutiny of estimates, preparation of designs, review of the delegation of financial powers, the question of laying tenders specifications and schedule of rates were examined and approved by the Control Board. It also approves all proposals for award of work or supplies on contract which are beyond the powers of the General Manager.

The progress of the works has been reviewed at regular intervals by the various organisations and all efforts have been made to remove the bottlenecks. It may be mentioned that the execution of such a big project which is unique in its nature posed many difficulties and problems which were peculiar but by the co-ordinated efforts and good planning all the difficulties were removed and the Feeder Canal could be commissioned.

It will be clear that all major decisions were taken jointly by a high Level Control Board assisted by its Committees but not by any individual. The major decisions flowed from



extension beyond June, 1968 to contractor 'A' in respect of the excavation work in the Reach RD 10-68, the said contractor was granted extension up to June, 1969 by the Control Board, and the only reasons left on record are "difficulties explained by the firm as reported in the agenda papers." The papers relating to the relevant meeting of the Control Board reveal that the Chief Engineer of the Project had specifically mentioned that "an extension from March to June, 1968, had already been granted to the firm in consideration of their difficulties in arranging the machinery," and "hence no further extension can be given." The Chief Engineer had also recorded that procurement and selection of the machinery was entirely the concern of the contractor, adding that notwithstanding this position the contractor had been given equipment worth about Rs. 37.5 lakhs in the interests of the work. The Chief Engineer had also referred to two generating sets having been made available on hire to the contractor. In the absence of any recorded reasons, it has not been possible for the Committee to examine the justification for the Control Board departing from the specific recommendation of the Chief Engineer. The Committee take a serious view of the matter and recommend that it should be probed into thoroughly, and responsibility fixed for such apparently anomalous conduct."

[S. No. 27, Appendix VII, Para 5.10 of 196th Report of the PAC (5th Lok Sabha)].

1.44. The Ministry of Agriculture & Irrigation (Department of Irrigation) in their reply dated the 29th July 1976 stated as follows:

"The contract for the reach at RD 10 to 68 involving 75 crore cft. of earthwork was allotted to the contractor A in Jan., 1965. The contractor had to import some equipment involving foreign exchange while the project was to supply power along the Feeder Canal between RD 32 to 47.5 during 1965-66 season. There were certain delays on the part of the contractor in arranging all the imported equipment and moreover, the imported equipment which reached the site did not give good performance during 1965-66 season. The Department too could not lay the transmission lines and make power available

during this season. No doubt some generators were given to the contractor on hire basis but these were not adequate to cope with the magnitude of the work. In spite of these difficulties, the contractor was able to excavate 14.69 crore cft. during 1965-66 season.

In April 1966 the contractor applied for extension for one year i.e. up to June, 1969. The extension of three months beyond March, 1968 up to June 1968, referred to in this para had been agreed to by the Chief Engineer in January 1965 within one month of the issue of the letter of Intent (which stipulated 31-3-68 as the date of completion) on account of the delay in the issue of the work order after finalisation of the contract conditions by the Negotiation Committee. This was approved by the Control Board in May, 1965.

As regards the departmental equipment loaned out to the contractor in 1965, this comprised 4 Nos. Russian Drag-lines of 3 $\frac{1}{4}$ Cyd. capacity and 8 Nos. dozers and pushers and 1 No. grader but no Scrapers or Dumpers. Consequently this assorted equipment did not form a composite earthmoving unit but augmented the contractor's working units which, in that year, comprised 30 Nos. Tractor drawn Scrapers, 20 Nos. motorised scrapers and 25 Nos. dozers of various sizes. The contractor's programme for 1965-66, 1966-67 and 1967-68 working seasons was 21 crore cft., 25 crore cft. and 30 crore cft. respectively. Due to the various difficulties mentioned above, he could achieve only 14.69 crore cft. in the first season.

As explained in reply to point 15(a) and 15(b), arising out of oral evidence, Chief Engineer was fully competent to grant or refuse extension but he forwarded the case for the consideration of the Control Board without giving any positive recommendation of his own.\*

Obviously the Contractor 'A' could not proceed with the work at the desired speed on account of the reasons explained above and his request for extension for one year was, therefore, fully justified. Hence his request was acceded to by the Control Board in November, 1966.

It would not, therefore, appear necessary to investigate this case, decision on which was taken after full consideration of the relevant issues, by the Farakka Control Board which is the highest level body for guiding the construction activities."

1.45. The Committee note that their suggestion for further investigation of the case relating to grant of further extension to contractor 'A' beyond 30th June, 1968 in respect of the excavation work in the reach RD 10-68, has not found favour with Government. The reasons advanced are that the first extension from March, 1968 to June, 1968 was granted on account of delay in the issue of the work order after finalisation of the contract conditions by the Negotiation Committee, that the contractor was finding difficulties in spite of some departmental equipment having been lent to him, and that the Chief Engineer who was fully competent to grant or refuse the extension had forwarded the case for the consideration of the Control Board without giving any positive recommendation of his own. The Committee are not convinced by this argument. As stated in their original recommendation, the papers relating to the relevant meeting of the Control Board (where extension was granted beyond June, 1968) revealed that the Chief Engineer had specifically mentioned that "an extension from March to June, 1968 had already been granted to the firm in consideration of their difficulties in arranging the machinery" and "hence no further extension can be given". The Chief Engineer had also recorded that procurement and selection of machinery was entirely the concern of the contractor. The Committee are surprised that in spite of the clear and categorical remarks of the Chief Engineer in the agenda papers relating to the relevant meeting of the Control Board, the only reasons left on record for granting further extension were "difficulties explained by the firm as reported in the agenda papers". Surprisingly, even the question of the imposition of some penalty on the contractor was not at all discussed. The Committee cannot therefore help the view that undue favour had been shown to contractor 'A' and that this is a fit case requiring further probe for fixation of responsibility for what appears to be anomalous conduct. They reiterate their original recommendation and expect intimation in due course about the enquiries made in the matter and the results thereof.

*Payment of higher rates outside the contracts*

1.146. In paragraph 5.29 of their 196th Report (5th Lok Sabha) the Committee had observed:

"The Committee find that as against the contracted rates of

Rs. 11.30, Rs. 12.50 and Rs. 12.43 per 100 cft. for excavation work-in the Reaches RD 10-68, RD 68-97 and RD 97-103 respectively, contractor 'A' and 'B' were paid, 'ex-gratia', higher rates of Rs. 16.5 per 100 cft. for work done during 1969-70 and Rs. 20.65 per 100 cft. for work done during 1970-71 and thereafter. Such higher rates were paid in spite of the fact that they were clearly outside the terms of the relevant contracts."

[S. No. 29, Appendix-VII, Para 5.29 of 196th Report of the P.A.C.  
(5th Lok Sabha)]

1.47. In their Action Taken reply, dated the 24th January, 1977 the Ministry have justified the payment of higher rates in the following terms:

"As has been explained in para 4.26 the question of considering payment of *ex-gratia* rates to Contractors A&B arose only when these contractors were not prepared to continue with their contracts on account of the deteriorating law and order situation and labour unrest in the Project area due to which they were unable to get the desired output from the machines. In case these contracts were rescinded on account of the failure of the contractors to continue with the jobs, the tendered rates, if tenders were invited afresh, were bound to be high from the firms who were considered technically and financially capable of executing the work in time. Moreover, the contractors A & B might have in that case, gone to the court for seeking redress which, would have further delayed the execution of the works. Consequently the Control Board decided in the larger interests of the Project to get the contractors representation of higher operational cost and request for relief, examined in depth by an Inter-Departmental Committee. This Committee recommended higher rates after it had carried out a thorough study of the matter and was fully convinced about its justification."

1.48. The Committee wish to refer back to their earlier observations on analogous cases and to reiterate their unhappiness at Government finding itself virtually in a position where there was no alternative, in Government's view, to yielding to the 'contractors' escalating demands. This is a situation which, being likely to recur

**at other big construction sites, should be carefully analysed and all precautionary measures adopted.**

*Issue of machinery & Stores to contractors outside their contracts*

1.49. In paragraph 5.33 of their 196th Report (5th Lok Sabha), the Committee had observed:—

“Since, as pointed out by the Chief Engineer of the Project himself, the procurement and selection of machinery etc. was entirely the concern of the contractors themselves, it is evident that the issue to the contractors of materials and stores from the Stores of the Department was in itself a big concession to the contractors. Even so, this concession to the contractors was not taken into account by the Inter-Departmental Committee while examining their claims for rates higher than the contracted rates outside the terms of their contracts. The Committee are of the view that the Inter-Departmental Committee have, by a series of decisions, invited, on themselves, a suspicion of dereliction of duty which should be cleared by Government with a view to suitable action it called for, in the matter.”

[S. No. 30, Appendix-VII, Para 5.33 of 196th Report of the P.A.C.—  
(5th Lok Sabha)]

1.50. In their Action Taken reply, dated 29-7-76, the Ministry of Agriculture & Irrigation have stated:

“The statement of the Chief Engineer of the Project in regard to the procurement of machinery etc. was in the context of giving extension to the contractor ‘A’ beyond 30-6-68 and is not related to the issue of materials and stores which was considered necessary in the interest of Department and cannot, therefore, be taken as a concession to the Contractor. Moreover, Government’s interest was fully safeguarded in fixing the issue rates.

Government consider that the recommendations of the Inter-Departmental Committee which comprised senior engineers and officers were based on all the relevant considerations keeping in view the larger interests of the Project. These recommendations were duly considered by the Government before acceptance.”

1.51. The Committee regret that they would require further to be satisfied that the issue of materials and stores to the contractors from the Department's own stores did not amount to a concession which was not to be expected in the usual course by the contractors. In view of the indulgence with which the contractor's inflated claims appear often to have been granted, the Committee would like to know the position in clearer detail before they can appreciate Government's viewpoint.

1.52. In connection with the payment pertaining to the period 1969-70 to Contractor 'A' without obtaining a written confirmation from the Contractor that he had no claims in respect of the period January 1966 to September 1969, the Committee in paragraph 6.21 of their 196th Report of the Public Accounts Committee (5th Lok Sabha) had observed as follows:—

“The Committee disapprove of the leisurely and lukewarm manner in which the whole case of arbitration of the so-called dispute between the contractor 'A' and the Project authorities was handled by Government. In March, 1971, when the contractor conveyed his acceptance of enhancement of rates (as decided by the Special Committee), for earthwork done during 1969-70 and thereafter, and his letter was conspicuously silent about his reaction to the rejection by the said Committee of his claim for the period January, 1966 to September 1969, the situation required that before making any payment Government should have secured from him clear written confirmation of the position in respect of the period January, 1966 to September, 1969.”

[S. No. 31, Appendix-VII, Para 6.21 of 196th Report of the P.A.C.—  
(5th Lok Sabha)]

1.53. In their reply dated the 29th July, 1976, the Ministry of Agriculture & Irrigation (Department of Irrigation) stated as follows:

“In the erstwhile Ministry of Irrigation and Power letter No. 1|28|70|-FBP dated the 11th March, 1971, while conveying sanction to the *ex-gratia* payment to Contractors 'A' and 'B' in respect of actual earthwork done by each during 1969-70 season, 1970-71 season and further, it was provided that 'the contractors agree in writing that these payments:

will be in full and final settlement in respect of these items arising out of the respective contracts'. It was also mentioned in this very letter that the claims of the contractors for the period prior to September, 1969, were rejected.

The firm gave an undertaking that they were accepting in full and final settlement payments in respect of claims for the enhancement of rates for the earthwork done from 1969-70 season onwards.

In this respect it may be stated that subsequently in a similar case when an unambiguous undertaking had been obtained, it was held that such disputes had arisen out of or in relation to the contract and are referable to the arbitration under clause 25 of the Contract Agreement which is wide enough."

1.54. The Committee are surprised to note that the above-quoted reply of the Ministry is completely silent as to the reasons for not having obtained a written undertaking from contractor 'A' that the rejection by the special Committee of his claim for the period January, 1966 to September, 1969 was acceptable to him. The Ministry appear to have taken shelter behind the position that in a similar case when an unambiguous undertaking had been obtained it was held that such disputes were referable to arbitration under Clause 25 of the Contract Agreement. In the absence of full details of the case and of its being comparable with the instant issue, the Committee would not like to make any positive observations, but they can hardly conceive that the contractor, even in arbitration, could succeed in getting any additional payments for the period from January 1966 to September 1969, if he had given a written undertaking that the rejection of his claim by the Special Committee for the said period was acceptable to him. There is need, therefore, for a further probe with a view to fixation of responsibility for the lapses, if any, involved in the matter and early intimation of the results to the Committee.

*Conduct of Project case before the Arbitrator*

1.55. In paragraph 6.23 of their 196th Report (5th Lok Sabha), the Committee had observed:—

"In so far as the pleadings before the arbitrator are concerned, it is surprising that the reasonableness or otherwise

of the quantum of compensation demanded by the contractor was not posed into by the government side at all. No oral evidence was led before the arbitrator, and no reasons seem to have been recorded in justification of such an omission. Also, no counter-claims were made by Government on account of the concessions extended to the contractor in spite of his failure to adhere to the time schedule. There were other facilities, like use of government machinery etc. given to the contractor which too should have been put forward before the Arbitrator, in order to have the amount of award suitably reduced if not completely negated. The loss suffered by government on account of the contractor arbitrarily stopping work and causing delay and cost escalation was another point that should have been pressed strongly before the arbitrator by way of counter-claim, but it was not done. The contractual obligation of the contractor to take up additional excavation work at old rates, which the contractor failed to fulfill and Government did not enforce, gave another, valuable advantage to the contractor. No counter-claim on this account also was made before the Arbitrator. The Committee feel strongly that Government's defence was not resolutely, or even properly conducted.

[S. No. 33, Appendix-VII, Para 6.23 of 196th Report of the P.A.C.—  
(5th Lok Sabha)]

1.56. In their reply dated 29-7-76 to the above quoted observations of the Committee, the Ministry of Agriculture & Irrigation have stated as follows:

“The department took a firm stand before the arbitrator that the contractor was not entitled to any relief or compensation in respect of the work done by him between January, 1966 to September, 1969 and that contractor's claim was not tenable as per terms and conditions of the contract. The department did not enter into any argument about the reasonableness or otherwise of the quantum of compensation demanded by the contractor as by doing that an impression would have been created that the department was only disputing the reasonableness of the quantum of compensation while accepting, in principle, the justification thereof.



**It was considered advisable by our counsel that in the absence of any oral evidence on the part of the claimants, there was no necessity on the part of the defendants to refute the claim by oral evidence. It may be mentioned that in any arbitration case, it is for the claimants to substantiate their claim either by oral or documentary evidence. But as the claimants in this case chose not to lead any oral evidence (they perhaps thought that the documents submitted by them will speak for themselves), the defendants also thought it proper not to adduce any oral evidence. As such, the whole matter was allowed to proceed on the basis of statement and counter-statement to be backed by the documentary evidence of both sides.**

The time extensions were granted to the contractor in consideration of the hindrances and the difficulties faced by him at site and which were considered to be beyond his reasonable control. The facilities extended to the contractor such as payment, issue of P.O.L., spares and hiring out of departmental machinery were prompted by the anxiety to complete the work as quickly as possible. Besides, since these facilities were not provided gratis and were charged to the contractor according to the rules of the Department they cannot in true sense be termed as concessions.

The work was kept suspended by the contractor in the beginning of 1970-71 working season only whereas the dispute in question was for the period prior to September, 1969. As such, projection of these factors before the arbitrator was not relevant. Further when the claim of the contractor before the arbitrator was for compensation for the loss sustained by him in executing the earthwork covered in his original tender at his tendered rate, putting counter-claim before the arbitrator for failure on the part of the contractor to take up additional work at his old tendered rates, especially when their tender rate had already been enhanced by the Government from the working season of 1969-70, after due consideration of the pros and cons, did not carry conviction."

**1.57. The Committee are perplexed by Government's claiming to take "a firm stand" before the arbitrator and yet displaying a**

kind of listlessness and inefficiency which must, in the country's interest, be shed. It cannot be that Government do not know that while denying a party's claim to compensation altogether, it is entirely open in law (and often practically useful) to add to the denial an alternative pleading, made without prejudice, regarding the patently unreasonable quantum of the compensation demanded. The Committee cannot also understand why positive oral evidence, which was very much there, had not been led by Government when it was likely to fortify Government's case. The plea that the claimant, on his part, had no oral evidence to offer cannot justify Government's remissness in this regard. It is strange also to see Government going out of the way to aver that the provision of many valued facilities to the contractors (who are found to be recalcitrant) did not amount to "concessions" since they were covered by departmental rules. Where the contractors are given all reasonable assistance to get on with their work, Government should make sure that the generosity is properly reciprocated, which clearly has not happened in this case. The Committee cannot appreciate Government's lukewarm attitude towards its own rights and the clearly defeatist approach shown in this and other episodes examined by them.

1.58. The Committee had also commented adversely on the conduct of the case relating to arbitration by the Project authorities in the Court of Law, in the following terms:

"In spite of the position as stated above, Government decided not to pursue the objection petition against the award of the arbitrator filed by them in the court of the Subordinate Judge, Murshidabad, but preferred to pay off the awarded amount to the claimant. The Committee are of the view that the conduct of the case was entirely mismanaged. Government should review the whole matter and fix responsibility for lapses made in course of the reference of the so-called dispute to arbitration and the presentation of Government's case before the arbitrator, with a view to suitable action against those found guilty of dereliction of duty at various levels. Reference to arbitration without careful examination of the implications and indifferent organisation of Government's defence in case involving the financial interests and also the reputation of the State must not be allowed to recur. Since, on the evidence before the Committee, the services of the law officers of Government do not appear to have been available effi-

ently and expeditiously in this unfortunate case, the Committee wish Government to look into this aspect of the matter and take all appropriate action."

[S. No. 34, Appendix VII, Para 6.25 of 196th Report of the PAC—5th Lok Sabha).

1.59. In their reply, dated the 29th July, 1976, the Ministry of Agriculture & Irrigation have stated:—

"For the defence of the Government case Shri A. B. Ghoshal Superintending Engineer, Canal Circle, Farakka Barrage Project and the Executive Engineer, Feeder Canal Division, Farakka Barrage Project, the officers who were connected with the work of execution of the Feeder Canal and who had thorough knowledge of the case were entrusted with the defence of the case on behalf of the Government before the sole arbitrator. The services of Shri L. N. Mukherjee, Advocate and Government Pleader, whose name was sponsored by Government Pleader, Berhampore, through the District Magistrate, Murshidabad, was engaged by the Project in October, 1968, to help the project authorities in presenting the case. A study of the case has been done and it is considered that the officer concerned, while presenting the case for the Project, took all precautions to safeguard the interest of the Government in presenting the case in the best possible manner. Senior Officers and legal adviser were present on all the important hearings and the case was prepared under their direct supervision. However, as this was the first major case of arbitration in the Project after the award was received, the whole matter was reviewed and the instructions to safeguard Government's interest have been issued as indicated in reply to para 6.22. These instructions are being reviewed from time to time.

Apart from the instructions contained in the erstwhile Ministry of Irrigation & Power's O.M. 7(20)/73-IF, dated 14-8-73 regarding the appointment of arbitrators in cases of arbitration, the arbitration clause in the contract agreement has since been modified to provide for a speaking award in cases where the amount of claims exceeded Rs. 50,000/- The other amendment provides for the award not to carry any interest. Since then, contracts entered into by the Project are based on the amended form contract agreement.

On the basis of the documents available and other relevant facts of the case, it is observed that the concerned officers had taken all reasonable care to safeguard the interests of the Government and conduct the cases to the best of their abilities. No malafide intention on the part of any Government official has come to the notice while going through the records. No doubt, this was the first major case for arbitration and the project officers were handling it for the first time. The entire team of officers was geared to the work of completing the Farakka Barrage and the feeder canal according to the targets. In spite of this the senior officers were present in all the hearings to supervise the presentation of the case in the best possible way. The execution of the Farakka Barrage and the Feeder Canal, as the Committee are aware is a great engineering feat. All the offices, workers and technicians have gained most valuable experience which will, no doubt, prove to be extremely useful, in future, while implementing such large projects. It is, therefore, urged that the Committee may take a broader view of the matter. It is difficult to fix the responsibility on the basis of available records. Further, the Government has since taken all possible measures, on the basis of experience of Farakka, and reviewed the entire matter relating to arbitration awards as explained above. Taking into consideration these facts and also the effect of such an enquiry on the future programmes for implementation of such unique project, it may not be desirable to conduct enquiry into the matter."

1.60. The Committee have been more than ready and willing to take, as Government urge, "a broader view of the matter", particularly on account of the unique character of the Farakka construction. Besides, the Committee have not, in the absence of adequate and positive evidence, even hinted at 'malafide' being involved. The Committee are convinced, however, that the conduct of legal proceedings on the part of Government had been neither efficient nor expeditious. Even if it is thought better to draw a veil over what happened in "the first major case for arbitration" handled by inexperienced Project officials, the lessons, as indicated by the Committee, should be carefully and unhesitatingly drawn.

1.61. The Committee had also called for a reply from the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) on their observations relating to the legal advice that was tendered

to the Project authorities on the Arbitration case. The observations of the Committee, made in paragraphs 6.24 and 6.25 of their 196th Report (5th Lok Sabha), and the reply furnished by the Department of Legal Affairs, are reproduced below:

### **Recommendation of the Committee**

- 6.24. As far as award of the arbitrator is concerned, the Committee would draw attention to the opinion expressed by the Joint Secretary and Legal Advisor in the Calcutta Branch Secretariat of the Ministry of Law, namely that "the arbitrator ought not to have relied solely on the statements furnished by the contractor in support of these claims in the absence of any oral evidence affirming the correctness of the contents of such statements. The same official has also referred to the judgement reported in A.L.R. 1955, Supreme Court, Page 468 and stated that the present award seems to be a flagrant case where the arbitrator has misapplied the law to give a perverse award.
- 6.25. In spite of the position as stated above, government decided not to pursue the objection petition against the award of the arbitrator filed by them in the Court of the Subordinate Judge, Murshidabad, but preferred to pay off the awarded amount to the claimant. The Committee are of the view that the conduct of the case was entirely mismanaged. Government should review the whole matter and fix responsibility for lapses made in course of the reference of the so-called dispute to arbitration and the presentation of Government's case before the arbitrator, with a view to suitable action against those found guilty of dereliction of duty at various levels. Reference to arbitration without careful examination of the implications and indifferent organisation of Government's defence in cases involving the financial interests and also the reputation of the State must not be allowed to recur. Since, on the evidence before the Committee, the services of the law officers of Government do not appear to have been available efficiently and expeditiously in this unfortunate case, the Committee wish Government to look into this aspect of the matter and take all appropriate action.

[S. No. 34—Paras 6.24 and 6.25 of Appedix VII to the 196th Report  
5th Lok Sabha].

**Action Taken reply of Ministry of Law, Justice & Company Affairs.**

After bestowing careful and earnest consideration on the entire matter, it is considered that the advice tendered by this Ministry in this matter on different occasions was in accordance with law and in the best interest of Government. The arbitration clause viz., clause 25 of the agreement is of a very wide amplitude and would certainly take in the dispute agitated by the contractor. Had the contractor's request for referring the matter to arbitration not been granted, it would have involved the Union of India in avoidable litigation and the court might have appointed an Arbitrator other than a Government servant. The advice of the Law Secretary advising the Government to accept the award is in consonance with the well established legal position fortified by a catena of Supreme Court authorities. Mention may be made of the following authorities in this behalf:—

1. Union of India v. Bungo Steel Furniture (P) Ltd. AIR 1967 Supreme Court 1032—(1967) 1 S.C.R. 324.
2. M/s. Allen Berry & Co. (Private) Ltd. v. Union of India AIR 1971 Supreme Court 696.
3. Upper Ganges Valley Electricity Supply Co. Ltd. v. The U.P. Electricity Board AIR 1973 Supreme Court 683.

