

COMMITTEE ON PETITIONS

(SIXTH LOK SABHA)

SEVENTH REPORT



(Presented to Lok Sabha on 22nd December, 1978)

**LOK SABHA SECRETARIAT
NEW DELHI**

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COMPOSITION OF THE COMMITTEE ON PETITIONS
(1978-79)

CHAIRMAN

Shri Hari Vishnu Kamath

MEMBERS

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3. Shri M. Arunachalam
4. Shrimati Kamala Bahuguna
5. Shri Manoranjan Bhakta
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13. Shri Pius Tirkey
14. Sardar Raghbir Singh Virk
15. Shri Yuvraj

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

**SEVENTH REPORT OF THE COMMITTEE ON PETITIONS
(SIXTH LOK SABHA)**

I

INTRODUCTION

1.1. I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Seventh Report of the Committee to the House on the following matters:—

- (i) Representation regarding amendment of certain provisions of the Pharmacy Act, 1948 and implementation of Hathi Committee Report on Drugs.
- (ii) Representation regarding alleged unjust award of contract for transport of steel by M/s. Hindustan Steel Ltd., Vishakhapatnam.
- (iii) Representation regarding review of certain provisions of the Central Excises and Salt Act, 1944.
- (iv) Representation regarding export of onions.
- (v) Representation regarding demands of Indian Seamen.
- (vi) Representation from Shri B. N. Gururajachar, Sub-Post Master, Hampapura, regarding discriminatory treatment meted out to him by the Ministry of works and Housing in non-grant of additional house building advance.

1.2. The Committee considered the above matters at their sittings held on the 30th March and 23rd October, 1978.

1.3. The Committee considered their draft Report at their sitting held on the 19th December, 1978 and adopted it.

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

H. V. KAMATH,
Chairman,

NEW DELHI;

Dated 21st December, 1978.

Committee on Petitions.

II

REPRESENTATION REGARDING AMENDMENT OF CERTAIN PROVISIONS OF THE PHARMACY ACT, 1948 AND IMPLEMENTATION OF HATHI COMMITTEE REPORT ON DRUGS

2.1. Shri M. P. Rege, Member, Maharashtra State Pharmacy Council and its Executive Committee, Thana, submitted a representation dated the 25th August, 1977, regarding amendment of certain provisions of the Pharmacy Act, 1948 and implementation of Hathi Committee Report on Drugs.

A. Petitioner's Grievances

2.2. In his representation (See Appendix I), the petitioner stated *inter alia* as follows:—

"This is a memorandum by way of an appeal and I may be permitted to bring to your kind attention that an injustice has been made on certain sections of Pharmacists (Compounders) as the new section 32B inserted in the principal Act allows only those persons who were approved by the licensing authority prior to 31st December, 1969 under Drugs and Cosmetics Act, 1940, and Rules thereunder while persons working in Government Hospitals, etc. as stated below since 1947 have been deprived of