It was a case of an unreasoned award in which there was no material to establish the misconduct, legal or otherwise, on the part of the Arbitrator. Nor could the award be successfully assailed on the ground of an error of law apparent on the face of it. In this connection it would be apt to point out that it has been consistently laid down by the Supreme Court in numerous cases including the cases referred to hereinabove that when the award is good on the face of it, it will not be set aside even when arbitrator commits mistake either in law or in fact in determining the matters referred to him and that if any such mistake does not appear on the face of the award or in a document appended to or incorporated in it so as to form part of the award, the award will neither be remitted nor set aside notwithstanding the mistake.

The inescapable conclusion would, therefore, be that the advice tendered by the Law Secretary was not only legally unexceptionable but the same was also in the best interest of the Government. The course other than the one indicated by the Law Secretary would have

imposed further financial burden on the Government which can by no means be regarded as insubstantial.

It may incidentally be mentioned that the Branch Secretariat, Calcutta, had also clearly indicated that there is a remote possibility that the court may interfere and set aside the award. While expressing this view, it had also been pointed out that the award could not have been given by the Arbitrator unless he misapplied law and that this fact is not apparent on the face of the award.

The incontrovertible factual position obtaining in this case is, that this Ministry had neither been consulted in the matter of engagement of the counsel nor had ever been associated directly or indirectly with the defence/handling of the matter before the Arbitrator. In view thereof, the irresistible conclusion is that no responsibility whatever can conceivably be attributed to the Ministry of Law and Justice in this behalf.

Notwithstanding the position indicated hereinabove, suitable instructions have been issued to the administrative Ministries/Departments in view of the observations made by the P.A.C. Copy of these instructions is also being furnished to the Lok Sabha Secretariate.

[Legislative Deptt. O.M. No. G-25015(1)/76-B & A, dated 11-8-76]

1.62. The Committee note that the Ministry of Law, though consulted at a late stage, categorically disown all responsibility for the defence/handling of the instant case since it claims to be never "associated directly or indirectly" with it. Perhaps a closer association of the Law Ministry at earlier stages of this unfortunate transaction which has cost the country's treasury very heavily would have helped matters. Following upon the somewhat inept conduct, earlier noted, during the arbitration proceedings, Government's acceptance of an unreasoned and patently perverse award leaves a bad taste in the mouth. In spite of the Law Secretary's opinion that the award could not be revoked in spite of errors in law and in fact, there appears also to be a view that as a matter of "remote possibility", the Court could interfere and set aside the award. The Committee cannot appreciate Government's fear of what it calls "avoidable litigation" in a matter where an obviously egregious award had gone heavily, in financial and other terms, against the State. If, indeed, the law regarding arbitration is so open to abuse, as the Committee have had painfully to note in some other cases also, Government should forthwith examine the

issue and find a principled remedy to problems that have arisen frequently. The Committee, however, feel that in the facts of the circumstances of this case, the question of challenging the award under section 3 of the Arbitration Act should have been pursued further and more diligently.

#### Low utilisation of Dredgers at Calcutta Port

1.66. On the question of utilisation of Dredgers available with the Calcutta Port Trust, the Committee had, in para 7.52 of their 196th Report (5th Lok Sabha), observed as follows:—

“In the matter of the operation of Dredgers at Calcutta Port, the Public Accounts Committee had only last year, in their 175th Report on Calcutta Port Trust made their comments on the low utilisation of Dredgers, owned by the Port. Drawing attention to the reports of two experts Committees on the subject, the Committee had pointed out that within the Dock system the hours worked by Dredgers during 1965-66 totalled only 6,788 as against the total time of 60,000 hours available for dredging if the dredgers worked round the clock, and 20,000 hours on eight hour shift basis. Further it was not at all a happy situation that against a norm of 5,200 hours of working per annum by a dredger, as suggested by the Dredger Utilisation Committee (1972-73) the time worked by the River Dredgers at Calcutta Port ranged between 600 and 2,151 hours in 1973-74, the actual dredging time being between only 300 and 1,203 hours. Now that as a result of improvement on account of Farakka Waters flowing in, ships of bigger draughts are expected to be handled at Calcutta, with better provision of deep water near the Dock, the Committee trust that substantially better, if not full, utilisation will be made of the Dredgers operated by the Calcutta Port. The Committee desire that all the dredging requirements of not only Calcutta but also Haldia will be met by the existing fleet of Dredgers without requiring any addition to their number. Between Calcutta and Haldia the entire port complex, rejuvenated and renovated by the Farakka construction, should play the dynamic role expected of it in the context of our developing economy.”

[SI. No. 38 of Appendix VII, Para 7.52 of 196th Report of the P.A.C.—Fifth Lok Sabha)



extension beyond June, 1968 to contractor 'A' in respect of the excavation work in the Reach RD 10-68, the said contractor was granted extension up to June, 1969 by the Control Board, and the only reasons left on record are "difficulties explained by the firm as reported in the agenda papers." The papers relating to the relevant meeting of the Control Board reveal that the Chief Engineer of the Project had specifically mentioned that "an extension from March to June, 1968, had already been granted to the firm in consideration of their difficulties in arranging the machinery," and "hence no further extension can be given." The Chief Engineer had also recorded that procurement and selection of the machinery was entirely the concern of the contractor, adding that notwithstanding this position the contractor had been given equipment worth about Rs. 37.5 lakhs in the interests of the work. The Chief Engineer had also referred to two generating sets having been made available on hire to the contractor. In the absence of any recorded reasons, it has not been possible for the Committee to examine the justification for the Control Board departing from the specific recommendation of the Chief Engineer. The Committee take a serious view of the matter and recommend that it should be probed into thoroughly, and responsibility fixed for such apparently anomalous conduct."

[S. No. 27, Appendix VII, Para 5.10 of 196th Report of the PAC  
(5th Lok Sabha)].

1.44. The Ministry of Agriculture & Irrigation (Department of Irrigation) in their reply dated the 29th July 1976 stated as follows:

"The contract for the reach at RD 10 to 68 involving 75 crore cft. of earthwork was allotted to the contractor A in Jan., 1965. The contractor had to import some equipment involving foreign exchange while the project was to supply power along the Feeder Canal between RD 32 to 47.5 during 1965-66 season. There were certain delays on the part of the contractor in arranging all the imported equipment and moreover, the imported equipment which reached the site did not give good performance during 1965-66 season. The Department too could not lay the transmission lines and make power available

during this season. No doubt some generators were given to the contractor on hire basis but these were not adequate to cope with the magnitude of the work. In spite of these difficulties, the contractor was able to excavate 14.69 crore cft. during 1965-66 season.

In April 1966 the contractor applied for extension for one year i.e. up to June, 1969. The extension of three months beyond March, 1968 up to June 1968, referred to in this para had been agreed to by the Chief Engineer in January 1965 within one month of the issue of the letter of Intent (which stipulated 31-3-68 as the date of completion) on account of the delay in the issue of the work order after finalisation of the contract conditions by the Negotiation Committee. This was approved by the Control Board in May, 1965.

As regards the departmental equipment loaned out to the contractor in 1965, this comprised 4 Nos. Russian Drag-lines of 3|4Cyd. capacity and 8 Nos. dozers and pushers and 1 No. grader but no Scrapers or Dumpers. Consequently this assorted equipment did not form a composite earthmoving unit but augmented the contractor's working units which, in that year, comprised 30 Nos. Tractor drawn Scrapers, 20 Nos. motorised scrapers and 25 Nos. dozers of various sizes. The contractor's programme for 1965-66, 1966-67 and 1967-68 working seasons was 21 crore cft., 25 crore cft. and 30 crore cft. respectively. Due to the various difficulties mentioned above, he could achieve only 14.69 crore cft. in the first season.

As explained in reply to point 15(a) and 15(b), arising out of oral evidence, Chief Engineer was fully competent to grant or refuse extension but he forwarded the case for the consideration of the Control Board without giving any positive recommendation of his own.\*

Obviously the Contractor 'A' could not proceed with the work at the desired speed on account of the reasons explained above and his request for extension for one year was, therefore, fully justified. Hence his request was acceded to by the Control Board in November, 1966.

---

\*Not vetted by Audit.

It would not, therefore, appear necessary to investigate this case, decision on which was taken after full consideration of the relevant issues, by the Farakka Control Board which is the highest level body for guiding the construction activities."

1.45. The Committee note that their suggestion for further investigation of the case relating to grant of further extension to contractor 'A' beyond 30th June, 1968 in respect of the excavation work in the reach RD 10-68, has not found favour with Government. The reasons advanced are that the first extension from March, 1968 to June, 1968 was granted on account of delay in the issue of the work order after finalisation of the contract conditions by the Negotiation Committee, that the contractor was finding difficulties in spite of some departmental equipment having been lent to him, and that the Chief Engineer who was fully competent to grant or refuse the extension had forwarded the case for the consideration of the Control Board without giving any positive recommendation of his own. The Committee are not convinced by this argument. As stated in their original recommendation, the papers relating to the relevant meeting of the Control Board (where extension was granted beyond June, 1968) revealed that the Chief Engineer had specifically mentioned that "an extension from March to June, 1968 had already been granted to the firm in consideration of their difficulties in arranging the machinery" and "hence no further extension can be given". The Chief Engineer had also recorded that procurement and selection of machinery was entirely the concern of the contractor. The Committee are surprised that in spite of the clear and categorical remarks of the Chief Engineer in the agenda papers relating to the relevant meeting of the Control Board, the only reasons left on record for granting further extension were "difficulties explained by the firm as reported in the agenda papers". Surprisingly, even the question of the imposition of some penalty on the contractor was not at all discussed. The Committee cannot therefore help the view that undue favour had been shown to contractor 'A' and that this is a fit case requiring further probe for fixation of responsibility for what appears to be anomalous conduct. They reiterate their original recommendation and expect intimation in due course about the enquiries made in the matter and the results thereof.

*Payment of higher rates outside the contracts*

1.146. In paragraph 5.29 of their 196th Report (5th Lok Sabha) the Committee had observed:

"The Committee find that as against the contracted rates of

Rs. 11.30, Rs. 12.50 and Rs. 12.43 per 100 cft. for excavation work-in the Reaches RD 10-68, RD 68-97 and RD 97-103 respectively, contractor 'A' and 'B' were paid, 'ex-gratia', higher rates of Rs. 16.5 per 100 cft. for work done during 1969-70 and Rs. 20.65 per 100 cft. for work done during 1970-71 and thereafter. Such higher rates were paid in spite of the fact that they were clearly outside the terms of the relevant contracts."

[S. No. 29, Appendix-VII, Para 5.29 of 196th Report of the P.A.C.  
(5th Lok Sabha)]

1.47. In their Action Taken reply, dated the 24th January, 1977 the Ministry have justified the payment of higher rates in the following terms:

"As has been explained in para 4.26 the question of considering payment of *ex-gratia* rates to Contractors A&B arose only when these contractors were not prepared to continue with their contracts on account of the deteriorating law and order situation and labour unrest in the Project area due to which they were unable to get the desired output from the machines. In case these contracts were rescinded on account of the failure of the contractors to continue with the jobs, the tendered rates, if tenders were invited afresh, were bound to be high from the firms who were considered technically and financially capable of executing the work in time. Moreover, the contractors A & B might have in that case, gone to the court for seeking redress which, would have further delayed the execution of the works. Consequently the Control Board decided in the larger interests of the Project to get the contractors representation of higher operational cost and request for relief, examined in depth by an Inter-Departmental Committee. This Committee recommended higher rates after it had carried out a thorough study of the matter and was fully convinced about its justification."

1.48. The Committee wish to refer back to their earlier observations on analogous cases and to reiterate their unhappiness at Government finding itself virtually in a position where there was no alternative, in Government's view, to yielding to the 'contractors' escalating demands. This is a situation which, being likely to recur

**at other big construction sites, should be carefully analysed and all precautionary measures adopted.**

*Issue of machinery & Stores to contractors outside their contracts*

1.49. In paragraph 5.33 of their 196th Report (5th Lok Sabha), the Committee had observed:—

“Since, as pointed out by the Chief Engineer of the Project himself, the procurement and selection of machinery etc. was entirely the concern of the contractors themselves, it is evident that the issue to the contractors of materials and stores from the Stores of the Department was in itself a big concession to the contractors. Even so, this concession to the contractors was not taken into account by the Inter-Departmental Committee while examining their claims for rates higher than the contracted rates outside the terms of their contracts. The Committee are of the view that the Inter-Departmental Committee have, by a series of decisions, invited, on themselves, a suspicion of dereliction of duty which should be cleared by Government with a view to suitable action it called for, in the matter.”

[S. No. 30, Appendix-VII, Para 5.33 of 196th Report of the P.A.C.—  
(5th Lok Sabha)]

1.50. In their Action Taken reply, dated 29-7-76, the Ministry of Agriculture & Irrigation have stated:

“The statement of the Chief Engineer of the Project in regard to the procurement of machinery etc. was in the context of giving extension to the contractor ‘A’ beyond 30-6-68 and is not related to the issue of materials and stores which was considered necessary in the interest of Department and cannot, therefore, be taken as a concession to the Contractor. Moreover, Government’s interest was fully safeguarded in fixing the issue rates.

Government consider that the recommendations of the Inter-Departmental Committee which comprised senior engineers and officers were based on all the relevant considerations keeping in view the larger interests of the Project. These recommendations were duly considered by the Government before acceptance.”

1.51. The Committee regret that they would require further to be satisfied that the issue of materials and stores to the contractors from the Department's own stores did not amount to a concession which was not to be expected in the usual course by the contractors. In view of the indulgence with which the contractor's inflated claims appear often to have been granted, the Committee would like to know the position in clearer detail before they can appreciate Government's viewpoint.

1.52. In connection with the payment pertaining to the period 1969-70 to Contractor 'A' without obtaining a written confirmation from the Contractor that he had no claims in respect of the period January 1966 to September 1969, the Committee in paragraph 6.21 of their 196th Report of the Public Accounts Committee (5th Lok Sabha) had observed as follows:—

"The Committee disapprove of the leisurely and lukewarm manner in which the whole case of arbitration of the so-called dispute between the contractor 'A' and the Project authorities was handled by Government. In March, 1971, when the contractor conveyed his acceptance of enhancement of rates (as decided by the Special Committee), for earthwork done during 1969-70 and thereafter, and his letter was conspicuously silent about his reaction to the rejection by the said Committee of his claim for the period January, 1966 to September 1969, the situation required that before making any payment Government should have secured from him clear written confirmation of the position in respect of the period January, 1966 to September, 1969."

[S. No. 31, Appendix-VII, Para 6.21 of 196th Report of the P.A.C.—  
(5th Lok Sabha)]

1.53. In their reply dated the 29th July, 1976, the Ministry of Agriculture & Irrigation (Department of Irrigation) stated as follows:

"In the erstwhile Ministry of Irrigation and Power letter No. 1128/701-FBP dated the 11th March, 1971, while conveying sanction to the *ex-gratia* payment to Contractors 'A' and 'B' in respect of actual earthwork done by each during 1969-70 season, 1970-71 season and further, it was provided that 'the contractors agree in writing that these payments

will be in full and final settlement in respect of these items arising out of the respective contracts'. It was also mentioned in this very letter that the claims of the contractors for the period prior to September, 1969, were rejected.

The firm gave an undertaking that they were accepting in full and final settlement payments in respect of claims for the enhancement of rates for the earthwork done from 1969-70 season onwards.

In this respect it may be stated that subsequently in a similar case when an unambiguous undertaking had been obtained, it was held that such disputes had arisen out of or in relation to the contract and are referable to the arbitration under clause 25 of the Contract Agreement which is wide enough."

1.54. The Committee are surprised to note that the above-quoted reply of the Ministry is completely silent as to the reasons for not having obtained a written undertaking from contractor 'A' that the rejection by the special Committee of his claim for the period January, 1966 to September, 1969 was acceptable to him. The Ministry appear to have taken shelter behind the position that in a similar case when an unambiguous undertaking had been obtained it was held that such disputes were referable to arbitration under Clause 25 of the Contract Agreement. In the absence of full details of the case and of its being comparable with the instant issue, the Committee would not like to make any positive observations, but they can hardly conceive that the contractor, even in arbitration, could succeed in getting any additional payments for the period from January 1966 to September 1969, if he had given a written undertaking that the rejection of his claim by the Special Committee for the said period was acceptable to him. There is need, therefore, for a further probe with a view to fixation of responsibility for the lapses, if any, involved in the matter and early intimation of the results to the Committee.

*Conduct of Project case before the Arbitrator*

1.55. In paragraph 6.23 of their 196th Report (5th Lok Sabha), the Committee had observed:—

"In so far as the pleadings before the arbitrator are concerned, it is surprising that the reasonableness or otherwise

of the quantum of compensation demanded by the contractor was not posed into by the government side at all. No oral evidence was led before the arbitrator, and no reasons seem to have been recorded in justification of such an omission. Also, no counter-claims were made by Government on account of the concessions extended to the contractor in spite of his failure to adhere to the time schedule. There were other facilities, like use of government machinery etc. given to the contractor which too should have been put forward before the Arbitrator, in order to have the amount of award suitably reduced if not completely negated. The loss suffered by government on account of the contractor arbitrarily stopping work and causing delay and cost escalation was another point that should have been pressed strongly before the arbitrator by way of counter-claim, but it was not done. The contractual obligation of the contractor to take up additional excavation work at old rates, which the contractor failed to fulfill and Government did not enforce, gave another, valuable advantage to the contractor. No counter-claim on this account also was made before the Arbitrator. The Committee feel strongly that Government's defence was not resolutely, or even properly conducted.

[S. No. 33, Appendix-VII, Para 6.23 of 196th Report of the P.A.C.—  
(5th Lok Sabha)]

1.56. In their reply dated 29-7-76 to the above quoted observations of the Committee, the Ministry of Agriculture & Irrigation have stated as follows:

“The department took a firm stand before the arbitrator that the contractor was not entitled to any relief or compensation in respect of the work done by him between January, 1966 to September, 1969 and that contractor's claim was not tenable as per terms and conditions of the contract. The department did not enter into any argument about the reasonableness or otherwise of the quantum of compensation demanded by the contractor as by doing that an impression would have been created that the department was only disputing the reasonableness of the quantum of compensation while accepting, in principle, the justification thereof.



It was considered advisable by our counsel that in the absence of any oral evidence on the part of the claimants, there was no necessity on the part of the defendants to refute the claim by oral evidence. It may be mentioned that in any arbitration case, it is for the claimants to substantiate their claim either by oral or documentary evidence. But as the claimants in this case chose not to lead any oral evidence (they perhaps thought that the documents submitted by them will speak for themselves), the defendants also thought it proper not to adduce any oral evidence. As such, the whole matter was allowed to proceed on the basis of statement and counter-statement to be backed by the documentary evidence of both sides.

The time extensions were granted to the contractor in consideration of the hindrances and the difficulties faced by him at site and which were considered to be beyond his reasonable control. The facilities extended to the contractor such as payment, issue of P.O.L., spares and hiring out of departmental machinery were prompted by the anxiety to complete the work as quickly as possible. Besides, since these facilities were not provided gratis and were charged to the contractor according to the rules of the Department they cannot in true sense be termed as concessions.

The work was kept suspended by the contractor in the beginning of 1970-71 working season only whereas the dispute in question was for the period prior to September, 1969. As such, projection of these factors before the arbitrator was not relevant. Further when the claim of the contractor before the arbitrator was for compensation for the loss sustained by him in executing the earthwork covered in his original tender at his tendered rate, putting counter-claim before the arbitrator for failure on the part of the contractor to take up additional work at his old tendered rates, especially when their tender rate had already been enhanced by the Government from the working season of 1969-70, after due consideration of the pros and cons, did not carry conviction."

**1.57. The Committee are perplexed by Government's claiming to take "a firm stand" before the arbitrator and yet displaying a**

kind of listlessness and inefficiency which must, in the country's interest, be shed. It cannot be that Government do not know that while denying a party's claim to compensation altogether, it is entirely open in law (and often practically useful) to add to the denial an alternative pleading, made without prejudice, regarding the patently unreasonable quantum of the compensation demanded. The Committee cannot also understand why positive oral evidence, which was very much there, had not been led by Government when it was likely to fortify Government's case. The plea that the claimant, on his part, had no oral evidence to offer cannot justify Government's remissness in this regard. It is strange also to see Government going out of the way to aver that the provision of many, valued facilities to the contractors (who are found to be recalcitrant) did not amount to "concessions" since they were covered by departmental rules. Where the contractors are given all reasonable assistance to get on with their work, Government should make sure that the generosity is properly reciprocated, which clearly has not happened in this case. The Committee cannot appreciate Government's lukewarm attitude towards its own rights and the clearly defeatist approach shown in this and other episodes examined by them.

1.58. The Committee had also commented adversely on the conduct of the case relating to arbitration by the Project authorities in the Court of Law, in the following terms:

"In spite of the position as stated above, Government decided not to pursue the objection petition against the award of the arbitrator filed by them in the court of the Subordinate Judge, Murshidabad, but preferred to pay off the awarded amount to the claimant. The Committee are of the view that the conduct of the case was entirely mismanaged. Government should review the whole matter and fix responsibility for lapses made in course of the reference of the so-called dispute to arbitration and the presentation of Government's case before the arbitrator, with a view to suitable action against those found guilty of dereliction of duty at various levels. Reference to arbitration without careful examination of the implications and indifferent organisation of Government's defence in case involving the financial interests and also the reputation of the State must not be allowed to recur. Since, on the evidence before the Committee, the services of the law officers of Government do not appear to have been available effi-

ently and expeditiously in this unfortunate case, the Committee wish Government to look into this aspect of the matter and take all appropriate action."

[S. No. 34, Appendix VII, Para 6.25 of 196th Report of the PAC—5th Lok Sabha).

1.59. In their reply, dated the 29th July, 1976, the Ministry of Agriculture & Irrigation have stated:—

"For the defence of the Government case Shri A. B. Ghoshal Superintending Engineer, Canal Circle, Farakka Barrage Project and the Executive Engineer, Feeder Canal Division, Farakka Barrage Project, the officers who were connected with the work of execution of the Feeder Canal and who had thorough knowledge of the case were entrusted with the defence of the case on behalf of the Government before the sole arbitrator. The services of Shri L. N. Mukherjee, Advocate and Government Pleader, whose name was sponsored by Government Pleader, Berhampore, through the District Magistrate, Murshidabad, was engaged by the Project in October, 1968, to help the project authorities in presenting the case. A study of the case has been done and it is considered that the officer concerned, while presenting the case for the Project, took all precautions to safeguard the interest of the Government in presenting the case in the best possible manner. Senior Officers and legal adviser were present on all the important hearings and the case was prepared under their direct supervision. However, as this was the first major case of arbitration in the Project after the award was received, the whole matter was reviewed and the instructions to safeguard Government's interest have been issued as indicated in reply to para 6.22. These instructions are being reviewed from time to time.

Apart from the instructions contained in the erstwhile Ministry of Irrigation & Power's O.M. 7(20)/73-IF, dated 14-8-73 regarding the appointment of arbitrators in cases of arbitration, the arbitration clause in the contract agreement has since been modified to provide for a speaking award in cases where the amount of claims exceeded Rs. 50,000/- The other amendment provides for the award not to carry any interest. Since then, contracts entered into by the Project are based on the amended form contract agreement.

On the basis of the documents available and other relevant facts of the case, it is observed that the concerned officers had taken all reasonable care to safeguard the interests of the Government and conduct the cases to the best of their abilities. No malafide intention on the part of any Government official has come to the notice while going through the records. No doubt, this was the first major case for arbitration and the project officers were handling it for the first time. The entire team of officers was geared to the work of completing the Farakka Barrage and the feeder canal according to the targets. In spite of this, the senior officers were present in all the hearings to supervise the presentation of the case in the best possible way. The execution of the Farakka Barrage and the Feeder Canal, as the Committee are aware is a great engineering feat. All the offices, workers and technicians have gained most valuable experience which will, no doubt, prove to be extremely useful, in future, while implementing such large projects. It is, therefore, urged that the Committee may take a broader view of the matter. It is difficult to fix the responsibility on the basis of available records. Further, the Government has since taken all possible measures, on the basis of experience of Farakka, and reviewed the entire matter relating to arbitration awards as explained above. Taking into consideration these facts and also the effect of such an enquiry on the future programmes for implementation of such unique project, it may not be desirable to conduct enquiry into the matter."

1.60. The Committee have been more than ready and willing to take, as Government urge, "a broader view of the matter", particularly on account of the unique character of the Farakka construction. Besides, the Committee have not, in the absence of adequate and positive evidence, even hinted at 'malafide' being involved. The Committee are convinced, however, that the conduct of legal proceedings on the part of Government had been neither efficient nor expeditious. Even if it is thought better to draw a veil over what happened in "the first major case for arbitration" handled by inexperienced Project officials, the lessons, as indicated by the Committee, should be carefully and unhesitatingly drawn.

1.61. The Committee had also called for a reply from the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) on their observations relating to the legal advice that was tendered

to the Project authorities on the Arbitration case. The observations of the Committee, made in paragraphs 6.24 and 6.25 of their 196th Report (5th Lok Sabha), and the reply furnished by the Department of Legal Affairs, are reproduced below:

### **Recommendation of the Committee**

- 6.24. As far as award of the arbitrator is concerned, the Committee would draw attention to the opinion expressed by the Joint Secretary and Legal Advisor in the Calcutta Branch Secretariat of the Ministry of Law, namely that "the arbitrator ought not to have relied solely on the statements furnished by the contractor in support of these claims in the absence of any oral evidence affirming the correctness of the contents of such statements. The same official has also referred to the judgement reported in A.L.R. 1955, Supreme Court, Page 468 and stated that the present award seems to be a flagrant case where the arbitrator has misapplied the law to give a perverse award.
- 6.25. In spite of the position as stated above, government decided not to pursue the objection petition against the award of the arbitrator filed by them in the Court of the Subordinate Judge, Murshidabad, but preferred to pay off the awarded amount to the claimant. The Committee are of the view that the conduct of the case was entirely mismanaged. Government should review the whole matter and fix responsibility for lapses made in course of the reference of the so-called dispute to arbitration and the presentation of Government's case before the arbitrator, with a view to suitable action against those found guilty of dereliction of duty at various levels. Reference to arbitration without careful examination of the implications and indifferent organisation of Government's defence in cases involving the financial interests and also the reputation of the State must not be allowed to recur. Since, on the evidence before the Committee, the services of the law officers of Government do not appear to have been available efficiently and expeditiously in this unfortunate case, the Committee wish Government to look into this aspect of the matter and take all appropriate action.

**Action Taken reply of Ministry of Law, Justice & Company Affairs.**

After bestowing careful and earnest consideration on the entire matter, it is considered that the advice tendered by this Ministry in this matter on different occasions was in accordance with law and in the best interest of Government. The arbitration clause viz., clause 25 of the agreement is of a very wide amplitude and would certainly take in the dispute agitated by the contractor. Had the contractor's request for referring the matter to arbitration not been granted, it would have involved the Union of India in avoidable litigation and the court might have appointed an Arbitrator other than a Government servant. The advice of the Law Secretary advising the Government to accept the award is in consonance with the well established legal position fortified by a catena of Supreme Court authorities. Mention may be made of the following authorities in this behalf:—

1. Union of India v. Bungo Steel Furniture (P) Ltd. AIR 1967 Supreme Court 1032—(1967) 1 S.C.R. 324.
2. M/s. Allen Berry & Co. (Private) Ltd. v. Union of India AIR 1971 Supreme Court 696.
3. Upper Ganges Valley Electricity Supply Co. Ltd. v. The U.P. Electricity Board AIR 1973 Supreme Court 683.

It was a case of an unreasoned award in which there was no material to establish the misconduct, legal or otherwise, on the part of the Arbitrator. Nor could the award be successfully assailed on the ground of an error of law apparent on the face of it. In this connection it would be apt to point out that it has been consistently laid down by the Supreme Court in numerous cases including the cases referred to hereinabove that when the award is good on the face of it, it will not be set aside even when arbitrator commits mistake either in law or in fact in determining the matters referred to him and that if any such mistake does not appear on the face of the award or in a document appended to or incorporated in it so as to form part of the award, the award will neither be remitted nor set aside notwithstanding the mistake.

The inescapable conclusion would, therefore, be that the advice tendered by the Law Secretary was not only legally unexceptionable but the same was also in the best interest of the Government. The course other than the one indicated by the Law Secretary would have

imposed further financial burden on the Government which can by no means be regarded as insubstantial.

It may incidently be mentioned that the Branch Secretariat, Calcutta, had also clearly indicated that there is a remote possibility that the court may interfere and set aside the award. While expressing this view, it had also been pointed out that the award could not have been given by the Arbitrator unless he misapplied law and that this fact is not apparent on the face of the award.

The incontrovertible factual position obtaining in this case is that this Ministry had neither been consulted in the matter of engagement of the counsel nor had ever been associated directly or indirectly with the defence/handling of the matter before the Arbitrator. In view thereof, the irresistible conclusion is that no responsibility whatever can conceivably be attributed to the Ministry of Law and Justice in this behalf.

Notwithstanding the position indicated hereinabove, suitable instructions have been issued to the administrative Ministries/Departments in view of the observations made by the P.A.C. Copy of these instructions is also being furnished to the Lok Sabha Secretariate.

[Legislative Deptt. O.M. No. G-25015(1)/76-B & A, dated 11-8-76]

1.62. The Committee note that the Ministry of Law, though consulted at a late stage, categorically disown all responsibility for the defence/handling of the instant case since it claims to be never "associated directly or indirectly" with it. Perhaps a closer association of the Law Ministry at earlier stages of this unfortunate transaction which has cost the country's treasury very heavily would have helped matters. Following upon the somewhat inept conduct, earlier noted, during the arbitration proceedings, Government's acceptance of an unreasoned and patently perverse award leaves a bad taste in the mouth. In spite of the Law Secretary's opinion that the award could not be revoked in spite of errors in law and in fact, there appears also to be a view that as a matter of "remote possibility", the Court could interfere and set aside the award. The Committee cannot appreciate Government's fear of what it calls "avoidable litigation" in a matter where an obviously egregious award had gone heavily, in financial and other terms, against the State. If, indeed, the law regarding arbitration is so open to abuse, as the Committee have had painfully to note in some other cases also, Government should forthwith examine the

issue and find a principled remedy to problems that have arisen frequently. The Committee, however, feel that in the facts of the circumstances of this case, the question of challenging the award under section 3 of the Arbitration Act should have been pursued further and more diligently.

#### Low utilisation of Dredgers at Calcutta Port

1.66. On the question of utilisation of Dredgers available with the Calcutta Port Trust, the Committee had, in para 7.52 of their 196th Report (5th Lok Sabha), observed as follows:—

“In the matter of the operation of Dredgers at Calcutta Port, the Public Accounts Committee had only last year, in their 175th Report on Calcutta Port Trust made their comments on the low utilisation of Dredgers, owned by the Port. Drawing attention to the reports of two experts Committees on the subject, the Committee had pointed out that within the Dock system the hours worked by Dredgers during 1965-66 totalled only 6,788 as against the total time of 60,000 hours available for dredging if the dredgers worked round the clock, and 20,000 hours on eight hour shift basis. Further it was not at all a happy situation that against a norm of 5,200 hours of working per annum by a dredger, as suggested by the Dredger Utilisation Committee (1972-73) the time worked by the River Dredgers at Calcutta Port ranged between 600 and 2,151 hours in 1973-74, the actual dredging time being between only 300 and 1,203 hours. Now that as a result of improvement on account of Farakka Waters flowing in, ships of bigger draughts are expected to be handled at Calcutta, with better provision of deep water near the Dock, the Committee trust that substantially better, if not full, utilisation will be made of the Dredgers operated by the Calcutta Port. The Committee desire that all the dredging requirements of not only Calcutta but also Haldia will be met by the existing fleet of Dredgers without requiring any addition to their number. Between Calcutta and Haldia the entire port complex, rejuvenated and renovated by the Farakka construction, should play the dynamic role expected of it in the context of our developing economy.”

[Sl. No. 38 of Appendix VII, Para 7.52 of 196th Report of the P.A.C.—Fifth Lok Sabha)



1.67. In their reply, dated June, 1976, the Ministry of Shipping and Transport have stated:

"The recommendations of the Committee have been noted by the Calcutta Port Trust for appropriate action.

It may, however, be mentioned that while it may be possible for the C.P.T. to meet the requirements of Dock dredging without any addition to their existing fleet, the requirement of river dredging, both below and above Haldia, will be dependent upon the development and stabilisation of shipping channel, completion of all corrective works, quantum and pattern of headwater flows etc."

(Transport Wing O.M. No. PGA-7/76 dated June, 1976)

1.68. In view of Haldia being commissioned already in the near future, the Committee would like Government to expedite ascertainment of river dredging requirements and to ensure without delay better working of the dredger fleet, as recommended by the Committee, in the entire Calcutta-Haldia port complex whose co-ordinated functioning is essential.

*Navigational locks at Farakka*

1.69. In paragraph 8.14 of their 196th Report (5th Lok Sabha), the Committee had observed:

"When the Study Group of the Committee visited Farakka they were given to understand that the navigational locks at Farakka are yet to be completed. According to the audit report the major expenditure on account of navigational facilities (Rs. 13.00 crores out of Rs. 19.06 crores) is yet to be incurred as part of the Farakka project. From the experience of the construction of the Feeder canal, the Committee fear that unless the Government of India and the Project authorities are vigilant, this work may also get unduly delayed and the benefit to the nation of heavy investments already made may be jeopardised. The Committee recommend that a programme for the completion of the construction programme not only at Farakka but also upstream to Patna and Allahabad should be drawn up in consultation with all relevant authorities."

[S. No. 42, Appendix VII, Para 8.14 of 196th Report of PAC, (Fifth Lok Sabha)]

1.70. In their Action taken reply, dated 5-8-76, the Ministry of Shipping & Transport have stated:—

“A Review Committee has been appointed on 26th September, 1975 by the Department of Irrigation to review the progress of the remaining works of the Farakka Barrage Project. In its first meeting held on 14th November, 1975 the Review Committee desired that the Inland Water Transport Directorate should give its immediate and projected requirements for the remaining navigation works and also advise on the framing of rules for navigation, navigational aids, levying of toll tax, etc. To achieve this, a working group consisting of representatives of Inland Water Transport Directorate, Government of West Bengal, Govt. of Bihar, Calcutta Port Trust, Farakka Barrage Project and Central Water Commission has been set up on 16th February, 1976. The Group had one meeting on 19th and 20th March, 1976 in which the representative of Government of West Bengal informed that a Law Commission appointed by his Government was examining the legal issues concerned with navigation and toll tax. The Working Group has requested the Calcutta Port Trust on 19th April, 1976 to prepare detailed requirements of men and materials required to manage navigation at Farakka and also in the reach between Calcutta and Farakka for operation of locks and maintaining other arrangements. Another meeting of the Group was held on 23rd and 24th July, 1976, the minutes of which are awaited. Next meeting of the Working Group will be held as soon as reports of the National Council of Applied Economic Research regarding traffic study of the Calcutta Port Trust on requirements of navigation and of the Law Commission appointed by the Government of West Bengal are received.”

[Ministry of Shipping and Transport and I.W.T. Directorate, O.M. No. 28-IWT (5) |76-P & W, dated 5-8-76]

1.71. The Committee regret that avoidable procrastination appears to be taking place even on fairly simple issues like the provision of navigational facilities legitimately expected to follow from the Farakka construction. Government should do well to prepare a time-bound programme regarding the completion of navigational locks at Farakka and the commencement of traffic upstream to Patna and perhaps also Allahabad.

*Development of Farakka as a Tourist resort*

1.72. In paragraph 8.24 of their 196th Report (5th Lok Sabha), the Committee recommended development of Farakka as a Tourist resort, in the following terms:—

“The Committee feel that the magnificence of the Barrage construction, the fascinating sight of water flowing through the Feeder Canal, and the enchanting greenery all around the area, provide the natural as well as man-made background for the development of the area into an attractive tourist resort which could, in due course, grow into a sizeable source of earnings even of foreign exchange through tourists from other countries. The Committee desire that the schemes already made by the State Government in this regard should be examined and all essential assistance should be given to them by the Central Government also.”

[S. No. 46 in Appendix VII, para 8.24 of the 196th Report of PAC (Fifth Lok Sabha)]

1.73. In their reply dated 15-7-76, the Ministry of Tourism & Civil Aviation have stated:—

“During the Fourth Five Year Plan, the State Government had requested the Central Government to set up a camping site at Farakka; this was the only scheme in the complex forwarded to the Central Department for their consideration. Due to the severe constraint on resources, a large number of schemes of the Central Government of Tourism including the programme for construction of camping sites had to be dropped. The Central Department of Tourism could not therefore undertake the construction of the camping site at Farakka.

During the Fifth Five Plan priorities have had to be revised. Due to the low priority of this project, which would be primarily for the use of domestic tourists, the Central Department of Tourism is not able to include it in its programme.”

[Ministry of Tourism & Civil Aviation O.M. No. H. 11013(13)/75-A—III Tourism dated 15-7-1976]

1.74. The Committee wish that with the magnificent construction completed, advantage is taken by Government to at least begin, in coordination with the State authorities, planning of a tourist complex in what might will be called a profitous sight. Intimation of any progress in this regard will be welcome.

## **CHAPTER II**

### **RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT**

#### **Recommendation**

The Committee are glad that though belated, the Farakka Project has now been completed and the Bhagirathi-Hooghly has, according to reports, started receiving 40,000 cusecs of water. Audit has commented upon the long and expensive delay in the execution of the project which, according to experts has already accentuated the forces adversely affecting the continued navigability of the river. If for any reason the discharge of an adequate volume of water, estimated by experts at 40,000 cusecs and repeatedly assured by the authorities, does not happen, the Committee fear it will be a grievous blow not only to Calcutta Port but to the entire economy of the wide, populous and productive region abutting on it, as also imperil Haldia's enormous potentialities. The Committee trust, however, that all difficulties will be overcome and the hopes, so long generated by Farakka, will to the extent possible, be fulfilled."

[S. No. 1 Appendix VII, Para 1.16 of 196th Report of the  
PAC (Fifth Lok Sabha)]

#### **Action Taken**

Noted. In this connection reply to para 7.50 may also be seen.

[Ministry of Agriculture and Irrigation (Department of  
Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76]

#### **Recommendation**

The Committee also feel that all those engaged at various levels in a national project should be clear in their minds about the objective as well as the time frame. The Committee are sanguine that if persons at all levels realised that each year's delay meant a severe set back to the navigational conditions for Calcutta Port with its consequential repercussions practically on the whole of the North-Eastern region and that the excavation of the canal and barrage were integral parts of the same scheme, there would have been a greater response and determination to overcome the difficulties and achieve the national objective in time.

[S. No. 5 Appendix VII, Para 2.9 of 19th Report of the  
P.A.C. (5th Lok Sabha)].

**Action taken**

**Noted.**

[Ministry of Agriculture & Irrigation (Deptt. of Irrigation)  
O.M. No. 6|2|78|-FBP dated 29-7-78.]

**Recommendation**

As regards the delay of two to five years in the acquisition of the homestead land in both cases, the Committee feel that the matter was not handled with tact and firmness. The Committee feel that once the alignment of the land had been decided, it should have been possible to approach the Collectors through the Special Land Acquisition Officer etc. much ahead of the six months' period that was usually followed. In that case, the proceedings could have been completed in time and possession of the land taken over. The plea of time required for settling the oustees cannot also be accepted, as Government with their vast experience in this matter should have taken adequate measures to settle the oustees well in time and earn the goodwill of the local population as well as the State Government.

As regards cases being dragged to the court, the Committee feel that in a project of profound national urgency, such as Farakka, Government should have pursued the matter at all levels with a view to forestalling any delay in the excavation work.

The Committee recommend that Government should analyse in depth the extent to which this lag in land acquisition has been responsible for delaying the works and what measures should be taken to see that it does not recur in the execution of other national projects. The Committee would stress the need for closer liaison between the Central authorities and the State Governments at all levels in order to ensure timely and successful execution of the Project.

[S. Nos. 7, 8, Appendix-VII, Para 2.12, 2.13 & 2.14 of  
196th Report of the P.A.C. (5th Lok Sabha)]

**Action taken**

To expedite acquisition of land in time for smooth and uninterrupted execution of the works within the time schedule, a machi-

nery was set up in close coordination with the State Government. A special Land Acquisition Officer was appointed by West Bengal Government exclusively for land acquisition work on this project and, in addition, the Project obtained on deputation an officer of the Land & Land Revenue Department of the State Government for effective liaison with the various authorities, remove the bottlenecks and accelerate the land acquisition proceedings to the maximum possible extent. Such problems of land acquisition as arose from time to time were brought to the notice of the West Bengal Government, some even at the highest level. It was the result of these measures that all the 'B' schedule (Home-stead) land was acquired and taken possession of by 1968-69. Therefore, except for some delay in the earlier period, there was no delay in acquisition or resettlement of oustees which could have caused any setback to the construction of Feeder Canal.

As regards the court cases, it is submitted that land acquisition proceedings are lengthy and complicated and therefore despite all the above measures, some parties did take advantage of certain lacuna in the procedures of acquisition of home-stead lands ('B' schedule lands) and took the matter to the Law Courts, but all such cases were settled well in time by 1968-69 and did not cause any setback to the target date of completing the Feeder Canal.

As has been stated above, there was no delay in acquisition of land for the Feeder Canal works even in spite of some land acquisition cases having been taken to the Law Courts. However, the observation of the Committee under para 2.14 have been noted.

[Ministry of Agriculture & Irrigation (Department of Irrigation)  
O.M. No. 6/2/76-FBP dated 29-7-76]

### Recommendation

The Committee would reiterate that the delay of four years in the execution of the project has brought about serious escalation of the cost. Government and field authorities should have known that time is money. By execution of the project in a co-ordinated and expeditious manner costs could have been kept down and would not in any case exceed greatly those indicated in the original estimates. Besides, early completion means earlier

productive utilization by the country of the national assets created. The Committee urge that this aspect should be always prominently kept in view in the execution of projects, and particularly those of national importance like Farakka Barrage.

[S. No. 14, Appendix-VII, Para 2.28 of 196th Report of the P.A.C.  
(5th Lok Sabha)]

#### **Action taken**

As has been mentioned under para 2.5, there have been many reasons which contributed to the delay in the completion of the Feeder Canal a little later than the Barrage. The excavation of the Feeder Canal, the largest canal of the country, substantial part of which was below ground water level, posed many problems and was of a very difficult nature.

However, the observations of the Committee have been noted.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 6/2/76-FBP dated 29-7-76]

#### **Recommendation**

Apart from the aspect of delay, the Committee find that contractor 'C', who was selected by the Tender Committee for completion of work between RD 103—126 stopped work in June, 1969, with the result that Government had to entrust this work to another Contractor 'A', who had to be paid an additional sum of Rs. 2.03 crores. The Committee feel that if the antecedents of Contractor 'C', who did not have adequate experience of such large scale and intricate work had been properly assessed, Government would not have found themselves in this predicament. Since this happened in spite of a high-powered body, being very much in the picture, the Committee trust that Government will take steps to ensure that when such bodies are formed they should be in a position to function in a smooth workmanlike and efficient manner.

[S. No. 23, Appendix-VII, Para 4.10 of 196th Report of the P.A.C.  
(5th Lok Sabha)]

#### **Action taken**

There is no doubt that contractor 'C' who was awarded contract for the reach RD 103—126 did not have requisite experience

of excavation work under such difficult conditions. But it is also a fact that the Feeder Canal was not only the largest canal to be constructed in the country but it involved extremely difficult jobs in its construction, viz., about 50 per cent of the earth work had to be done below the ground water level and there were few contractors in the country who could tackle such jobs. As this Contractor had also been awarded a big contract of Rs. 2.91 crores at Bokaro Steel Works, it was expected that he had the requisite financial resources and would be able to engage competent personnel having experience on such jobs for carrying out the excavation of the Feeder Canal by mechanised equipment. Moreover, he had asked for certain foreign exchange for import of equipment as demanded by the other tenderers. Nevertheless keeping in view his lack of experience the Tender Committee had wisely recommended that only about 1/3rd of the tendered work, viz., in the reach from RD 103 to RD 126 instead of the whole work in the reach from RD 68 to RD 126, tendered by him may be given to him. The work in the reach 68 to 97 comprising about half of the total work in the reach 68 to 126 was awarded to contractor 'B' and the balance reach RD 97 to 103 was set apart for contractor 'C' or 'B' depending on their performance. However, the recommendations of the Committee as contained in the last para are noted.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 6/2/76/FBP, dated 29-7-76]

### Recommendation

The Committee would suggest that a procedure should be evolved in order to ensure that in all cases where the advice of the competent authority (the Chief Engineer in the present case) is not accepted by a Committee/Board, detailed reasons for the same should be recorded in the minutes of the relevant meeting of the Committee/Board.

[S. No. 28, Appendix-VII, Para 5.11 of 196th Report of the  
PAC (Fifth Lok Sabha)]

### Action taken

Noted.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 6/2/76/FBP, dated 29-7-76]



### Recommendation

"Again, when it was decided that there was no escape from referring the matter to arbitration and it was open to the General Manager to appoint an arbitrator of his choice, the appointment of an officer of the standing of a Superintending Engineer working on the Project and therefore by no means a detached personality, to arbitrate on a claim of more than Rs. 2 crores, and that too on a case decided by a high level Committee consisting of some officers of the level of Joint Secretaries, would *prima facie* appear to be inappropriate. This is fully borne out by the fact that Government themselves became wise after the event, and have, since then, as the Committee were informed, issued revised instructions, linking the status of officers to be appointed as Arbitrators with the cases before them.

The Committee hope that subsequent to the issue of instructions in 1973 there has been no recurrence of such cases in any project. Nevertheless, Government should review the working of the instructions in the light of experience since gained and revise instructions if necessary, to protect Government's interest. The Committee have no doubt that in the present case much harm has been done.

[S. No. 32, Appendix VII, Para 6.22 of 196th Report of the P.A.C. (5th Lok Sabha)].

### Action taken

As was explained before the Committee the Arbitrator in this case had been appointed by General Manager in accordance with clause 25 of the Contract Agreement and keeping in view, the practice followed on the project till then. The Lacunae pointed out by the Public Accounts Committee in this case had earlier come to our notice after this case and after detailed examination, instructions were issued to General Manager, Farakka Barrage Project and Chief Engineers, Salal Hydro Electric Project, Loktak Hydro Electric Project and Baira Siul Hydro Electric Project in regard to procedure to be followed in appointment of arbitrators. These instructions have been followed on Farakka Barrage Project since then.

Subsequently the manner of presentation of Government case before the arbitrators was further reviewed and detailed guidelines were issued to General Manager, Farakka Barrage as indicated below:—

1. To ensure, in consultation with the Financial Adviser and Chief Accounts Officer and also the Ministry of Law,

Justice and Company Affairs (Branch Secretariat), Calcutta that in all the arbitration and court cases, the Project's side is presented in the strongest possible manner and no point of relevance or importance in favour of the Project is lost sight of.

2. To carry out very detailed scrutiny of the cases involving a critical appraisal of the opposite party's weakness and strength and thoroughly brief the lawyers engaged in such cases.
3. To ensure that no technical or legal loopholes occur in the Project's case before the arbitrator or the Court as the case may be, and that the lawyers engaged should as far as possible be first rate.
4. To ensure that all facts relevant to safeguarding the interests of the Government are presented before the Arbitrator.
5. To ensure that the status and competence of the legal counsel engaged by the Project are such that the case on behalf of the Project will be presented in the best possible manner.
6. To ensure that the case of the Project should not go by default due to non-furnishing of information required by the arbitrator or the legal counsel engaged on behalf of the project.

The General Manager has also been advised that he and the Superintending Engineers concerned would be held personally responsible for efficient conduct of the arbitration and other legal cases.

With these modifications and issue of specific instructions for taking due care in presentation of arbitration cases it is considered that Government interest would be adequately safeguarded.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 3276-FBP dated 29-7-76.]

### Recommendation

The Committee recall the Government of India's repeated and unequivocal concern for the long deteriorating navigability of the Bhagirathi-Hooghly and its determination to arrest the deteriora-

tion and save Calcutta Port from the menace of virtual extinction. This was stated categorically in 1972 when the country was assured from its highest forum that 'Calcutta Port will not be allowed to deteriorate, and all the modern techniques of adequate supply of head-water discharge and optimum dredging of tidal prism, where necessary, river training measures, etc. will be fully utilised to ensure the health of the great Port of Calcutta'.

The Committee have already dealt at length with the delay in the completion of the Farakka Barrage Project, constructed mainly for the purpose of improving the port of Calcutta, particularly the long gap of over three years between the completion of the Barrage and the completion of the excavation of the feeder canal without which the water intended to be diverted by the Barrage could not be carried to the Bhagirathi-Hooghly. This delay which in the Committee's view was avoidable has accentuated the process of deterioration. A statement during evidence by the Chief Hydraulic Engineer of the Calcutta Port is highly significant: 'The deterioration and decay that now occurs for nine months of the year is due to the sand that comes roughly from a distance of about 40 miles from Calcutta. This is very near about Diamond Harbour. It is not a static point. If, for example, Farakka was commissioned some years ago, this sand which, at that point of time, was coming from a distance of about 28 miles, would have stopped'. It is clear to the Committee that the additional deterioration in the conditions of the river caused by delay in excavating and operating the Farakka Feeder canal would have inevitably a detrimental effect on the length of time which the head water flow from Farakka would now require to achieve a halt in further deterioration of the sand and silt conditions in the Hooghly.

[S. No. 35 Appendix. VII, Para 7.48 and 7.49 of 196t], Report of PAC  
(5th L.S.)

#### **Action taken**

Noted.

[Ministry of Shipping & Transport (Transport Wing) O.M.  
No. DBY/5/76-PDB dated 7-6-77].

#### **Recommendation**

In so far as the river training works for improving the health and the behaviour of the Hooghly are concerned, the Committee are glad that the Port authorities have already made a beginning

in that direction. All necessary assistance, by way of funds and equipment, should be provided to the Port by the Central Government so that the effect of the flow of water from Farakka is supplemented by other positive steps and the removal of natural obstructions, which the river training works seek to achieve.

[S. No. 37 Appendix VII, para 7.51 of 196th Report of PAC (5 L.S.)].

#### **Action taken**

Calcutta Port Trust are executing various training and corrective works in the Bagirathi-Hooghly system to supplement and optimise the benefits of the Farakka Barrage. Government of India bears the cost of these works. A scheme for Rs. 8 crores for corrective works above Diamond Harbour and another scheme for Rs. 5.58 crores for improving the navigability of the River below Diamond Harbour have been sanctioned and the works are in progress.

[Ministry of Shipping and Transport (Transport Wing) O.M. No. DBY/5/76-PDB, dated 7-6-76]

#### **Recommendation**

"The Committee are happy that the increase in the headwater supply in the Hooghly has already reduced the salinity of the drinking water available to Calcutta. The Committee trust that these supplies would continue to be adequate during the lean months."

[S. No. 39, Appendix VII, Para 8.5 of 196th Report of the P.A.C. (5th Lok Sabha)]

#### **Action Taken**

Noted.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76].

#### **Recommendation**

"The Committee note that the Central Government, the State Government and the Calcutta Port Authorities appreciate the importance of improving the inland navigational facilities along the Ganga-Bhagirathi from as far upstream as Patna or even Allahabad down to Calcutta. There is very close link between the Farakka Project and the development of this major channel of inland navigation. Among the objectives of the Project, improvement in inland water transport has an important place. A sum of Rs. 130 crores has already (till May, 1975) been spent on the Project, which is now near completion. Every effort should thus be made to com-

plete also the studies being carried out about the river traffic position and draw up concrete programmes for an improved inland water transport service.

[S. No. 40 (Para 8.13) of Appendix VII to 196th Report of PAC  
(Fifth Lok Sabha)]

#### **Action Taken**

National Council of Applied Economic Research, New Delhi has been entrusted with the work of detailed traffic study on Ganga-Bhagirathi-Hooghly system between Allahabad and Calcutta. Its draft report has been received on 1st July, 1976 and 14th July, 1976 and comments of IWT Directorate thereon will be sent shortly. The Council will submit, its final report after taking into account the Directorate's comments. On the basis of the findings of the Council in its final Report regarding traffic and also economics of water transport, detailed Project Report will be drawn up with concrete programme for improved Inland Water Transport system in this region.

[Ministry of Shipping and Transport (I.W.T. Directorate) O.M.  
No. 28-IWT(5)|76-P&H dated the 5th August, 1976]

#### **Recommendation**

The Committee find from the note furnished by the Calcutta Port Trust that so far as the technical feasibilities about the minimum navigational depths, the type of crafts to be used and the methods of towage are concerned, no special difficulty is anticipated. Even so, the Committee recommend that the relevant reports be studied seriously and steps taken to work the inland transport service, along as much of the river as possible, to begin with.

[S. No. 41 Appendix VII, Para 8.14 of 196th Report of PAC (Fifth Lok Sabha).]

#### **Action Taken**

The requirements of Inland Water Transport craft will mainly depend on the nature and volume of cargo which will have to be handled within its origin and destination points. Since the details of water borne traffic would be available only after the study conducted by National Council of Applied and Economic Research is completed and the report made available, the size, method of towage, size of flotilla, etc., will be determined keeping in view the economics of operation and optimum utilisation of the waterway.

[Ministry of Shipping and Transport (I.W.T. Directorate) O.M.  
No. 28-IWT(5)|76-P&W dated 29th July, 1976].

### Recommendation

For the development of an inland transport service from Calcutta upstream towards Allahabad, some additional river port amenities would be necessary. The Inland Water Transport Committee has referred, among other things to the need of warehousing and container facilities. These problems should be examined expeditiously.

[(S. No. 43 Appendix VII, Para 8.15) of 196th Report of PAC (Fifth Lok Sabha).]

### Action taken

The necessity of additional river port amenities including warehousing and container facilities will be examined on the basis of volume of traffic, which would be available from the National Council of Applied Economic Research Study.

[Ministry of Shipping and Transport (I.W.T. Directorate) O.M. No. 28-IWT(5)176-P&W dated the 29th July, 1976].

### Recommendation

"To make the inland water transport service economic, it is essential that the type of craft used is suited to the requirements. The Committee note that modern Technology has advanced sufficiently to permit designing of a shallow draft tug and barge suitable for operation on the Ganga-Bhagirathi-Hooghly rivers. As pointed out earlier by the Estimates Committee in paragraph 5.45 of their 75th Report (Fifth Lok Sabha) on Transport Coordination, Government should take concerted measures to develop on a priority basis such craft as would be suited for inland water transport. In devising such craft, the Committee would like special attention to be paid to the requirements of designing and the providing of shallow draft tugs and barges suitable for operation on the Ganga-Bhagirathi-Hooghly stretch of water. The Committee would like to be informed of the concrete action taken in the matter."

[S. N. 44 Appendix VII, Para 8.16 of 196th Report of PAC (Fifth Lok Sabha)]

### Action Taken

Considering the navigability of the Ganga-Bhagirathi-Hooghly system which provides variable depth of water throughout the year, the advice of the U.N. Expert Mr. J. J. Surie was obtained on

the economic feasibility of operating modern craft on such waterways. Based on his advice two specially designed shallow draft pushtow units, consisting of pusher tugs and barges were introduced on the Ganga. The technical feasibility of operating such shallow draft craft on the Ganga has since been established. In order to meet the immediate requirements of additional craft for operating river services after commissioning of the Farakka Navigational canal, similar craft can be put to service. However, for a long term development of Inland Water Transport in this region, the question of evolution of improved designs of craft, based on modern technology, will be taken up simultaneously, with suitable organisations in the country.

[Ministry of Shipping and Transport (I.W.T. Directorate) O.M. No. 28-IWT(5) 76-P&W dated the 29th July, 1976]

### Recommendation

"The Committee gave thought to certain alarming press reports about floods in the Farakka region after construction of the canal. Flood Control is one of the objectives of the total Project. It goes without saying that such problems require to be taken care of as soon as they emerge, apart from all reasonable precautionary steps in the matter. The Committee understand that the State Government of West Bengal are seized of the flood problems in the area and trust that measures would be taken at all relevant levels towards a permanent solution of the difficulties involved.

[S. No. 45, Appendix-VII, Para 8.20 of 196th Report of the P.A.C. (5th Lok Sabha)]

### Action Taken

The aim of the Farakka Barrage Project is the preservation of the Hooghly and the Port of Calcutta by providing adequate headwaters. The project does not cater for any flood control. The Government fully share the concern regarding flooding in the Farakka region. As the Committee has already noted, the State Government of West Bengal are already seized of this problem with a view to taking all reasonable precautionary measures towards the removal of the difficulties faced by floods.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6|2|76 FBP dated 29-7-76]

### **Recommendation**

Now that Farakka is well connected by rail and the development of navigational facilities from Calcutta via Farakka to Allahabad is also being contemplated, the Committee felt that there is a strong case for the setting up of more industries at Farakka. The Committee have learnt that a Super Thermal Power Plant might in the near future be set up at Farakka. This would greatly help in an expeditious development of the entire region around Farakka. The Committee hope that work in relation to the said plant will proceed on a priority basis. Land and other requirements should be calculated urgently, and the availability of the area so long frozen for the purposes of Farakka construction should be a fillip to the comprehensive economic development of the region.

[S. No. 47 Appendix VII. Para 8.29 of 196th Report of the P.A.C.  
(5th Lok Sabha)]

### **Action Taken**

(Department of Industrial Development)

This Department has brought this recommendation to the notice of the various Ministries of the Government of India with the request that this may be kept in view while deciding the location of public sector projects in future. In addition, the Government of West Bengal has been requested to provide infra-structure facilities in this area to attract new industries. Copies of the communication addressed to the Central Ministries and Government of West Bengal are enclosed for reference. [Annexures I and II]

[Ministry of Industry & Civil Supplies (Department of Industrial Development) No. 8(47)/LP/76 dated 30-6-1976]



**ANNEXURE I**

**No. 8(47)/LP/76**

**Government of India**

**Ministry of Industry & Civil Supplies**

**Deptt. of Industrial Development**

---

**New Delhi, the 17th May, 1976**

**To**

**The Secretary (Industries),  
Government of West Bengal,  
Calcutta.**

**SUBJECT:—Action taken on the recommendations contained in the 196th Report of the Public Accounts Committee (5th Lok Sabha) on Farakka Barage Project (Audit Paragraph 28 for the year 1973-74—Union Government—Civil).**

**Sir,**

I am directed to say that the following recommendation has been made by the Public Accounts Committee in its 196th Report presented to the Fifth Lok Sabha:—

“Now that Farakka is well connected by rail and the development of navigational facilities from Calcutta *via* Farakka to Allahabad is also being contemplated, the Committee felt that there is a strong case for the setting up of more industries at Farakka. The Committee have learnt that a Super Thermal Power Plant might in the near future be set up at Farakka. This would greatly help in an expeditious development of the entire region around Farakka. The Committee hope that work in relation to the said plant will proceed on a priority basis. Land and other requirements should be calculated urgently, and the availability of the area so long frozen for the purposes of Farakka construction should be a fillip to the comprehensive economic development of the region.”

2. This recommendation has been considered in this Ministry and it is felt that in case infrastructure facilities are available for estab-

lishment of industries in and around Farakka Barrage Project, entrepreneurs might be willing to set up industries in this area. It is, therefore, requested that the State Government may kindly consider providing adequate infra-structure facilities in this area so as to attract establishment of industries. It is also requested that action in the matter may kindly be intimated to this Ministry in due course.

Yours faithfully,

Sd|-

(Bharat Bhushan)

*Under Secretary to the Govt. of India.*

**ANNEXURE II**

**No. 8(47)/LP/76**

**GOVERNMENT OF INDIA**

**MINISTRY OF INDUSTRY AND CIVIL SUPPLIES**

**(Deptt. of Industrial Development)**

*New Delhi, the 19th May, 1976*

**OFFICE MEMORANDUM**

**SUBJECT:—**Action taken on the recommendations contained on the 196th Report of the Public Accounts Committee (5th Lok Sabha) on Farakka Barrage Project (Audit Paragraph 28 for the year 1973-74—Union Government—Civil).

The undersigned is directed to say that the following recommendation has been made by the Public Accounts Committee in its 196th Report:

“Now that Farakka is well connected by rail and the development of navigational facilities from Calcutta *via* Farakka to Allahabad is also being contemplated, the Committee felt that there is a strong case for the setting up of more industries at Farakka. The Committee have learnt that a Super Thermal Power Plant might in the near future be set up at Farakka. This would greatly help in an expeditious development of the entire region around Farakka. The Committee hope that work in relation to the said plant will proceed on a priority basis. Land and other requirements should be calculated urgently, and the availability of the area so long frozen for the purposes of Farakka construction should be a fillip to the comprehensive economic development of the region.”

2. It is requested that the above recommendation made by the Public Accounts Committee may be kept in view while considering proposals for the location of projects to be set up in the public sector in future.

Sd/-

(BHARAT BHUSHAN)

*Under Secy. to the Government of India.*

To

1. Ministry of Commerce.
2. Deptt. of Steel.
3. Ministry of Chemicals and Fertilizers.
4. Deptt. of Mines.
5. Ministry of Petroleum.
6. Deptt. of Defence Production.
7. Ministry of Agriculture and Irrigation.
8. Deptt. of Electronics.
9. Deptt. of Energy.
10. Deptt. of Atomic Energy.
11. Ministry of Finance (E. A. Deptt.)
12. D.E.S.S.I.
13. D.G.T.D.
14. Sectt. for Industrial Approvals.
15. All Industries Sections in the Deptt. of H. I. and Industrial Development.
16. Ministry of Railways
17. Ministry of Communications.
18. Ministry of Health & Deptt. of Family Planning.
19. Ministry of Shipping & Transport.
20. Ministry of Works and Housing.

#### **Recommendation**

The Committee have learnt that a Super Thermal Power Plant, might in the near future be set up at Farakka. This would greatly help in an expeditious development of the entire region around Farakka. The Committee hope that the work in relation to the said plant will proceed on priority basis. Land and other requirement should be calculated urgently and the availability of the area so long frozen for the purpose of Farakka Construction should be a fillip to the Comprehensive economic development of the region.

[S. No. 47 in Appendix VII, para 8.29 of 196th Report of PAC  
(5th Lok Sabha)].

#### **Action Taken**

(Department of Power)

It is proposed to establish, in a phased manner, one Super Thermal Power Station each in the Northern, Western, Eastern and

**Southern Region.** Farakka site in the Eastern Region, with an installation of 6 units of 200 MW each linked with Rajmahal Coal-fields has been chosen for location of a Super Thermal Power Station and the project has been posed to the World Bank for loan assistance in January, 1975. Till now (March, 1976) there has been no progress in respect of a loan for this project.

[Ministry of Energy (Department of Power) O.M. No. G-25017/17|75-Bud., dated 31-5-76].

#### **Recommendation**

The Committee trust that regular and adequate watch would be kept by the maintenance staff of the Project on the various technical aspects, particularly scours, etc., and timely action will be taken to ractify loopholes if any, in the construction.

[S. No. 48, Appendix—VII, Para 9.4 of 196th Report of the P.A.C. (5th Lok Sabha)].

#### **Action Taken**

Noted.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76].

#### **Recommendation**

The Committee find that erosion on the left bank of the Ganga, upstream of the Farakka Barrage as well as on the right bank below the Barrage, is not a new development but has been continuing for a long time. Not only is valuable land being lost on the right bank of the Ganga as a result of this erosion, but in recent times the erosion has also been displacing a large number of families every year. The situation has now assumed dangerous proportions affecting important towns in the region like Dhulian, Nimita, Aurangabad and Khandua, whose very existence is said to have been threatened.

During evidence, the Chief Engineer of the Farakka Barrage Project informed the Committee that 'it has been proved by hydraulic experiments that the Farakka Barrage had nothing to do with the erosion that was taking place. The erosion would have taken place even if the barrage was not there'. The Committee are concerned that whatever the causes of erosion, and the role of the Barrage in the larger hydrological situation, the whole area, including the Farakka Project complex itself, appear to be in some danger, which must be countered by suitable and timely measures. The

Committee are of the view that the Central and State Government should move in close coordination in this task and ensure the allocation of adequate fund to forestal and eliminate the menace.

The Committee's view, just stated, is reinforced by a statement before it from the Ministry of Agriculture and Irrigation that the Ministry had the information that this erosion was taking place for two or three decades...and the phenomenon cannot be effectively checked unless very effective measures such as storages and afforestation are taken up over the entire catchment area. If this is a correct evaluation, the entire position should have been examined carefully much before the selection of the site for the Barrage, the Canal and other concomitant constructions. If, however, there is any real substance in the fear that the Ganga joining the Bhagirath at Jangipur, on account of the erosion of the right bank of the river endangers the entire Project as constructed, the Committee would expect the scientific-technical ingenuity at the disposal of Government at all levels to be employed, with the utmost urgency, for tackling a problem which cannot in the technological situation today, be too difficult of solution.

[S. Nos. 49 & 50, Appendix—VII. Paras 9.10, 9.11 and 9.12 of 196th Report of the P.A.C. (5th Lok Sabha)].

#### Action Taken

Erosion on the Ganga is a phenomenon which has been observed not only now but also before the Farakka Barrage Project was constructed. It may be recalled that before the construction of the barrage the erosion in the vicinity of Dhulian Town was so great that the whole railway line had to be abandoned. In an aluvial river like the Ganga such erosion is a natural phenomenon.

The earlier statement by the Ministry of Agriculture and Irrigation regarding measures such as storages and afforestation in the entire catchment area as a long term means of reducing erosion is not related to the selection of the site for the barrage, the chosen position being the best from all techno-economic considerations. The Government fully share the concern of the Committee in regard to the large scale erosion on the right bank of the Ganga below the Barrage and note the suggestion of the Committee that the Central Government and State Government should move in close coordination in this task.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76].

## CHAPTER III

### RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES OF GOVERNMENT

#### Recommendation

“The Committee are surprised at the plea put forward that as the local population insisted on the provision of alternative crossings in place of the existing ones, the excavation work was rendered more difficult. The Committee would have expected Government to have taken the initiative in the matter and by advance planning ensure that alternative crossings were provided for the local population and the question of any agitation being built up in that behalf was obviated. The Committee cannot help feeling that the problems of the local population were perhaps not sympathetically approached and understood, for otherwise it should have been possible to enthuse and involve them actively in the implementation, of a massive project in their own vicinity. A large and intricate work does require much sophistication in its execution, but to win local goodwill, it should have been possible to ensure employment of local labour for at least unskilled jobs and for excavation of the relatively easier portions of the canal. The benefit would then have been two-fold, viz., willing cooperation and involvement of the local population, which would have helped greatly in the development of a backward area as an avowed plan objective, and also largely, if not wholly, prevented labour unrest and trouble which are repeatedly put forward by Government as an alibi for not completing the work in time.

The Committee would like Government to go into this matter in detail, learn from experience and evolve guidelines which would make for active participation and willing cooperation by the local population in the execution of national projects.”

[S. No. 4 in Appendix VII, Paras 2.7 & 2.8 of 196th Report of the PAC  
(5th Lok Sabha)].

#### Action taken

There were two Railways, one National Highway, one State Highway and about 32 District Board and Village road crossings

**exists along the alignment of the Farakka Feeder Canal. It is not feasible to provide bridges at each and every existing District Board and village road crossing along any proposed canal system and, therefore, the question of providing the requisite number of bridges is settled in consultation with the local people and State Government keeping in mind, the costs involved as well as adequacy of the means of communication in the area served by the canal system.**

In case of the Farakka Feeder Canal, which was the largest canal in the country designed for full supply capacity of 40,000 cusecs and was also meant to be a navigation canal, each bridge had to provide for sufficient headway to allow for navigation traffic. As each village road bridge over this large canal was then estimated to cost Rs. 50 to 60 lakhs approximately, it was considered necessary to restrict the number of bridges to the minimum though the local people were demanding a road bridge at every crossing. It was accordingly decided in consultation with the State Government and the District Magistrate, Murshidabad to provide two road bridges combined with the two railway bridges and one State Highway bridge at R. D. 62 in addition to the road bridge to be provided at Farakka over the Head Regulator of the canal. In addition to the above means of communication, it was also decided to provide 9 free ferry crossings at locations suggested by the District Magistrate.

It was felt that the above provision of road bridges and free ferry crossings would provide adequate measures of communications across the Feeder Canal which was only 25 miles long. It was also the view of the Ministry of Shipping and Transport that providing more bridges would pose a navigation hazard and would not be in the interest of navigation traffic proposed to be developed along the Farakka Feeder Canal. It may be mentioned here that the Suez Canal which is 101 miles long has only one bridge and that too a rail bridge.

Though the local people, in the initial stages, did agitate for providing a road bridge at every crossing and did obstruct the work of canal excavation near the existing crossing but with the persuasion by the Project authorities, District officials and State Government, it was possible to get their willing cooperation in completing and commissioning the canal in the overall interests of the country. Arrangements were also made to leave gaps at every crossing for



their convenience, which were postponed for excavation in the last stages before commissioning the Canal.

Like many other projects in the country, this project also encouraged employment of the local people to the maximum. The local people were not only employed on the construction works of colonies, roads and embankments, the main barrage and the Feeder Canal etc. but also on operation and maintenance of the equipment as well as their repairs in the workshops and Stores. The running of free ferry crossings was also entrusted to local persons. Throughout the construction period, the labour engaged by the Department or by the Contractors was mostly from adjoining localities. The sub-contractors of the major contractors for piece work were also from the nearby localities. It may be mentioned that over 90 per cent of the labour employed on the Project was from the adjoining areas. [Ministry of Agriculture & Irrigation (Department of Irrigation

OM No. 6|2|76-FBP., dated 29-7-76)].

#### Recommendation

“It is significant that there was from time to time agitation not only by the workers with ‘go slow’ and other tactics, but also by deputationist engineers and doctors who ceased work from 11th **March, 1974 to 2nd April, 1974 a period when, from all accounts,** labour conditions in West Bengal were by no means explosive. The Committee fear that personnel management on the part of the Project authorities has been often tactless and ineffective, and genuine grievances, even of the better placed employees like engineers and doctors, were not anticipated and resolved in time.

[S. No. 10 Appendix-VII, Para 2.18 of 196th Report of the P.A.C. (5th Lok Sabha).]

#### Action taken

The engineers and doctors who went on strike from 11th March 1974 to 2nd April 1974, were all deputationist officers from West Bengal and they observed the “ceasework” in sympathy with engineers and doctors of West Bengal Government who were on strike. This strike had no relation whatsoever to the working conditions or other situations prevailing in the Farakka Barrage Project. None of the directly recruited engineers and medical personnel ever went on even a token strike.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 6|2|76-FBP, dated 29-7-76]

### Recommendation

“The Committee note with dissatisfaction that on the earthwork part of the feeder canal estimated to cost Rs. 18.77 crores as per the 1968 estimates, the actual expenditure booked up to October, 1974, was Rs. 24.54 crores. The Committee feel that this aspect of the work was not so abstruse or complicated that realistic estimates of expenditure could not be drawn up. The variation of about 30 per cent (till October, 1974) between the estimated cost and actual expenditure would no doubt increase further with the booking of actual expenditure from October, 1974, to April, 1975, when the canal was commissioned. The Committee consider that if the estimate for the earthwork had been prepared after collection of the relevant data, including bore hole data on a scientific basis, it would have been a more fruitful exercise.”

[S. No. 13, Appendix-VII, Para 2.27 of 196th Report of the P.A.C. (5th Lok Sabha)].

### Action taken

The estimate of Rs. 18.77 crores was for earthwork part of the Feeder Canal and was based on 1965 rates when contract for the reach RD 10 to 68 was awarded to Contractor 'A'. The earthwork was proposed to be done almost entirely by machines. The excavation of Feeder Canal was completed in 1975 and the expenditure booked upto 3/1976 is Rs. 25.26 crores. During the period 1963 to 1975 when the feeder canal excavation was carried out, the prices of labour, P.O.L. and material went up considerably. As already explained at length in our replies to point 11, arising out of oral evidence, the average earthwork rates all over the country had shown unward trend recording an increase of 80 per cent between 1961-62 to 1966-67 and 155 per cent between 1961-62 to 1974-75. These escalations caused adverse effect not only on the Departmental work for the reach RD 0 to RD 10 but also on the reaches below RD 10, which were being done by Contractors. The tendered rates obtained in 1976 were 90 per cent higher than the rates of 1965 contract and 75 per cent higher than the rates of 1967 contract. It is common knowledge that the cost of works which are based on the rates of labour and materials at the time of preparation of the project report, go up as the labour and material costs rise. There would have been no extra rise in cost if the prices had remained steady. The

increase in cost of the Feeder Canal was not at all due to lack of field data.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 6/2/76-FBP, dated 29-7-76]

### Recommendation

"The Committee find that while the decision to associate small local contractors with the work of canal excavation was laudable, it was not followed up by any real help to contractors with meagre resources of their own. The work of excavation of dry layers of the land being not very technical or complicated, the local contractors could, with the necessary facilities and encouragement, have done it successfully. The representative of the Ministry stated during evidence that the authorities knew very well that "these agencies will not be able to complete the whole work." This land assertion suggests that perhaps certain interests were intent on justifying the induction of big contractors, instead of small local contractors.

It is surprising, and also a reflection of a lack of planning, that contracts were given for excavation work without ensuring in advance the availability of land for the purpose. This peculiar proceeding ensured the failure of the small contractors, and ironically enough, helped them also to escape the imposition of any penalty for non-completion of the stipulated work."

[S. Nos. 15 & 16, Appendix-VII, Para 3.4, 3.5 of 196th Report of the Public Accounts Committee (5th Lok Sabha).]

### Action taken

In view of the long leads and high lifts involved in excavation of the Feeder Canal and also on account of the high ground water level, the entire excavation work was planned to be carried out by the machines in the following manner:—

- (a) Dry excavation upto about 8 feet depth by tractor drawn scrapers and dragline dumper combination; and
- (b) wet excavation by dredging in the bottom layer.

Subsequently the Farakka Barrage Control Board took a decision in November, 1964, to carry out the excavation below the ground water level by mechanised equipment instead of dredgers.

While the possibility of using dredgers for excavation below spring level was being examined by experts, it was considered desirable in the meantime to get some dry excavation done by local contractors who could use various-means manual labour, bullock carts etc. These local contractors were given all possible facilities and encouragement but they could not do the job due to the long leads and high lifts involved since it was definitely a job of mechanised equipment. It has been experienced on similar excavation work on other projects, that local contractors with small resources and manual labour and non-mechanised equipment like bullock carts, are not successful beyond a certain range of leads and lifts. In other words without earthmoving equipment, which is beyond the reach of small contractors, it was not possible to economically and expeditiously complete the huge excavation work.

Land acquisition did not cause any substantial delay in the execution of work by local contractors.

It has also been explained in paras 2.12 to 2.14 that there was no delay in acquisition of land, since 99.8 per cent of the land had been acquired by 1968-69.

[Ministry of Agriculture & Irrigation (Department of Irrigation)  
O.M. No. 6/2/76-FBP dated 24th January, 1977.]

### ..                      **Recommendation**                      .

The Project authorities had already got some cutter suction dredgers and the Committee cannot accept the contention of the Ministry during evidence that by giving the work of excavation of the canal to the contractors, Government was saved from the trouble and expense of procuring a battery of dredgers involving a large amount of foreign exchange and of maintaining an elaborate marine organisation required therefor.

[S. No. 19, Appendix-VII, Para 3.16 of 196th Report of the PAC  
(5th Lok Sabha).]

### **Action taken**

As already explained in para 2.4, the question of using dredgers for excavation of feeder canal below general water table had been examined in depth in 1963 and it was finally decided that the import of dredgers and creation of a marine organisation under the project for excavation of canal should not be pursued as there were several agencies in the country who could carry out full

depth excavation of canal through their own resources. When open tenders were invited for full depth excavation of feeder canal in 1964 there was good response and many contracting agencies offered for this job.

The cutter suction dredgers referred to in this para were imported several years later in 1969 for the construction of coffer dams for the barrage works and also for the post-construction maintenance/desilting of feeder canal and Bhagirathi channel. By this time, all major contracts were awarded. The excavation of the feeder Canal from RD-0 to RD-10 was carried out departmentally with the help of earthmoving equipment other than these cutter suction dredgers.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 8/2/76-FBP, dated 29-7-76.]

#### Recommendation

The Committee note that tenders for the reach RD 10-68 were initially invited in January, 1964 and the contract was ultimately awarded in January, 1965. However, the tenders for the reach RD 68-126 were invited in July 1966 and finalised in two instalments. The first instalment, covering the contract for RD 68-97 and RD 103-126 was finalised after protracted shutting of paper clarification meetings etc., from October, 1966 to December 1967. This clearly shows that the matter was proposed somewhat desultorily, and essential clarifications were obtained piece-meal. The Committee understand that the Tender Committee was a high-powered Committee, consisting of the Secretary, Ministry of Irrigation and Power, the Chairman, Central Water and Power Commission, the Member (Designs), (C.W. & P.C.), the Joint Secretary, Ganga Basin, the Joint Secretary, Ministry of Finance, the General Manager, Farakka Barrage Project, the Financial Adviser and Chief Accounts Officer, Farakka Barrage Project and the Secretary, Farakka Barrage Control Board. They would have expected a Committee of this composition to function more positively in the matter and to make sure that all requisite clarifications were obtained from the relevant parties in time. The Committee feel that an unhappy impression should not go out that 'high-power' bodies comprise people whose status and pre-occupations militate against speedy decision. Government should investigate the reasons for this delay, fix responsibility, and take suitable measure to see that in future such delays do not recur.

[S. No. 22, Appendix-VII, Para 4.9 of 196th Report of the PAC  
(5th Lok Sabha).]

### Action taken

It has been explained in replies to para 2.5 that the delay in finalisation of the tenders for the reach of the Feeder Canal below RD-68 was mainly on account of the acute financial stringency with regard to availability of funds for the Project upto April, 1967, caused as a result of Pakistani aggression. The progress during the 1966-67 season was badly affected.

Further, as the tenders were conditional and involved foreign exchange, advance payments, etc., these had to be examined in detail by the Tender Committee from all angles in order to safeguard the Government interest. The first meeting of the Tender Committee was held on 25th/26th April, 1967, after the tenders had been examined earlier by the General Manager and his Financial Adviser, Law Ministry and (Calcutta Branch) and the Secretary, Farakka Barrage Control Board, and certain clarifications were obtained from the tenderers. The Tender Committee held two more meetings in July, 1967 and September, 1967, during which the clarifications obtained by the Committee from the tenderers had been gone into. In spite of their pre-occupations, the members of the Tender Committee were able to complete the scrutiny of Tenders involving negotiations on the special conditions and give their recommendations well before the commencement of the working season 1967-68. This enabled these contractors not only to organise their works and establish camps but also to execute 1.22 cr.cft. of earthwork during 1967-68 working season, out of the contracted quantity of 53.76 cr.cft.

Consequently any enquiry into the reasons for delay on the part of the Tender Committee would not be justified. The kind attention of the Public Accounts Committee is also invited to the replies given to para 2.6 that in such cases Government did not think it necessary to undertake this type of investigations in view of the collective responsibility of a Group of Eminent Engineers and other senior officers in taking a decision.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 6/2/76-FBP, dated 29-7-1976.]

### Recommendation

It is to be noted further that the 'ex-gratia' higher rates had been recommended by the Inter-Departmental Committee on the clear stipulation that the same would be 'admissible only upto the present extended dates of completion of the respective works and

that if further extensions of time were granted by the General Manager for reasons considered valid by him, the enhance rates would be extended to such periods also, but, in any case, not beyond March, 1972 in respect of Contractor 'A' and March, 1973 in the case of Contractor 'B'. In spite of this directive, the enhanced rates were subsequently further extended upto 30th June, 1974 in the case of Contractor 'A' and upto 31st August, 1974, in the case of contractor 'B'. Upto October, 1974, the total extra amount paid to the two contractors on account of such subsequent enhancement of contracted rates was Rs. 2.90 crores.

The Committee fear that from the very beginning the Inter-Departmental Committee which sanctioned the *ex-gratia* higher rates ignored the obligation of safeguarding the financial interests of Government by adherence to the terms of the contracts. It has been pleaded in extensation that there was the need for 'creating circumstances in which the existing contractors would continue and complete the balance works by the target date.' This sounds almost panicky; besides the contractors did not, in actual practice, adhere to the extended target date. The effect of the leniency showed by the Inter-Departmental Committee was further aggravated by the action of the Project authorities in that the enhanced rates were extended upto the 30th June, 1974 in the case of contractor 'A' and upto 31st August, 1974 in the case of contractor 'B' necessitating an extra payment of no less than Rs. 2.90 crores, which the Committee feel should have been avoided.

[S. No. 29, Appendix VII, Paras 5.30 and 5.31 of 196th Report of the P.A.C. (5th Lok Sabha)]

### Action Taken

The time limits of 31-3-72 in respect of contractor 'A' and 31-3-73 in respect of contractor 'B' as indicated by the Inter-Departmental Committee in respect of payment of 'ex-gratia' higher rates were based on the consideration that the completion of the contracts of Contractor 'A' in respect of reaches RD 10—68 and RD 97—103 and of Contractor 'B' in respect of reach RD '68—93 would, in any case, not extend beyond these dates. This was the best assumption made by the Committee keeping in view the balance works that remained to be done at the close of the 1969-70 working season, i.e., about 10.72 cr. cft. by Contractor 'A' and 20.53 cr. cft. by Contractor 'B'. Out of the above quantities. Contractor 'A' had by the due date 31-3-72 completed most of the 6.89 cr. cft. carried out by him during 1971-72 working season while the Contractor 'B' had completed upto 31-3-1973 most of the 17.35 cr. cft. executed by him upto 1972-

73 working season. It would thus be seen that about 90 per cent of the contracted earthwork had been completed by both the contractors within the time limit indicated by the Inter-Departmental Committee in their report. The reasons for the short-fall were, as explained under paras 2.5 and 2.11 on account of non-availability of land at the village tracks and railway crossings. This was beyond the control of the contractors. The progress of the two contractors was also somewhat hampered due to heavy and early rains in 1971 and 1973, floods in 1971, continued labour troubles and epidemic in contractor's (Contractor 'B') colony in 1973 etc.

As explained in the comments of the Audit Paras as well as during oral evidence, and in reply to point 16 arising out of oral evidence, the time extensions to the Contractors A and B were granted by the Control Board due to conditions which were beyond the control of these Contractors. Approval to give 'ex-gratia' higher rates during the extended period of the contracts was also allowed by Government in consultation with the Ministry of Finance. It may also be mentioned here that, as already known to the Committee, Contractor 'A' had first declined to resume work during 1973-74 working season for completing the gap portions and he was demanding much higher rates for earthwork in these isolated reaches. He was, however, persuaded to excavate these gaps upto the water level at the existing rates.

It will be seen that though time extensions for completing the work and extensions for payment of 'ex-gratia' rates were given to the Contractors by the Government in the over-all interest of the Project, the rates paid to the contractors were the same as recommended by the Inter-Departmental Committee in spite of insistence by the contractors for paying still higher rates, and, therefore, there was no extra expenditure than what Government was already committed to pay had the earthwork been completed within the time limit and which the contractors could not unfortunately execute due to reasons beyond their control, as explained above.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FPP, dated 29-7-76].

### Recommendation

"The Committee would like to mention that stores and materials worth lakhs of rupees were issued to the contractors at Departmental issue rates which are stated to include storage and departmental charges. During evidence, the representative of the Ministry ex-



plained that the bulk of such materials comprised POL and that the contractors were charged rates higher than the rates of diesel oil or petrol at the nearby petrol stations. In respect of other materials supplied to the contractors, the representative of the Ministry stated that the contractors were charged 10 per cent more than the normal rate. Asked as to whether the issue of materials and spare parts at departmental rates plus 10 per cent was not a concession to the contractors as compared to the rates in the market, the representative of the Ministry, instead of confirming or denying the position, stated that this issue of spare parts or machines was in the interest of Government, as by such issue Government were assured of the use of genuine material by the contractors, thus avoiding the use of fake stuff which might damage the equipment. The Committee are perturbed that Government chose to deal with apparently unprincipled businessmen even in the case of national projects of Paramount value to the country."

[S. No. 30. Appendix-VII, Para 5.32 of 196th Report of the P.A.C. (5th Lok Sabha)]

#### **Action taken**

The spare parts issued by the Department were meant to be used mainly on the departmental equipment loaned out to the contractor which was in accordance with the common practice adopted on projects. Most of these spare parts were imported and if Contractors were to arrange these spare parts their import would have taken time. On the other hand, if these were purchased from the open market, their genuineness would have been doubtful and could have affected the progress of work which was of vital importance.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FHP dated 29-7-76].

#### **Recommendation**

In regard to the quantum of additional headwater supply essential for the sustenance and improvement of the life of Calcutta Port, the Committee have studied the evidence closely and are positive that without 40,000 cusecs being made available, especially during the lean months, the Ports survival—let alone its growth—would remain precarious. Since any damage or deterioration to Calcutta Port will inevitably and immediately involve Haldia also, the gravity of the danger will be aggravated. If on this issue, dependable scientific-technical advice can offer alternative solutions, the Committee have found so far no indications

thereof. Thus the Committee stress that, difficulties notwithstanding, this quantum of 40,000 cusecs should, as repeatedly assured, be made available in order that Calcutta Port might live and serve the country. In case there are insuperable difficulties, of which the Committee have had no more than some vague hints, the situation has to be properly explained to the Committee and all possible ameliorative measures adopted without delay.

[S. No. 36, Appendix-VII, Para 7.50 of 196th Report of the P.A.C.  
(5th Lok Sabha).]

#### **Action Taken**

By the Ministry of Agriculture & Irrigation, (Department of Irrigation)

The Government fully share the concern expressed regarding the need to ensure that the Calcutta Port might live and serve the country. As a matter of fact this concern forms the basis of all the steps taken by the Government including commissioning of the Farakka Barrage in regard to the headwater supplies to be made available from the Farakka Project. Nevertheless it is to be appreciated that the Ganga is an international river and, like India, the other basin countries (in particular Bangladesh) have an interest in the utilisation of the Ganga waters for beneficial uses. This fact will have to be taken into consideration. The Government will continue to strive for an amicable settlement with the Government of Bangladesh seeking to ensure the adequacy of head water supplies from Farakka for the benefit of the Calcutta Port.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP, dated 29-7-76.]

#### **Action Taken**

(By the Ministry of Shipping and Transport)

Noted

[Ministry of Shipping & Transport (Transport Wing)  
O.M. No. DBY/5/76-PDB, dated 7-6-76.]

## **CHAPTER IV**

### **RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION**

#### **Recommendation**

The Committee are greatly perturbed to find that while in 1961 and again in 1965, it was decided that in view of the character of the project, its essentiality and the benefits which were likely to be derived from the various works, it should be completed by 1970-71, in actual fact only the barrage was completed in 1971, but the essential canal work for taking the headwaters from the Ganga to feed the Bhagirathi-Hooghly system and save the deterioration in the Calcutta Port was completed only four years later in 1975. It appears that the requisite firmness and determination to see that the canal work was taken up in right earnest and completed as per schedule was lacking. The Committee see no reason why the canal work could not be initially started from September 1962 as per the original schedule. The delay of one year at that point is sought to be explained on the not very tenable ground that special details concerning finalisation of canal sections, disposition of spoil banks proportion of manual labour to dredger excavation etc. had to be settled with the German expert. The Committee are unable to accept Government's plea that explorations and investigations with the soil properties also caused delay in finalising the detailed estimate for invitation of tenders. Since the scheme was envisaged many years earlier and there was a decision in October, 1961 to complete the project in eight years time from 1962 to 1970, the Committee see no reason why in 1961-62 itself Government could not consult experts, whether our own or from abroad, and settle all essential detail.

[S. No. 2, Appendix VII, Para 2.4 of 196th Report of the  
P.A.C. (5th Lok Sabha)]

#### **Action taken**

After approval of the Farakka Barrage Project in 1960, detailed surveys were commenced for finalising the alignment of the feeder

canal, carrying out soil testing and planning the execution of the works. While the construction schedule for completing the project in 8 years was drawn up in October, 1961, it was anticipated that this pre-construction planning would be mostly over in one year and construction of the feeder canal would be taken up from September, 1962. The main difficulty in adhering to this date, turned out to be the finalisation of the alignment of the feeder canal which could not be decided till December, 1962. The alignment finalised earlier in February, 1962 had in fact to be modified by the Technical Advisory Committee on account of the following reasons—

- (a) Some reaches were located in Bihar which was not considered desirable from navigation point of view since this would have resulted in entry/exist problems in a short reach twice.
- (b) Certain reaches of the alignment were found, on detailed considerations, to have been located in thickly populated areas near Bagmari river which would have needed displacement and rehabilitation of many people.
- (c) Certain reaches of canal were close to river Ganga and there was risk of river attack.

After the final alignment of the Feeder Canal had been decided in December, 1962, some time was needed for preliminaries like taking longitudinal section and cross sections along the final alignment, demarcating the same on the ground, issue of Notice Inviting Tenders, acquiring of the land etc. which were finalised by June/July, 1963 to enable start of the excavation work by the small contractors from September, 1963 i.e. beginning of 1963-64 working seasons.

As regards the expert advice obtained from Dr. Lackner this mainly pertained to excavation below general water table which was very high through out the length of the feeder canal. Out of an average 22 ft. depth of digging the lower 14 ft. were below general water table.

Dr. Lackner gave his opinion in January, 1963 and based on his expert advice as well as other available reports on dredging, the Government of India constituted a Committee headed by Admiral T. B. Bose to advise on the specifications and the numbers of dredgers as well as the best method of procurement of

dredgers. This Committee gave a report in July, 1963 by which time sufficient land could be acquired, as brought out above, to commence the canal excavation work. Thus, apart from timing of the advice of Dr. Lackner and subsequent period during which Bose Committee worked out details of specifications etc., of the dredgers, the delay of one year can be attributed to the difficulties in finalising the canal alignment as well as acquisition of land. If the earth-work had to be excavated by dredgers, then, apart from a special organisation to be built up, the number of dredgers required would have been much more besides high cost, which could not be worked out because of lack of data on working of dredgers on such a large scale in conditions similar to those prevailing in Farakka canal. Also, this would have prevented employment of local agencies and particularly, the smaller firms. In fact, these were the considerations which led the Government to employ small local agencies as an experimental measure. However, as explained to the Committee at length, these agencies for various reasons, could not complete the work. In the meanwhile, as the Committee are aware, some contracting firms quoted for excavation of the canal work both above the general water table as well as below, by using heavy earth-moving equipment (drag lines etc.). The work was divided into different reaches and put to tender and the Committee are aware of the problems which arose during implementation of the work covered under each.

While the Government of India and the State Governments did possess experience on excavation of irrigation canals, it must be mentioned that Farakka canal was by far the largest irrigation-cum-navigation canal to be constructed in the country. There were special problems associated with the construction of the canal, namely high water table which necessitated bulk of the excavation to be carried out below the ground water table. Secondly, the canal banks had to be designed so as to resist the flood pressure from both the sides. The canal section had to be so designed that excavation by manual labour, by heavy earth-moving equipment, as well as by dredgers (during operational stage) was feasible within economic costs. Unless such flexibility was provided in the design of canal sections, there could have been situations which would have created real difficulty.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 6/2/76-FBP, dated 24th January, 1977.]

### **Recommendation**

The Committee cannot appreciate the delay in calling for tenders or in settling the rates for work. Government with its vast

experience of excavation of canals should have been able to settle these details firmly and in time. The Committee are also not prepared to accept the plea of helplessness when the contractors to whom the work was awarded in 1963 did not proceed with it with the requisite speed. The Committee feel that it should have been possible for Government to give the widest publicity *ab initio* to these tenders so as to facilitate adequate response. Government should have ensured that the tenders were scrutinised and finalised with due promptitude and on a realistic basis, having regard to the prevalent rates. Another basic aspect where a clear decision was necessary, concerned the work to be done through contractors and the extent to which the dredgers were to be utilised. The Committee consider that there was avoidable delay in this crucial area. The Committee are also perturbed that on the plea of paucity of funds, tenders were not fixed till the end of 1967 for reaches beyond RD-68. This administrative inaptitude and lack of realization of the urgency of the project was responsible for the loss of nearly three years in the beginning and it is this 'original sin', as it were, which is responsible basically for the long delayed completion of project.

The Committee would like Government to investigate the matter thoroughly with a view to deducing lessons and fixing responsibility on those who did not show leadership and understanding in settling all the requisite details in time, in inviting and finalising the tenders and in effectively co-ordinating the execution of the works in the field with an upright adherence to the time schedule.

[S. No. 3, Appendix VII, Paras 2.5 and 2.6 of 196th Report of the PAC (5th Lok Sabha)].

#### **Action taken**

While barrage work, though un-precedented on magnitude and character, was concentrated at one place, the canal work was distributed over 25 miles and involved construction of large number of canal structures including a syphon, inlets and bridges which also posed a number of problems during their implementation. Although the barrage was completed in 1971, the gates became fully operational only by 1973. The canal even if completed before the barrage become operational, would not have enabled diversion of waters into the Bhagirathi. This was pointed out to the Committee—*vide* reply to point 28 (a) and (b) arising out of the oral evidence. The progress on the excavation work of the canal upto June, 1971, was 104 crores cft. out of 155 crores cft.

The same at the end of June, 1973, by which time the barrage became operational, was 146 crores cft.

It would thus be seen that most of the works were completed by 1973. No doubt, certain critical works remained to be completed such as Pakur bridge at RD-62 due to failure of the bridge contractor, and excavation of some gaps due to non-handing over of land by the villagers who insisted on construction of road bridges, although the Government of India in consultation with the State Government, had agreed to provide ferry crossings, at each road crossing. Thus, all possible efforts were made but due to unforeseen difficulties, there was some delay in implementing the canal works. However, the Committee's concern has been noted and it is hoped that the experience gained by the Indian Engineers and Technicians in implementation of such a big canal would help in planning and implementation of works on similar Projects of large magnitude in future.

As soon as the decision was taken by the Control Board in November, 1964 to carry out full depth excavation through contractors, the tenders in hand were finalised and contract for 75 crores cft. of earth-work in the reach RD-10 to RD-68.00 was awarded in January, 1965. As regards the lower reaches below RD-68.00 it was decided to invite tenders later after having seen the performance of the contractor in the reach RD-10 to RD-68 in carrying out full depth excavation and the difficulties experienced therein. Tenders were accordingly invited in August, 1966 after the close of 1965-66 working season but while these tenders were being processed, there prevailed acute financial stringency on the project as a result of Pakistani aggression. Consequently, the Control Board decided in May, 1966 that no expenditure should be incurred on excavation of the feeder canal below RD-68 till April, 1967. In the meantime, negotiations were continued with the tenderers in regard to their special conditions involving advance payments, release of foreign exchanges etc. These could be finalised by August, 1967 and were considered by the Tender Committee in September, 1967. Clearance from the Ministry of Finance was obtained in October, 1967 and these were approved by the Control Board on 3rd November, 1967. Work was commenced in 1967-68 working season.

In view of the reasons explained above, the delay in execution of works of Feeder Canal as mentioned by Public Accounts Committee in this para, may be considered as unavoidable.

A review of the action taken at various levels for execution of the work of Farakka Barrage Project and the Feeder Canal has been undertaken. Before tenders are invited for any components, the estimate has to be prepared and sanctioned on the basis of detailed designs, detailed specifications are drafted and approved by competent authority. Similarly, after tenders are received, detailed scrutiny and evaluation of tenders is undertaken and often negotiations are necessary. All these operations do take time and, inspite of best efforts, some slip may occur in one or more of a series of operations outlined above. A three-tier organisational machinery was established for executing the Project expeditiously and economically and effective coordination at various levels was also ensured. At the field level which was the executing agency, the Chief Engineer and other officers were given sufficient powers to deal effectively with the various matters relating to the execution of the works. The Chief Engineer, who was subsequently designated as the General Manager had been declared as the Head of the Department for purposes of Fundamental and Supplementary Rules and the General Financial Rules and has also been delegated the same powers as are exercised by his counter-part in the Central Public Works Department. The General Manager and the other officers of the Project has also been delegated specific powers relating to the works etc. of the Project.

The Farakka Barrage Control Board is in over-all charge of the Project including its technical and financial aspects. The Chairman of this Control Board had been the Minister of Irrigation and Power and now Minister of Agriculture & Irrigation. The Board comprises Ministers and representatives of the West Bengal Government and representatives of the Calcutta Port Commissioner, of the Ministry of Shipping and Transport, Central Water Commission, Ministry of Railways, Department of Irrigation and the General Manager, Farakka Barrage Project. The Board is assisted by a full-time Secretary of the rank of Superintending Engineer and a Financial Adviser & Chief Accounts Officer. The Board has various advisory Committees comprising technical officers of appropriate status. Some of the important committees are the Technical Advisory Committee which advises on the technical aspects relating to the design and execution of the Project and the Tender Committee which advises on the acceptance of the Tenders. The Board also had in the past the various committees such as Local Committee and the Plant and Equipment Committee etc.



As the Project is being executed by the Central Government, the work, of the Project is being supervised by the Department of Irrigation. All important matters relating to the scrutiny of estimates, preparation of designs, review of the delegation of financial powers, the question of laying tenders specifications and schedule of rates were examined and approved by the Control Board. It also approves all proposals for award of work or supplies on contract which are beyond the powers of the General Manager.

The progress of the works has been reviewed at regular intervals by the various organisations and all efforts have been made to remove the bottlenecks. It may be mentioned that the execution of such a big project which is unique in its nature, posed many difficulties and problems which were peculiar but by the coordinated efforts and good planning all the difficulties were removed and the Feeder Canal could be commissioned.

It will be clear that all major decisions were taken jointly by a high Level Control Board assisted by its Committees but not by any individual. The major decisions flowed from the smooth functioning of the organisational machinery, viz., the Board and its Committees, the Ministry at Delhi and the Project authorities at Farakka. It is submitted that in retrospect, the compulsions which validated the decisions at that point of time, are likely to appear to have lost their force and the decisions, their validity. Attempts to fix responsibility on any individual does not therefore, seem well advised because of the fact that the decisions were based on the collective responsibility of a group of eminent engineers and other persons and were taken in good faith and to the best of abilities, in the circumstances which existed at the time of taking the decisions. It would not serve the cause of building up expertise in design and implementation of such projects, if enquiries are conducted in this case.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6|2|76-FBP dated 29-7-76.]

### Recommendation

The Committee disapprove of the complacent and routine manner in which the entire work of acquisition of land required for the project has been handled. Most of the area in question was waste and arable land. It is reported that there was not much difficulty in acquiring this land. As for vested land, difficulty is stated to have arisen with the Railways, particularly for the portion required between RD 8 to 28, as the Railways had not agreed to shift their line

and permit the project authorities to start the work before 1972. The Committee cannot comprehend how such a long delay could be allowed to occur when both the Railways and the entire Farakka Barrage scheme were being administered by the Central Government. It should have been possible by advance planning and a closer liaison and mutual accommodation to ensure that the Railways made available the requisite land in time by shifting the track.

[S. No. 6 Appendix VII, Para 2.11 of 196th Report of the P.A.C. (5th Lok Sabha).]

#### Action taken

After the alignment of the Feeder Canal was finally decided upon, the Railways carried out surveys in regard to shifting of their Bundel Barharwa loop which crossed the feeder canal alignment at R.D. 23 and R.D. 112 and connecting it with the new railway line which was to cross Farakka Barrage and link the area north of Ganga. Three alternative alignments were examined by the Railway Board (1) continuing the track on the left bank with two bridges at R. D. 112.00 and at R. D. 23.0 (2) shifting the existing railway line on Right Bank and providing one bridge at R. D. 8.50 (3) diverting the line from Balapur on Left Bank and continuing the line over Barrage avoiding bridge at R.D. 23 and providing two bridges at 8.5 and R. D. 112.00. The Railway Board decided in 1966 to continue the existing railway line on the left bank and provide a link up with the new railway line over Farakka Barrage on the left bank itself and then crossing the feeder canal at R. D. 8.5. Detailed surveys and estimates for this layout of the railway complex were carried out and final decision about this arrangement was communicated by the Railway Board to the Control Board in 1968. Construction of the two railway bridges, including laying of the railway track according to this layout, was taken up and the works were completed in end of 1971.

The earth work involved in excavation of the feeder canal at the two railway crossings was the job of a few months only. These were completed well in time and did not pose any problem since the commissioning of the Feeder Canal had been delayed due to various other reasons as explained in para 2.5.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76.]

### Recommendation

The Committee find that the Chief cause of labour unrest in Farakka was the uncertainty in the minds of workers about their future employment. From figures supplied by Government as well as by the employees' Union, it appears that out of 2800 workers on the Project some 2000 are either expected to be or have already been absorbed in maintenance duties. In view of the usual Government policy of accommodating the maximum possible number in alternative employment, the Committee expect that ways and means of allaying the anxiety of all the workers will be suitably worked out. The Committee consider that it should have been possible for Government to work out in advance its requirements for maintenance and to make them known so that the employees could be reassured and have an additional incentive to show good work and ensure absorption after the Project was completed.

[S. No. 9 Appendix VII, Para 2.17 of the 196th Report of the P.A.C. (5th Lok Sabha).]

### Action Taken

As is generally the case with such big projects, the strength of staff during construction period is several times more than the requirements of the staff in the Maintenance Set-up. As a matter of fact the Government and the Department were always conscious of the need for finding employment and made all efforts to avert retrenchment on completion of the Project. Owing to various measures taken by the Government in absorbing the surplus people or finding alternative employment, there has actually been no retrenchment as such.

The Farakka Barrage Project was expected to be completed by June, 1971 but the question of having a Maintenance Set Up for the Farakka Barrage Project and the staff required for it and also the question of absorption of surplus staff which may be rendered surplus after the completion of the Project, had been under the consideration of the Government much earlier. A Committee was set up in 1969 to assess the requirements of maintenance staff and the number and categories of employees who would be rendered surplus on the completion of the project.

A special Cell was created under an Officer On Special Duty in April, 1970, for finding alternative employment for different categories of employees. This matter was taken up with various Ministries and Departments of Government of India, Public Sector Undertakings etc. The Government of West Bengal were also requested to give preference in employment to the employees of the Project,

especially the low paid. As a result of these efforts it has been possible to provide alternative jobs to about 1000 employees and workers.

[Ministry of Agriculture & Irrigation (Department of Irrigation) O.M. No. 6|2|76-FBP dated 29-7-76.]

### **Recommendation**

The Committee cannot appreciate that occurrences like pilferage of material and the attack on a procession during the immersion of the Vishwakarma image, should be categorised as labour trouble holding up execution of the barrage. As a matter of fact, the 'labour troubles' listed for a six year period (1968—74) do not appear to have been a serious factor in the delay. It appears that five work-days were lost during that period on account of 'Bangla Bundh', two for Farakka Bundh" and one for "Jangipur Bundh"; five work-days altogether were lost on account of some "protest" observed by the State Government employees; there was a 'goslow' by workers from 6th December, 1969 to 31st March, 1970; there was unspecified labour trouble in November and December 1973; twice in September, 1973 the General Manager and senior officers were confined in their offices; once in 1969, the Financial Adviser and Chief Accounts Officer was gheraoed, and once, in September, 1969, even the State Minister went through the same experience. The other instances of workers putting up their demands and waiting upon visiting Ministers are routine activities to which serious exception cannot be taken. The Committee were interested to learn that the workers were often hostile to the role of the contractors, and their union, apparently defending Government's interests, opposed loaning of departmental machinery on a hire basis. It is difficult to appreciate why the Project authorities referred to the law and order situation in September, 1971 and again in September-October, 1972 as one of "deterioration", for from all accounts the situation in West Bengal steadily improved from the beginning of 1971 onwards. While, inevitably, in a big project like Farakka, problems had arisen from time to time and appeared, to a purely localised judgement, a serious phenomenon, the listed incidents do not, in the Committee's view, add up to a plausible explanation of the delayed execution of the Project.

[S. No. 11, Appendix-VII, Para 2.19 of 196th Report of the P.A.C. (5th Lok Sabha).]

### **Action taken**

The demands of the workers have always been given sympathetic consideration and all the facilities and concessions available to the

Central Government Employees were made available to the workers and employees of the Project. As a matter of fact some of the Government orders were relaxed in the case of the Farakka Barrage Project for the benefit of the employees. In regard to the observation of the Committee concerning hostility of the workers to the role of the contractors, it is submitted that the Project works were executed partly by contractors and partly by the department and whenever departmental equipment was surplus, it was given to the contractors on hire basis in the interest of work. This loaning started as early as in 1965, while the labour unrest commenced in 1968. The hostility of the workers to the loaning of the equipment to contractors referred to in this para, was a part of the labour unrest. The relationship of the workers with the field officers had always been cordial but the situation prevailing in the area had its effect and the various associations and unions of the Project very often observed strikes and bundhs for various reasons many of which, as such, did not relate to their service conditions.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76.]

#### **Recommendation**

"The Committee have recommended earlier an analysis of the factors impeding implementation of the project. A special effort needs to be made for putting an end to whatever strained relations with labour and field officers have persisted over the years. The Committee emphasise the urgency of efficient and thoughtful personnel management and welfare services with a view to ensuring at all levels the morale requisite to a successful national effort."

[S. No. 12. Appendix-VIII, Para 2.20 of 196th Report of the P.A.C. (5th Lok Sabha)].

#### **Action taken**

Noted.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76].

#### **Recommendation**

"The Committee regret that while certain difficult and risky works in the construction of the Farakka Barrage were successfully carried out departmentally with the help of public sector agencies like the National Projects Construction Corporation, the Farakka Project authorities persuaded themselves to change gear and allot

the Feeder Canal excavation work to private contractors. There appear to have been a great deal of policy vacillation on the question of departmental excavation of the Canal, and the task was entrusted to contractors who were additionally favoured with special facilities like hire on easy terms of Government machinery, and supply of stores and spares parts from Government inventories to such an extent that the workers on the Project themselves sometimes objected. These contractors were also in some cases paid higher rates beyond the terms of their contract and given other concessions which have been discussed elsewhere in this report. Even so, excavation through big contractors involved, in the result, a delay of more than three years in the completion of the canal. The Committee are unhappy at the obviously inadequate realisation of the position by the Project authorities when they made their choice, somewhat mechanically, without careful thought between 'departmental excavation' and 'excavation through contractors'.

The Committee feel that a more meaningful utilisation of departmental resources for work relating to excavation of the canal would have produced, in the long run, better results for the country. In the absence of any record of a reasoned justification for preference being given to contractors, the Committee fear that certain vested interests might in their subteranean way, have worked for the induction of big contractors in the excavation of the Feeder Canal which to make things worse, they could not also perform in time."

[S. No. 17, 18, Appendix-VII, Paras 3.14, 3.15 of 196th Report of PAC (5th Lok Sabha)].

### Action taken

As has been explained in replies to paras 3.4 & 3.5 the entire excavation of the Feeder Canal was planned to be done by mechanised equipment not only for the wet earth work below the general water table but also for the top dry earthwork. In the early stages, it was contemplated to carry out excavation below general water table departmentally by dredgers and a special departmental marine organisation was intended to be set up. Subsequently due to various reasons explained already, the proposal of departmental excavation by dredgers was dropped and it was decided to get the full depth of excavation of the Canal carried out by contractors using their own earthmoving equipment.

Excavation of the Feeder Canal work was planned to be taken up simultaneously with the construction of Farakka Barrage. The

excavation and concreting of the Barrage was entrusted to M/s. Hindustan Construction Company a leading Civil Engineering firm of the country in the private sector and M/s. National Projects Construction Corporation a public sector undertaking. Out of 108 full bays. Two fish lock bays of the barrage 89 bays were completed by M/s. Hindustan Construction Company. Apart from the remaining 21 bays of Farakka Barrage, National Projects Construction Corporation also carried out some other works costing Rs. 3.00 crores but did not come forward to take up excavation of the Feeder Canal. Further, even though global tenders were invited in 1964, followed by open tenders in 1966 and again in 1970 for excavation of the Feeder canal, no public sector agencies tendered for these jobs. Nevertheless, the excavation of the Feeder Canal from Head to RD.10 (constituting about 10 per cent of the total excavation) was carried out departmentally with the help of the available departmental earthmoving equipment whenever free from the cofferdam works. As regards the departmental execution of difficult and risky works of Farakka Barrage, these pertained to cofferdam and river diversion works carried out departmentally with out any help from the public sector agencies, as pointed out in this para.

On all such projects in the country, excavation of the Canal works is generally done through contractors. Nangal Hydel Canal and other channels of Bhakra Project were excavated almost entirely by contractors. Sarda Sahayak project is another example where over 95 per cent of the excavation of the Feeder Canal and other channels comprising about 700 crore cft. is being done through contractors.

As regards the loaning of Government machinery on easy terms to contractors and supply of stores and spares parts to them and payment of higher rates than stipulated in the contracts, pointed out in this para, these issues are covered by replies elsewhere.

As regards the delay in completion of the canal these were caused due to various reasons as explained in previous paras.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76].

#### **Recommendation**

"It may be that in terms purely of the arithmetical cost of excavation, the departmental cost per unit in the reach RDO—10 was slightly higher than the cost of excavation through contractors .

in other reaches of the canal. But if contractors can do at lesser cost after hiring machinery from Government, it is quite likely that if the excavation work in all the reaches had been done departmentally, the average rate of departmental excavation would have considerably come down."

[S. No. 20, Appendix-VII, Para 3.17 of 196th Report of the P.A.C. (5th Lok Sabha)].

#### **Action taken**

The question that the departmental rates of excavation (which worked out to be higher in the reach RD 0 to RD 70 as compared to those of contractors) would have come down if the entire excavation of canal had been done departmentally, is a moot point. Firstly this was not feasible since the project organisation was not capable or equipped to take up work departmentally. Secondly, experience on other projects indicates that departmental works are not always cheaper.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76].

#### **Recommendation**

If anything, the repeated demands of the contractors for extension of time and for payment of higher rates than the contracted rates (discussed in subsequent chapters) are indicative of the need in the public interest, to expand the scope of departmental work in all big projects of national importance. It is quite apparent in the context of excavation work in the Farakka Feder Canal that much of the delay was due to the failure of the private contractors who dallied over the job and put up demands for various concessions including higher rates, outside the terms of their contracts. In the opinion of the Committee, such dependence on private contractors can only be avoided if the departmental agencies are encouraged to develop the necessary confidence and capability. Other things being equal, challenging jobs should be given to them, even if the cost may be a little higher at the initial stages, since the return, in terms of national advance, would be so much better.

[S. No. 21, Appendix-VII, Para 3.18 of 196th Report of the P.A.C. (5th Lok Sabha)].

#### **Action Taken**

As regards the recommendation of the Committee to give more and more work to the departmental agencies and have less de-



pendence on contractors, this point has been noted. In fact, by now, sufficient experience has been gained on handling departmental jobs and sizeable portion of the remaining works such as lock channel etc. is being carried out departmentally.

[Ministry of Agriculture and Irrigation (Department of Irrigation)]

O.M. No. 6|2|76-FBP dated 29-7-76].

#### Recommendation

The Committee are distressed over the manner in which work was allotted to different contractors. It appears that the project authorities, in spite of the confidence and self-assurance they should have felt on successful construction of the Farakka Barrage, found themselves virtually at the mercy of the contractors in the matter of work relating to excavation of the Canal. Even where the contractors default was established, the project authorities appeared helpless in taking action against them. Two main grounds, viz. concern regarding the progress of work and the possibility of court action by the allegedly aggrieved contractors, have been put forward by the Government. The Committee are unable to accept the soundness of this argument and feel that the Project authorities should not have allowed the contractors to hold them, as it were, to ransom. Surprisingly, contractor 'C', who was awarded the contract of earth-work of the quantity of 26.25 crores cft. in the Reach RD 10—126, with completion date of 3rd April, 1971, stopped work in June 26 by which time only 1.26 crores cft. out of 26.25 crores cft. had been completed. There was a penal clause in the contract with him, but no valid reasons have been produced before the Committee for not invoking the penal clause.

[S. No. 24, Appendix-VII, Para 4.26 of 196th Report of the P.A.C. (5th Lok Sabha)].

#### Action Taken

As explained in replies to other paras, there were several problems during that period due to which excavation work of the Feeder Canal could not be executed at the desired speed, the most important being the deteriorating law and order situation on the project. Since the contractors 'A' and 'B' were not prepared to continue the work at the contract rates based on 1965 prices, the Department had the option of either enhancing their rates in an equitable manner and extend their contract periods or rescind their contracts and re-invite tenders rates of which could have been definitely higher as was evident when tenders were invited for the reaches RD 103—126. After careful assessment of the situation, Government decided to let these contracts continue in the larger interests of the Project. Any other alternative would have been in all probability, much worse.

As regards Contractor 'C' who could not continue with the work after completing about 1.26 crores cubic ft., up to February, 1970, the decision to terminate his contract without levying any penalty was taken by the Government keeping in view the overall interest of the Project. It is doubtful if the forfeiture of the security of the contractor could have been possible considering the claims worth about Rs. 8.5 lakhs put in by the contractor. On the other hand there was the risk of the contractor seeking justice in a law court and obtaining a stay order terminating excavation of the Feeder Canal in these reaches. In any case, protracted litigation would have taken place affecting the progress of the work. Consequently the decision taken by Government for mutual determination of the contract of Contractor 'C' without imposing any penalty was fully justified in view of the circumstances obtaining at that time.

[Ministry of Agriculture and Irrigation (Department of Irrigation)  
O.M. No. 6|2|76-FBP dated 29-7-76.]

### Recommendation

"Again, in the whole process of the award of tenders, there appears to be a kind of leniency, even favouritism, towards contractor 'A'. It is on record that in terms of the supplementary extension in April 1969, of the contract with contractor 'A' for the reach R.D. 97-103, Government had reserved the right to allot additional earthwork to the contractor after June, 1970, to the extent of 15 crores cft. in continuation of the said reach at the same rate. In violation of this obligation, the contractor expressed his inability to take up the said extra work and the Government reconciled themselves to this refusal.

[S. No. 25, Appendix-VII, Para 4.27 of 196th Report of the  
P.A.C. (5th Lok Sabha)].

### Action taken

The contract rate for 75 crore cft., of earthwork in the reach RD 10 to 68 was awarded to contractor 'A' in 1965, at Rs. 11.30 per 100 cft. In 1969 the contract for the reach RD 97 to 103 was awarded to the same contractor on the basis of negotiations at Rs. 12.43 per 100 cft. at that time, the contractor 'A' had agreed to execute another 15 crore cft. of earthwork in the adjoining reach RD 103 to 126 on the same terms and conditions as finalised for the work in the reach RD 97-103 because till that time, the circumstances, leading to large scale escalation in unit rate as agreed upon for RD 97-103 had not taken

place and also there was no serious deterioration in law and order situation. However immediately thereafter, the working conditions on the Project deteriorated on account of grave labour unrest and both contractors 'A' and 'B' started representing in 1969-70 working season that contract rates had become unworkable and it was not possible for them to continue their work on the project unless their rates were increased. In view of this changed situation, contractor 'A' had refused to take up the additional 15 crore cft. of earthwork below RD 103 on the same terms and conditions which had been agreed to by him earlier. In this changed situation, when even the continuance of the old contracts of contractor 'A' for the reaches RD 10 to 68 and RD 97 to 103 had become doubtful and it was not possible to persuade or pressurise the contractor to continue work in these reaches against existing contract, the possibility of his agreeing to take on another 15 crore cft. at the 1969 contract rates for the reach RD 103 to 126 was obviously out of question. As the Committee are aware, the entire problem of rates was, therefore examined in depth by a high level committee set up by the Control Board which had also decided that fresh open tenders should be invited for the reach RD 103 to 126 which had been left incomplete by contractor 'C'.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6|2|76-FBP dated 29-7-76.]

### Recommendation

The Committee are not able to comprehend the logic in leaving out RD-97—103 from being awarded on a firm basis to the contractors along with other parts in the Reach RD-68—126, RD-97—103 was taken up in November, 1968 and awarded on an *ad hoc* basis to Contractor 'A'. Since Contractor 'C' was no longer active in the field and the performance of Contractor 'B' was judged by the authorities to be not satisfactory, this made Government dependent again on Contractor 'A' who had already proved refractory. The net result of this was that Contractor 'A' found himself to be the only one in the field and he took full advantage of his monopoly position by refusing to execute the job at the rates at which he had contracted the execution of work in RD-10—68. The Government then agreed to give him a higher rate than that at which work in other parts of the Reach 68—126 had been given to Contractor 'C'.

"The Committee regret that in the matter of award of contracts for excavation work of the Farakka Feeder Canal, the authorities concerned have been lacking in financial prudence and the care

and concern reasonably expected of them in safeguarding the interest of the public exchequer.

[S. No. 26, Appendix-VII, Paras 4.28 & 4.29 of 196th Report of the P.A.C. (5th Lok Sabha)].

### Action Taken

The reasons due to which the work in the reach RD 97 to 103 was not awarded when awarding work to contractors 'B' and 'C' in the reaches RD 68 to 97 and RD 103—126 respectively, have been explained in reply to points 7 and 20 of the advance information furnished to the Public Accounts Committee. As it turned out, contractor 'C' failed to carry on the work and left after two working seasons having completed 1.26 crore cft. which was only 6 per cent of the earthwork allotted to him. The progress of contractor 'B' was also not very satisfactory as in these two working seasons, he had completed 5.70 crore cft. which was only about 17 per cent of the work. During 1967-68 working season the performance of contractor 'A', who had completed 14.11 crore cft. was far better than that of contractor 'B' or 'C'. As contractor 'A' was willing to take up the additional 6.61 crore cft. of earthwork involved in the reach RD 97—103 on his 1965 contract rate plus 10 per cent as a result of negotiations, this reach was awarded to him in 1969. As a matter of fact this negotiated rate was lower than that of contractor, 'B' for reach RD 68—97, which had been awarded to him two years earlier in 1967. The impact of deteriorating law and order situation on the project due to labour unrest was felt by all the three contractors A, B and C. Contractor 'C' left the job incomplete, while contractors A and B pressed for enhancement of the contract rates. In retrospect the award of work to Contractor 'A' appears to be the best way out in the interest of speedy and economic completion of the Project.

The circumstances under which the contracts had been awarded for various reaches of feeder canal have been explained in replies to points 7 and 21 of the 'Advance Information' required by the Public Accounts Committee. In every case, the Government or competent authorities took decision after taking into account the overall situation on the project and the necessity of completing the project at the earliest possible time.

[Ministry of Agriculture & Irrigation (Department of Irrigation)  
O.M. No. 6/2/76-FBP, dated 29-7-1976.]

### Recommendation

The Committee are surprised that in spite of the clear recommendation of the Chief Engineer against the grant of extension beyond June, 1968 to contractor 'A' in respect of the excavation work in the Reach RD 10—68, the said contractor was granted extension upto June, 1969 by the Control Board, and the only reasons left on record are "difficulties explained by the firm as reported in the agenda papers." The papers relating to the relevant meeting of the Control Board reveal that the Chief Engineer of the Project had specifically mentioned that "an extension from March to June, 1968, had already been granted to the firm in consideration of their difficulties in arranging the machinery," and "hence no further extension can be given". The Chief Engineer had also recorded that procurement and selection of machinery was entirely the concern of the contractor, adding that notwithstanding this position the contractor had been given equipment worth about Rs. 37.5 lakhs in the interests of the work. The Chief Engineer had also referred to two generating sets having been made available on hire to the contractor. In the absence of any recorded reasons, it has not been possible for the Committee to examine the justification for the Control Board departing from the specific recommendation of the Chief Engineer. The Committee take a serious view of the matter and recommend that it should be probed into thoroughly, and responsibility fixed for such apparently anomalous conduct.

[S. No. 27, Appendix-VII, Para 5.10 of 196th Report of the P.A.C. (5th Lok Sabha).]

### Action Taken

The contract for the reach at RD 10 to 68 involving 75 crore cft. of earthwork was allotted to the contractor 'A' in January, 1965. The contractor had to import some equipment involving foreign exchange while the project was to supply power along the Feeder Canal between RD 32 to 47.5 during 1965-66 season. There were certain delays on the part of the contractor in arranging all the imported equipment and moreover, the imported equipment which reached the site did not give good performance during 1965-66 season. The Department too could not lay the transmission lines and make power available during this season. No doubt some generators were given to the contractor on hire basis but these were not adequate to cope with the magnitude of the work. In spite of these difficulties, the contractor was able to excavate 14.69 crore cft. during 1965-66 season.

In April, 1966 the contractor applied for extension for one year i.e. upto June, 1969. The extension of three months beyond March, 1968 upto June, 1968, referred to in this para had been agreed to by the Chief Engineer in January, 1965 within one month of the issue of the letter of Intent (which stipulated 31st March, 1968 as the date of completion) on account of the delay in the issue of the work order after finalisation of the contract conditions by the Negotiation Committee. This was approved by the Control Board in May, 1965.

As regards the departmental equipment loaned out to the contractor in 1965, this comprised 4 Nos. Russian Draglines of 3/4Cyd. capacity and 8 Nos. dozers and pushers and I No. grader but no Scrapers or Dumpers. Consequently this assorted equipment did not form a composite earthmoving unit but augmented the contractor's working units which, in that year, comprised 30 Nos. Tractor drawn Scrapers, 20 Nos. motorised scrapers and 25 Nos. dozers of various sizes. The contractor's programme for 1965-66, 1966-67 and 1967-68 working seasons was 21 crore cft., 25 crore cft. and 30 crore cft. respectively. Due to the various difficulties mentioned above, he could achieve only 14.69 crore cft. in the first season.

As explained in reply to point 15(a) and 15(b), arising out of oral evidence, Chief Engineer was fully competent to grant or refuse extension but he forwarded the case for the consideration of the Control Board without giving any positive recommendation of his own.

Obviously the Contractor A could not proceed with the work at the desired speed on account of the reasons explained above and his request for extension for one year was, therefore, fully justified. Hence his request was acceded to by the Control Board in November, 1966.

It would not, therefore, appear necessary to investigate this case, decision on which was taken after full consideration of the relevant issues, by the Farakka Control Board which is the highest level body for guiding the construction activities.

[Ministry of Agriculture & Irrigation (Department of Irrigation)  
O.M. No. 6/2/76-FBP, dated the 29-7-1976.]

#### **Recommendation**

The Committee find that as against the contracted rates of Rs. 11.30, Rs. 12.50 and Rs. 12.43 per 100 cft. for excavation work

in the Reaches RD 10—68, RD 68—97 and RD 97—103 respectively, contractor 'A' and 'B' were paid, 'ex-gratia', higher rates of Rs. 16.50 per 100 cft. for work done during 1969-70 and Rs. 20.65 per 100 cft. for work done during 1970-71 and thereafter. Such higher rates were paid in spite of the fact that they were clearly outside the terms of the relevant contracts.

It is to be noted further that the 'ex-gratia' higher rates had been recommended by the Inter-Departmental Committee on the clear stipulation that the same would be 'admissible only upto the present extended dates of completion of the respective works and that if further extensions of time were granted by the General Manager for reasons considered valid by him, the enhanced rates would be extended to such periods also, but, in any case, not beyond March, 1972 in respect of Contractor 'A' and March, 1973 in the case of Contractor 'B'. In spite of this directive, the enhanced rates were subsequently further extended upto 30th June, 1974 in the case of Contractor 'A' and upto 31st August, 1974, in the case of contractor 'B'. Upto October, 1974, the total extra amount paid to the two contractors on account of such subsequent enhancement of contracted rates was Rs. 2.90 crores.

The Committee fear that from the very beginning the Inter-Departmental Committee which sanctioned the 'ex-gratia' higher rates ignored the obligation of safeguarding the financial interests of Government by adherence to the terms of the contracts. It has been pleaded in extenuation that there was the need for 'creating circumstances in which the existing contractors would continue and complete the balance works by the target date.' This sounds almost panicky; besides, the contractors did not, in actual practice, adhere to the extended target date. The effect of the leniency showed by the Inter-Departmental Committee was further aggravated by the action of the Project authorities in that the enhanced rates were extended upto the 30th June, 1974 in the case of contractor 'A' and upto 31st August, 1974 in the case of contractor 'B' necessitating an extra payment of no less than Rs. 2.90 crores, which the Committee feel should have been avoided.

[S. No. 29, Appendix-VII, Paras 5.29, 5.30 & 5.31 of 196th Report of the P.A.C. (5th Lok Sabha).]

### Action Taken

As has been explained in para 4.26 the question of considering payment of *ex-gratia* rates to Contractors A & B arose only when these contractors were not prepared to continue with their contracts on account of the deteriorating law and order situation and labour unrest in the Project area due to which they were unable to get the desired output from the machines. In case these contracts were rescinded on account of the failure of the contractors to continue with the jobs, the tendered rates, if tenders were invited afresh, were bound to be high from the firms who were considered technically and financially capable of executing the work in time. Moreover, the contractors A & B might have in that case, gone to the court for seeking redress which, would have further delayed the execution of the works. Consequently the Control Board decided in the larger interests of the Project to get the contractors representation of higher operational cost and request for relief, examined in depth by an Inter-Departmental Committee. This Committee recommended higher rates after it had carried out a thorough study of the matter and was fully convinced about its justification.

The time limits of 31-3-72 in respect of contractor 'A' and 31-3-73 in respect of contractor 'B' as indicated by the Inter-Departmental Committee in respect of payment of '*ex-gratia*' higher rates were based on the consideration that the completion of the contracts of Contractor 'A' in respect of reaches RD 10—68 and RD 97—103 and of Contractor 'B' in respect of reach RD 68—93 would, in any case, not extend beyond these dates. This was the best assumption made by the Committee keeping in view the balance works that remained to be done at the close of the 1969-70 working season i.e. about 10.72 cr. cft. by Contractor 'A' and 20.53 cr. cft. by Contractor 'B'. Out of the above quantities, Contractor 'A' had [by the due date 31-3-72] completed most of the 6.89 cr. cft. carried out by him during 1971-72 working season while the Contractor 'B' had completed [upto 31-3-1973] most of the 17.35 cr. cft. executed by him upto 1972-73 working season. It would thus be seen that about 90 per cent of the contracted earthwork had been completed by both the contractors within the time limit indicated by the Inter-Departmental Committee in their report. The reasons for the short-fall were, as explained under paras 2.5 and 2.11 on account of non-availability of land at the village tracks and railway crossings. This was beyond the control of the contractors. The progress of the two contractors was also somewhat hampered due to heavy and early rains



in 1971 and 1973, floods in 1971, continued labour troubles and epidemic in contractor's (Contractor 'B') colony in 1973 etc.

As explained in the comments of the Audit Paras as well as during oral evidence, and in reply to point 16 arising out of oral evidence, the time extensions to the Contractors A and B were granted by the Control Board due to conditions which were beyond the control of these Contractors. Approval to give *ex-gratia* higher rates during the extended period of the contracts was also allowed by Government in consultation with the Ministry of Finance. It may also be mentioned here that, as already known to the Committee, Contractor 'A' had first declined to resume work during 1973-74 working season for completing the gap portions and he was demanding much higher rates for earthwork in these isolated reaches. He was, however, persuaded to excavate these gaps upto the water level at the existing rates.

It will be seen that though time extensions for completing the work and extensions for payment of *ex-gratia* rates were given to the Contractors by the Government in the over-all interest of the Project, the rates paid to the contractors were the same as recommended by the Inter-Departmental Committee inspite of insistence by the contractors for paying still higher rates, and, therefore, there was no extra expenditure than what Government was already committed to pay had the earthwork been completed within the time limit and which the contractors could not unfortunately execute due to reasons beyond their control, as explained above.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6|2|76-FBP dated 29-7-76 and 24-1-77]

### Recommendation

The Committee would like to mention that stores and materials worth lakhs of rupees were issued to the contractors at Departmental issue rates which are stated to include storage and departmental charges. During evidence, the representative of the Ministry explained that the bulk of such materials comprised POL and that the contractors were charged rates higher than the rates of diesel oil or petrol at the nearby petrol stations. In respect of other materials supplied to the contractors, the representative of the Ministry stated that the contractors were charged 10 per cent more than the normal rate. Asked as to whether the issue of materials and spare parts at departmental rates plus 10 per cent was not a concession to the contractors as compared to the rates in the

market, the representative of the Ministry, instead of confirming or denying the position, stated that this issue of spare parts or machines was in the interest of Government, as by such issue Government were assured of the use of genuine material by the contractors, thus avoiding the use of fake stuff which might damage the equipment. The Committee are perturbed that Government chose to deal with apparently unprincipled businessmen even in the case of national projects of Paramount value to the country.

Since, as pointed out by the Chief Engineer of the Project himself, the procurement and selection of machinery etc. was entirely the concern of the contractors themselves, it is evident that the issue to the contractors of materials and stores from the Stores of the Department was in itself a big concession to the contractors. Even so, this concession to the contractors was not taken into account by the Inter-Departmental Committee while examining their claims for rates higher than the contracted rates outside the terms of their contracts. The Committee are of the view that the Inter-Departmental Committee have, by a series of decisions, invited, on themselves, a suspicion of dereliction of duty which should be cleared by Government with a view to suitable action, if called for, in the matter.

[S. No. 30, Appendix-VII, Paras 5.32 and 5.33 of 196th Report of the P.A.C. (5th Lok Sabha).]

#### **Action Taken**

The spare parts issued by the Department were meant to be used mainly on the departmental equipment loaned out to the contractor which was in accordance with the common practice adopted on projects. Most of these spare parts were imported and if Contractors were to arrange these spare parts their import would have taken time. On the other hand, if these were purchased from the open market, their genuineness would have been doubtful and could have affected the progress of work which was of vital importance.

The statement of the Chief Engineer of the Project in regard to the procurement of machinery etc. was in the context of giving extension to the contractor "A" beyond 30-6-68 and is not related to the issue of materials and stores which was considered necessary in the interest of Department and cannot, therefore, be taken as a concession to the Contractor. Moreover Government's interest was fully safeguarded in fixing the issue rates.

Government consider that the recommendation of the Inter-Departmental Committee which comprised senior engineers and officers were based on all the relevant considerations keeping in view the larger interests of the Project. These recommendations were duly considered by the Government before acceptance.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 62/76-FBP dated 29-7-76.]

### Recommendation

The Committee disapprove of the leisurely and lukewarm manner in which the whole case of arbitration of the so-called dispute between the contractor 'A' and the Project authorities was handled by Government. In March 1971, when the contractor conveyed his acceptance of enhancement of rates (as decided by the Special Committee), for earthwork done during 1969-70 and thereafter, and his letter was conspicuously silent about his reaction to the rejection by the said Committee of his claim for the period January, 1966 to September 1969, the situation required that before making any payment Government should have secured from him clear written confirmation of the position in respect of the period January, 1966, to September, 1969.

[S. No. 31, Appendix-VII. Para 6.21 of 196th Report of the P.A.C. (5th Lok Sabha).]

### Action Taken

In the erstwhile Ministry of Irrigation and Power letter No. 128/70-FBP dated the 11th March, 1971, while conveying sanction to the ex-gratia payment to Contractor 'A' and 'B' in respect of actual earthwork done by each during 1969-70 season, 1970-71 season and further, it was provided that "the contractors agree in writing that these payments will be in full and final settlement in respect of these items arising out of the respective contracts". It was also mentioned in this very letter that the claims of the contractors for the period prior to September, 1969, were rejected.

The firm gave an undertaking that they were accepting in full and final settlement payments in respect of claims for the enhancement of rates for the earthwork done from 1969-70 season onwards.

In this respect it may be stated that subsequently in a similar case when an un-ambiguous undertaking had been obtained, it was held that such disputes had arisen out of or in relation to the con-

tract and are referable to the arbitration under clause 25 of the Contract Agreement which is wide enough.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP dated 29-7-76.]

#### Recommendation

In so far as the pleadings before the arbitrator are concerned, it is surprising that the reasonableness or otherwise of the quantum of compensation demanded by the contractor was not posed into by the government side at all. No oral evidence was led before the arbitrator, and no reasons seem to have been recorded in justification of such an omission. Also, no counter-claims were made by Government on account of the concessions extended to the contractor inspite of his failure to adhere to the time schedule. There were other facilities, like use of government machinery etc. given to the contractor which too should have been put forward before the Arbitrator, in order to have the amount of award suitably reduced if not completely negated. The loss suffered by government on account of the contractor arbitrarily stopping work and causing delay and cost escalation was another point that should have been pressed strongly before the arbitrator by way of counter-claim, but it was not done. The contractual obligation of the contractor to take up additional excavation work at old rates, which the contractor failed to fulfil and Government did not enforce, gave another, valuable advantage to the contractor. No counter-claim on this account also was made before the Arbitrator. The Committee feel strongly that Government's defence was not resolutely, or even properly conducted.

[S. No. 33, Appendix-VII. Para 6.23 of 196th Report of the P.A.C. (5th Lok Sabha)]

#### Action Taken

The department took a firm stand before the arbitrator that the contractor was not entitled to any relief or compensation in respect of the work done by him between January, 1966, to September, 1969 and that contractor's claim was not tenable as per terms and conditions of the contract. The department did not enter into any argument about the reasonableness or otherwise of the quantum of compensation demanded by the contractor as by doing that an impression would have been created that the department was only disputing the reasonableness of the quantum of compensation while accepting, in principle, the justification thereof.

It was considered advisable by our counsel that in the absence of any oral evidence on the part of the claimants, there was no necessity on the part of the defendants to refute the claim by oral evidence. It may be mentioned that in any arbitration case, it is for the claimants to substantiate their claim either by oral or documentary evidence. But as the claimants in this case chose not to lead any oral evidence (they perhaps thought that the documents submitted by them will speak for themselves), the defendants also thought it proper not to adduce any oral evidence. As such, the whole matter was allowed to proceed on the basis of statement and counter-statement to be backed by the documentary evidence of both sides.

The time extensions were granted to the contractor in consideration of the hindrances and the difficulties faced by him at site and which were considered to be beyond his reasonable control. The facilities extended to the contractor such as payment, issue of P.O.L., spares and hiring out of departmental machinery were promoted by the anxiety to complete the work as quickly as possible. Besides, since these facilities were not provided gratis and were charged to the contractor according to the rules of the Department they cannot in true sense be termed as concessions.

The work was kept suspended by the contractor in the beginning of 1970-71 working season only whereas the dispute in question was for the period prior to September, 1969. As such projection of these factors before the arbitrator was not relevant. Further when the claim of the contractor before the arbitrator was for compensation for the loss sustained by him in executing the earthwork covered in his original tender at his tendered rate, putting counter-claim before the arbitrator for failure on the part of the contractor to take up additional work at his old tendered rates, especially when their tender rate had already been enhanced by the Government from the working season of 1969-70, after due consideration of the pros and cons, did not carry conviction.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 612/76-FBP dated 29-7-76.]

### Recommendation

6.24. As far as the award of the arbitrator is concerned, the Committee would draw attention to the opinion expressed by the Joint Secretary and Legal Adviser in the Calcutta Branch Secretariat of the Ministry of Law, namely that "the arbitrator ought not to have relied solely on the statements furnished by the contractor in support of these claims in the absence of any oral evidence affirm-

ing the correctness of the contents of such statements." The same official has also referred to the judgement reported in A.L.R. 1955, Supreme Court, Page 468 and stated that "the present award seems to be a flagrant case where the arbitrator has misapplied the law to give a perverse award."

6.25. In spite of the position as stated above, government decided not to pursue the objection petition against the award of the arbitrator filed by them in the Court of the Subordinate Judge, Murshidabad, but preferred to pay off the awarded amount to the claimant. The Committee are of the view that the conduct of the case was entirely mismanaged. Government should review the whole matter and fix responsibility for lapses made in course of the reference of the so-called dispute to arbitration and the presentation of Government's case before the arbitrator, with a view to suitable action against those found guilty of dereliction of duty at various levels. Reference to arbitration without careful examination of the implications and indifferent organisation of Government's defence in cases involving the financial interests and also the reputation of the State must not be allowed to recur. Since, on the evidence before the Committee, the services of the law officers of Government do not appear to have been available efficiently and expeditiously in this unfortunate case, the Committee wish Government to look into this aspect of the matter and take all appropriate action.'

[S. No. 34 (Para 6.24 and 6.25) of Appendix VII to the 196th Report  
(5th Lok Sabha)]

#### **Action taken**

**(By the Ministry of Law, Justice and Company Affairs)  
(Department of Legal Affairs)**

After bestowing careful and earnest consideration on the entire matter, it is considered that the advice tendered by this Ministry in this matter on different occasions was in accordance with law and in the best interest of Government. The arbitration clause viz. clause 25 of the agreement is of a very wide amplitude and would certainly take in the dispute agitated by the contractor. Had the contractor's request for referring the matter to arbitration not been granted, it would have involved the Union of India in avoidable litigation and the court might have appointed an Arbitrator other than a Government servant. The advice of the Law Secretary advising the Government to accept the award is in consonance with the well established legal position fortified by a catena of Supreme

**Court authorities.** Mention may be made of the following authorities in this behalf:—

1. **Union of India v. Bungo Steel Furniture (P) Ltd.** AIR 1967 Supreme Court 1032—(1967) 1 S.C.R. 324.
2. **M/s. Allen Berry & Co. (Private) Ltd. v. Union of India** AIR 1971 Supreme Court 696.
3. **Upper Ganges Valley Electricity Supply Co. Ltd. v. The U.P. Electricity Board** AIR 1973 Supreme Court 683.

2. It was a case of an unreasoned award in which there was no material to establish the misconduct, legal or otherwise, on the part of the Arbitrator. Nor could the award be successfully assailed on the ground of an error of law apparent on the face of it. In this connection it would be apt to point out that it has been consistently laid down by the Supreme Court in numerous cases including the cases referred to hereinabove that when the award is good on the face of it, it will not be set aside even when an arbitrator commits mistake either in law or in fact in determining the matters referred to him and that if any such mistake does not appear on the face of the award or in a document appended to or incorporated in it so as to form part of the award, the award will neither be remitted nor set aside notwithstanding the mistake.

3. The inescapable conclusion would, therefore, be that the advice tendered by the Law Secretary was not only legally unexceptionable but the same was also in the best interest of the Government. The course other than the one indicated by the Law Secretary would have imposed further financial burden on the Government which can by no means be regarded as insubstantial.

4. It may incidently be mentioned that the Branch Secretariat, Calcutta, had also clearly indicated that there is a remote possibility that the court may interfere and set aside the award. While expressing this view, it had also been pointed out that the award could not have been given by the Arbitrator unless he misapplied law and that this fact is not apparent on the face of the award.

5. The incontrovertible factual position obtaining in this case is, that this Ministry had neither been consulted in the matter of engagement of the counsel nor had ever been associated directly or indirectly with the defence/handling of the matter before the Arbitrator. In view thereof, the irresistible conclusion is that no responsibility whatever can conceivably be attributed to the Ministry of Law and Justice in this behalf.

6. Notwithstanding the position indicated hereinabove, suitable instructions have been issued to the administrative Ministries/Departments in view of the observations made by the P.A.C. Copy of these instructions is also being furnished to the Lok Sabha Secretariat. (Annexure III).

[Legislative Deptt. O.M. No. G-25015(1)/76-B&A, dated 11-8-76]

**ANNEXURE III**

No. F. 50(3)/76-Judl.

**Government of India**

(Bharat Sarkar)

Ministry of Law, Justice and Company Affairs  
(Vidhi, Nyaya Aur Kampani Karya Mantralaya)

Department of Legal Affairs

(Vidhi Karya Vibhag)

\* \* \* \* \*

New Delhi, the 15th July, 1976.

**OFFICE MEMORANDUM**

**Subject:—**Procedure for processing of litigation matters to which Central Government is a party.

Under the Government of India (Allocation of Business) Rules, 1961, giving of advice to Ministries/Departments of the Government of India on legal matters, including interpretation of laws, legal proceedings and conveyancing, has been assigned to the Department of Legal Affairs of this Ministry. Legal issues of a complicated or ticklish nature might often arise during the course of litigation before a court, Arbitrator or other quasi-judicial body or Tribunal and it is of utmost importance that the interests of the Central Government in such matters should be adequately protected by invariably consulting this Department at all stages. Instances have come to notice where Ministries/Departments have not followed this procedure. The Public Accounts Committee, Fifth Lok Sabha (1975-76) in its One Hundred and Ninety-sixth Report of Farakka Barrage Project has adversely commented on the failure of the administrative Ministry to consult this Department as it should have normally done, and have desired the Government to look into this aspect of the matter and take all appropriate action.

2. With a view to eliminating recurrence of such lapses and adverse criticism in future, all the Ministries/Departments of the Government of India are requested to invariably seek the advice of this Department or its Branch Secretariats at Bombay, Calcutta and



**Madras at every stage of legal proceedings before a court, Arbitrator or other quasi-judicial Tribunal and act according to such legal advice. This would apply even to cases where the processing of the case before a court or an Arbitrator has been entrusted to the Government counsel by the administrative Ministry/Department concerned direct.**

3. Ministry of Home Affairs etc. are requested to issue suitable instructions to all concerned including their attached and subordinate offices accordingly.

(P. G. GOKHALE)

Secretary to the Government of India.

To

1. All Ministries/Departments.
2. Branch Secretariats Bombay, Calcutta and Madras.
3. All Officers and Sections in the Department of Legal Affairs and Legislative Department.

**Action taken**

**By the Ministry of Agriculture and Irrigation,  
(Department of Irrigation)**

For the defence of the Government case Shri A. B. Ghoshal Superintending Engineer, Canal Circle, Farakka Barrage Project and the Executive Engineer, Feeder Canal Division, Farakka Barrage Project, the officers who were connected with the work of execution of the Feeder Canal and who had thorough knowledge of the case were entrusted with the defence of the case on behalf of the Government before the sole arbitrator. The services of Shri L. N. Mukherjee, Advocate and Government Pleader, whose name was sponsored by Government Pleader, Berhampore, through the District Magistrate, Murshidabad, was engaged by the Project in October, 1968, to help the project authorities in presenting the case. A study of the case has been done and it is considered that the officer concerned, while presenting the case for the Project, took all precautions to safeguard the interest of the Government in presenting the case in the best possible manner. Senior Officers and legal adviser were present on all the important hearings and the case was prepared under their direct supervision. However, as this was the first major case of arbitration in the Project the award was received, the whole matter was reviewed and the instructions to safeguard Government's interest have been issued as indicated in reply to para 6.22. These instructions are being reviewed from time to time.

2099 LS—8.

Apart from the instructions contained in the erstwhile Ministry of Irrigation & Power's O.M. No. 7(20)/73-IF, dated 14-8-73, regarding the appointment of arbitrators in cases of arbitration, the arbitration clause in the contract agreement has since been modified to provide for a speaking award in cases where the amount of claims exceeded Rs. 50,000/-. The other amendment provides for the award not to carry any interest. Since then, contracts entered into by the Project are based on the amended form contract agreement.

On the basis of the documents available and other relevant facts of the case, it is observed that the concerned officers had taken all reasonable care to safeguard the interests of the Government and conduct the cases to the best of their abilities. No mala fide intention on the part of any Government official has come to the notice while going through the records. No doubt, this was the first major case for arbitration and the project officers were handling it for the first time. The entire team of officers was geared to the work of completing the Farakka Barrage and the feeder canal according to the targets. In spite of this, the senior Officers were present in all the hearings to supervise the presentation of the case in the best possible way. The execution of the Farakka Barrage and the Feeder Canal, as the Committee are aware is a great engineering feat. All the officers, workers and technicians have gained most valuable experience which will, no doubt, prove to be extremely useful, in future, while implementing such large projects. It is, therefore, urged that the Committee may take a broader view of the matter. It is difficult to fix the responsibility on the basis of available records. Further, the Government has since taken all possible measures, on the basis of experience of Farakka, and reviewed the entire matter relating to arbitration awards as explained above. Taking into consideration these facts and also the effect of such an enquiry on the future programmes for implementation of such unique project, it may not be desirable to conduct enquiry into the matter.

[Ministry of Agriculture and Irrigation (Department of Irrigation) O.M. No. 6/2/76-FBP, dated 29-7-76.]

### Recommendation

In the matter of the operation of Dredgers at Calcutta Port, the Public Accounts Committee had only last year, in their 175th Report on Calcutta Port Trust made their comments on the low utilisation of Dredgers, owned by the Port. Drawing attention to the reports of two Experts Committees on the subject, the Committee

had pointed out that within the Dock system the hours worked by Dredgers during 1965-66 totalled only 6,788 as against the total time of 60,000 hours available for the dredging if the dredgers worked round the clock, and 20,000 hours on an eight hour shift basis. Further it was not at all a happy situation that against a norm of 5,200 hours of working per annum by a dredger, as suggested by the Dredger Utilisation on Committee (1972-73) the time worked by the River Dredgers at Calcutta Port ranged between 600 and 2,151 hours in 1973-74, the actual dredging time being between only 300 and 1,203 hours. Now as a result of improvement on account of Farakka Waters flowing in, ships of bigger draughts are expected to be handled at Calcutta, with better provision of deep water near the Dock, the Committee trust that substantially better, if not full, utilisation will be made of the Dredgers operated by the Calcutta Port. The Committee desire that all the dredging requirements of not only Calcutta but also Haldia will be met by existing fleet of Dredgers without requiring any addition to their number. Between Calcutta and Haldia the entire port complex, rejuvenated and renovated by the Farakka construction, should play the dynamic role expected of it in the context of our developing economy.

[S. No. 38 Para No. 7.52 of 196th Report of the Public Accounts Committee (5th Lok Sabha).]

#### **Action Taken**

The recommendations of the Committee have been noted by the Calcutta Port Trust for appropriate action.

It may however be mentioned that while it may be possible for the C.P.T. to meet the requirements of Dock dredging without any addition to their existing fleet, the requirement of river dredging, both below and above Haldia, will be dependent upon the development and stabilisation of shipping channel, completion of all corrective works, quantum and pattern of head water flows etc.

[Ministry of Shipping & Transport (Transport Wing)  
O.M. No. PGA-7/76, dated June 7, 1976.]

#### **Recommendation**

When the Study Group of the Committee visited Farakka they were given to understand that the navigational locks at Farakka are yet to be completed. According to the audit report the major expenditure on account of navigational facilities (Rs. 13.00 crores out of Rs. 19.06 crores) is yet to be incurred as part of the Farakka Project. From the experience of the construction of the Feeder canal, the Committee fear that unless the Government of India and

the Project authorities are vigilant, this work may also get unduly delayed and the benefit to the nation of heavy investments already made may be jeopardised. The Committee recommended that a programme for the completion of the construction programme not only at Farakka but also upstream to Patna and Allahabad should be drawn up in consultation with all relevant authorities.

[S. No. 42 Appendix VII, para 8.14 of 196th Report of PAC  
(5th Lok Sabha).]

### **Action Taken**

A Review Committee has been appointed on 26th September, 1975 by the Department of Irrigation to review the progress of the remaining works of the Farakka Barrage Project. In its first meeting held on 14th November, 1975 the Review Committee desired that the Inland Water Transport Directorate should give its immediate and projected requirements for the remaining navigation works and also advise on the framing of rules for navigation, navigational aids, levying of toll tax, etc. To achieve this, a working group consisting of representatives of Inland Water Transport Directorate, Government of West Bengal, Govt. of Bihar, Calcutta Port Trust, Farakka Barrage Project and Central Water Commission has been set up on 16th February, 1976. The Group had one meeting on 19th and 20th March, 1976 in which the representative of Government of West Bengal informed that a Law Commission appointed by his Government was examining the legal issues concerned with navigation and toll tax. The Working Group has requested the Calcutta Port Trust on 19th April, 1976 to prepare detailed requirements of men and materials required to manage navigation at Farakka and also in the reach between Calcutta and Farakka for operation of locks and maintaining other arrangements. Another meeting of the Group was held on 23rd and 24th July, 1976, the minutes of which are awaited. Next meeting of the Working Group will be held as soon as reports of the National Council of Applied and Economic Research regarding traffic study, of the Calcutta Port Trust on requirements of navigation and of the Law Commission appointed by the Government of West Bengal are received.

[Ministry of Shipping and Transport (I.W.T. Directorate)  
O.M. No| 28-IWT(5)/76-P&W dated the 5th August, 1976].

### **Recommendation**

The Committee feel that the magnificence of the Barrage construction, the fascinating sight of water flowing through the Feeder

Canal and the enchanting greenery all around the area, provide the natural as well as man-made background for the development of the area into an attractive tourist resort which could, in due course, grow into sizeable source of earnings even of foreign exchange through tourists from other countries. The Committee desire that the schemes already made by the State Government in this regard should be examined and all essential assistance should be given to them by the Central Government also.

[S. No. 46 in Appendix VII, para 8.24 of the 196th Report of PAC (5th Lok Sabha)].

#### **Action Taken**

During the Fourth Five Year Plan, the State Government had requested the Central Government to set up a camping site at Farakka; this was the only scheme in the complex forwarded to the Central Government for their consideration. Due to the severe constraint on resources, a large number of schemes of the Central Government of Tourism including the programme for construction of camping sites had to be dropped. The Central Department of Tourism could not therefore undertake the construction of the camping site at Farakka.

During the Fifth Five Year Plan priorities have had to be revised. Due to the low priority of this project, which would be primarily for the use of domestic tourists, the Central Department of Tourism is not able to include it in its programme.

[Ministry of Tourism and Civil Aviation O.M. No. H. 11013 (13)/75-A.III-Tourism dated 15-7-1976.]

CHAPTER V  
RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF  
WHICH GOVERNMENT HAVE FURNISHED INTERIM  
REPLIES

NIL

NEW DELHI;  
November 18, 1977.  

---

Kartika 27, 1899 (Saka).

C. M. STEPHEN,  
Chairman,  
Public Accounts Committee.

## APPENDIX

### Main conclusions/Recommendations

S No.	Para No.	Ministry/Department concerned	Recommendation
1	2	3	4
I.	I. 10	Agriculture & Irrigation	<p>The Committee are unhappy that Government do not appear to share their grave concern over the delays that have taken place and the implications that have flowed therefrom. It is senseless to cry over spilt milk but it is always wise to learn from experience. While recognising, of course, some force in the reasons for the delay that Government's reply indicates, the Committee cannot avoid an impression of near-complacency over the issue. The fact of detailed surveys having to be made is not contestable, but this requirement was by no means unknown when in 1961 and again in 1965, clear-cut projections were made. Indeed, Dr. Lackner's opinion was elicited and the Bose Committee reported much before 1965. Credit will be ungrudgingly given for having at last completed "by far the largest irrigation-cum-navigation canal" in the country, but this should not extend to unqualified exoneration of a certain failure, which was not inevitable, to anticipate the required pace of construction and concomitant problems. Government are correct in stressing flexibility as an element in construction of the magnitude and complexity of Farakka, but long deferment of presumably</p>

well thought-out target dates cannot be justified on the plea of flexibility. The Committee have great confidence in our own engineers and other Scientific-technical personnel, and that is exactly why it is a matter of concern that delays and defaults were not, to the extent possible, avoided.

2. I 13 Agriculture & Irrigation

The Committee are constrained to reiterate that Government should do well to acknowledge the fact of delay being at least, in part, due to deficiencies in the organisation of work on such a vital national project. A gap of some two years between the barrage becoming operational and the canal being constructed is a serious matter. The three-year procrestation over tenders (1964—67) can hardly be explained away by acute financial stringency allegedly occasioned (May 1966) by the 1965 war with Pakistan. The Committee are of the view that the delays referred to, while not inexplicable, were at the same time not "unavoidable".

3. I. 16 Do.

The Committee would urge Government to assure them about "efforts" reportedly "made to remove the bottlenecks" which had been noticed and commented upon in their Report. The Committee fear also that the fact of there being "high level control", which in such large projects may be imperative, appears sometimes to be a justification for dragging out decisions. With the expertise at its command, Government should be in a position to work out ways and means of co-ordinated direction of projects with many inter-



related facets of responsibility. The experience garnered from this "unique" construction should thus, the Committee urge, be carefully analysed and all essential deductions correctly drawn for future guidance.

4. I. 19 Agriculture & Irrigation

The Committee find it difficult to appreciate that in spite of the 1965 decision, reiterating an earlier one of 1961, about completing the project by 1970-71, Government could not sort out the problems posed by the Railways in 1966, and even after getting the position clear by 1968, could not make much headway till 1971. In spite of it sounding tedious, the Committee consider this to be evidence of an unfortunate inability to go ahead with the project at the pace that was called for.

5. I. 22 Do.

At the time of presentation of their original Report (1964 Report—5th Lok Sabha), the Committee were informed that out of 2,800 workers, about 2,000 were either expected to be or had already been absorbed in maintenance duties, implying thereby that the problem of re-absorption related only to the remaining 800 employees. In the reply now furnished to the Committee, it is stated that it has been possible to provide alternative jobs to about 1000 employees and workers, but the total picture is vague and the Committee do not know the number of employees who are faced with the problem of retrenchment and have no alternative jobs. The Committee would like an assurance from Government that no employee or worker of the Project would be retrenched without alternative employment being offered to him. The exact number

of employees who worked on the Project, the number so far absorbed in maintenance works of the Project, the number also absorbed in alternative jobs and the position in respect of the remaining employees needs to be clearly put on record.

6. 1.25 Agriculture & Irrigation

The Committee find that specific and concrete points raised in their report remain unanswered. For some reason no notice even appears to have been taken of the Committee's impression clearly conveyed in their report, that the workers' resentment of advantages offered to contractors could perhaps have been utilised in a socially beneficent direction and their enthusiasm enlisted in work done directly by and for Government. The Committee note also that their analysis of the "labour troubles" listed by Government is apparently ignored. These are issues on which the Committee would require satisfaction.

7. 1.28 Do.

The Committee would like Government to be somewhat more forthcoming than merely to intimate that their recommendation had been "noted". While this may have a certain connotation, a more positive indication of Government's agreement with the Committee on principle—if that is really the case—would be welcome.

8. 1.31 Do.

The Committee find that while noting their suggestion and stating that a sizeable portion of the remaining work at Farakka was being carried out departmentally, Government justify their basic decision to entrust the work of excavation to private contractors

rather than to departmental agencies for which the Committee had, in general, expressed their preference. One of the arguments advanced is that on all such projects in the country excavation work of canals is generally done through contractors. If the implication of this argument is that departmental execution is proposed to be encouraged only in respect of works other than excavation, the Committee would remind Government about the observations of Audit\* on the slow progress of excavation work by contractors 'A' and 'B' at Farakka in spite of substantial financial and material help to them outside the terms of their contracts as well as the persistent demand of contractor 'A' for enhancement of rates and consequent delay in the completion of the work. It appears to the Committee that Government exaggerate their fears regarding alleged difficulties in getting such works executed departmentally. The Committee reiterate their view that in the case of the excavation of Farakka Feeder Canal, there was inadequate realisation of the position on the part of the Project authorities when they made their choice against "departmental excavation" and in favour of "excavation through contractors". Government should, in the Committee's view, earnestly apply their mind to this question and with greater confidence in the capability of their own agencies build expeditiously the requisite departmental machinery so that the present dependence on private contractors, whose conduct in various ways is found detrimental not only to execution of project but also to the general health of our economy, is drastically minimised.

---

\*Paragraph 5.1 of 196th Report of PAC (5th Lok Sabha).

1	2	3	4
---	---	---	---

9. 1.34 Agriculture & Irrigation

The Committee are unhappy that Government in this case appear almost to be at the mercy of recalcitrant contractors and in constant fear of legal proceedings even where they have a cast-iron case. While some judicious compromises with defaulting contractors in the course of a lengthy and intricate construction programme are advisable, it is neither right nor prudent to truckle down to unreasonable demands. In the case of contractor 'C', whose conduct seems to the Committee to be egregious, a penal clause, put in for use in a contingency and not merely as a matter of form, could not be invoked on account of Government's fear of prolonged litigation that might follow. If such predicaments arise, there must be something very wrong in the entire paraphernalia of legal safeguards intended to ensure performance of contracts entered into with Government. The Committee would urge Government to study the position with same earnestness and arrive at a principled decision to be enforced, by and large, in similar situations which are bound to multiply with the increased pace of construction work in the country.

10. 1.37 }  
 1.38 } Do.  
 1.39 }

The Committee note that after allotment in 1969 of excavation work to contractor 'A' in the reach RD 97-103 (with an undertaking by the contractor to execute after June, 1970, another 15 crore cft. of earthwork in the adjoining reach RD 103-126 on the same terms and conditions), the working conditions on the Project deterio-

rated, as a result of which higher rates had ultimately to be paid to the Contractor given for the work in the reach RD 97-103. As stated in para 5.13 of the original Report (*viz.* 196th Report—5th Lok Sabha) of the Committee, the position about payment of higher rates to the contractors, to whom the work was awarded in the above-mentioned reaches was as follows:—

Name of reach & contractor	Original rate accepted by the contractor	Higher rate paid <i>ex-gratia</i> for work done during 1969-70	Higher rate paid <i>ex-gratia</i> for work done during 1970-71 and thereafter
<i>RD 97-103:</i>			
Contractor 'A' . . . . .	Rs. 12.43 per 100 cft (in Apr. '69)	Rs. 16.50	Rs. 20.65
<i>RD 103-126 :</i>			
Contractor 'C' . . . . .	Rs. 11.75 per 100 cft. (in Dec. '67)	Left the work after completing only 1.26 crores cft. out of 21.50 crores cft. Actually paid a rate of Rs. 10.88 per 100 cft.	
Contractor 'A' . . . . .	Rs. 21.50 per 100 cft (in January '71)	Paid at the contracted rate.	

It will be seen that the unfinished work of contractor 'C' in the reach 103-126 was subsequently allotted to contractor 'A' himself, but at a higher rate than the *ex-gratia* rate of Rs. 20.65 per 100 cft. allowed to him in respect of work in RD 97-103 during 1970-71 and thereafter. The Committee are not at all convinced by the expla-

nation of the Ministry that even when the continuance of the old contract in the reach RD 97-103 had become doubtful and it was not possible to persuade or influence the contractor to continue work in that reach in conformity with the existing contract, the possibility of his agreeing to take on another 15 crore cft. at the 1969 contract rates for the reach RD 103-126 was out of question. The fact that the unfinished work in the reach 103-126 was actually awarded to and executed by contractor 'A' after January, 1971, clearly shows that it was only a question of rates and not of ability or willingness of contractor 'A' to do the work.

As regards the question of rates, the Committee see no reason as to why the same could not have been sorted out with contractor 'A' by making him some *ex-gratia* payment in respect of the reach RD 103-126 on the same scale as was done in respect of the reach RD 97-103 (*viz.* Rs. 20.65 per 100 cft.), instead of awarding the former work to him at a rate of Rs. 21.50 per 100 cft. This is an instance of the lack of firmness and tact on the part of the Project authorities who failed not only to insist on the contractor acting as he had agreed to earlier but also conferred on him an additional bonanza of 85 paise per 100 cft. on about 20.25 crore cft. of work in the reaches RD 103-126. The Committee cannot countenance such default and would urge Government to have the position looked into.

11 1'42 Agriculture & Irrigation

The Committee regret that in the name of "the overall situation on the project" and "the necessity of completing the project at the earliest possible time", Government appear to have shut its eyes to defaults objectively pointed out in the award of contracts. The plea would have perhaps been better taken if prolonged delay in execution had actually been avoided. The Committee can only express the hope that Government would in future show a wiser and more workmanlike approach to national construction projects.

12 1'45 Do.

The Committee note that their suggestion for further investigation of the case relating to grant of further extension to contractor 'A' beyond 30th June, 1968 in respect of the excavation work in the reach RD 10-68, has not found favour with Government. The reasons advanced are that the first extension from March, 1968 to June, 1968 was granted on account of delay in the issue of the work order after finalisation of the contract conditions by the Negotiation Committee, that the contractor was finding difficulties in spite of some departmental equipment having been lent to him, and that the Chief Engineer who was fully competent to grant or refuse the extension had forwarded the case for the consideration of the Control Board without giving any positive recommendation of his own. The Committee are not convinced by this argument. As stated in their original recommendation, the papers relating to the relevant meeting of the Control Board (where extension was granted beyond June, 1968) revealed that the Chief Engineer had specifically mentioned that "an extension from March to June, 1968 had already been granted to the firm in consideration of their difficulties in arrang-

---

1

2

3

---

ing the machinery" and "hence no further extension can be given". The Chief Engineer had also recorded that procurement and selection of machinery was entirely the concern of the contractor. The Committee are surprised that in spite of the clear and categoric remarks of the Chief Engineer in the agenda papers relating to the relevant meeting of the Control Board, the only reasons left on record for granting further extension were "difficulties explained by the firm as reported in the agenda papers". Surprisingly, even the question of the imposition of some penalty on the contractor was not at all discussed. The Committee cannot therefore help the view that undue favour had been shown to contractor 'A' and that this is a fit case requiring further probe for fixation of responsibility for what appears to be anomalous conduct. They reiterate their original recommendation and expect intimation in due course about the enquiries made in the matter and the results thereof.

123

13

1-48

Agriculture & Irrigation

The Committee wish to refer back to their earlier observations on analogous cases and to reiterate their unhappiness at Government finding itself virtually in a position where there was no alternative, in Government's view, to yielding to the contractors' escalating demands. This is a situation which, being likely to recur at other big construction sites, should be carefully analysed and all precautionary measures adopted.

14

1-51

Do.

The Committee regret that they would require further to be



satisfied that the issue of materials and stores to the contractors from the Department's own stores did not amount to a concession which was not to be expected in the usual course by the contractors. In view of the indulgence with which the contractor's inflated claims appear often to have been granted, the Committee would like to know the position in clearer detail before they can appreciate Government's viewpoint.

15

I. 54

Do.

The Committee are surprised to note that the above-quoted reply of the Ministry is completely silent as to the reasons for not having obtained a written undertaking from contractor 'A' that the rejection by the Special Committee of his claim for the period January, 1966 to September, 1969 was acceptable to him. The Ministry appear to have taken shelter behind the position that in a similar case when an unambiguous undertaking had been obtained it was held that such disputes were referable to arbitration under Clause 25 of the Contract Agreement. In the absence of full details of the case and of its being comparable with the instant issue, the Committee would not like to make any positive observations, but they can hardly conceive that the contractor, even in arbitration, could succeed in getting any additional payments for the period from January 1966 to September 1969, if he had given a written undertaking that the rejection of his claim by the Special Committee for the said period was acceptable to him. There is need, therefore, for a further probe with a view to fixation of responsibility for the lapses, if any, involved in the matter and early intimation of the results to the Committee.

18

- 16

1.57

Agriculture &amp; Irrigation

The Committee are perplexed by Government's claiming to take "a firm stand" before the arbitrator and yet displaying a kind of listlessness and inefficiency which must, in the country's interest, be shed. It cannot be that Government do not know that while denying a party's claim to compensation altogether, it is entirely open in law (and often practically useful) to add to the denial an alternative pleading, made without prejudice, regarding the patently unreasonable quantum of the compensation demand. The Committee cannot also understand why positive oral evidence, which was very much there, had not been led by Government when it was likely to fortify Government's case. The plea that the claimant, on his part, had no oral evidence to offer cannot justify Government's remissness in this regard. It is strange also to see Government going out of the way to aver that the provision of many valued facilities to the contractors (who are found to be recalcitrant) did not amount to "concessions" since they were covered by departmental rules. Where the contractors are given all reasonable assistance to get on with their work, Government should make sure that the generosity is properly reciprocated, which clearly has not happened in this case. The Committee cannot appreciate Government's lukewarm attitude towards its own rights and the clearly defeatist approach shown in this and other episodes examined by them.

124

17

1.60

Agriculture & Irrigation  
Law, Justice and  
Company Affairs

The Committee have been more than ready and willing to take, as Government urge, "a broader view of the matter", particularly

on account of the unique character of the Farakka construction. Besides, the Committee have not, in the absence of adequate and positive evidence, even hinted at 'mala fide' being involved. The Committee are convinced, however, that the conduct of legal proceedings on the part of Government had been neither efficient nor expeditious. Even if it is thought better to draw a veil over what happened in "the first major case for arbitration" handled by inexperienced Project officials, the lessons, as indicated by the Committee, should be carefully and unhesitatingly drawn.

18

I.62

Do.

The Committee note that the Ministry of Law, though consulted at a late stage, categorically disown all responsibility for the defence handling of the instant case since it claims to be never "associated directly or indirectly" with it. Perhaps a closer association of the Law Ministry at earlier stages of this unfortunate transaction which has cost the country's treasury very heavily would have helped matters. Following upon the somewhat inept conduct, earlier noted, during the arbitration proceedings, Government's acceptance of an unreasoned and patently perverse award leaves a bad taste in the mouth. In spite of the Law Secretary's opinion that the award could not be revoked in spite of errors in law and in fact, there appears also to be a view that as a matter of "remote possibility", the Court could interfere and set aside the award. The Committee cannot appreciate Government's fear of what is called "avoidable litigation" in a matter where an obviously egregious award had gone heavily, in financial and other terms, against the State. If, indeed, the law regarding arbitration is so open to abuse, as the Committee have had painfully to note in some

1	2	3	4
			<p>other cases also, Government should forthwith examine the issue and find a principled remedy to problems that have arisen frequently. The Committee however, feel that in the facts and circumstances of this case, the question of challenging the award under section 3 of the Arbitration Act should have been pursued further and more diligently.</p>
19	I.68	Shipping and Transport	<p>In view of Haldia being commissioned already or in the near future, the Committee would like Government to expedite ascertainment of river dredging requirements and to ensure without delay better working of the dredger fleet, as recommended by the Committee, in the entire Calcutta-Haldia port complex whose coordinated functioning is essential.</p>
20	I.71	Shipping and Transport	<p>The Committee regret that avoidable procrastination appears to be taking place even on fairly simple issues like the provision of navigational facilities legitimately expected to follow from the Farakka construction. Government should do well to prepare a time-bound programme regarding the completion of navigational locks at Farakka and the commencement of traffic upstream to Patna and perhaps also Allahabad.</p>
21	I.74	Deptt. of Tourism	<p>The Committee wish that with the magnificent construction completed, advantage is taken by Government to at least begin, in coordination with the State authorities, planning of a tourist complex in what might well be called a propitious site. Intimation of any progress in this regard will be welcome.</p>

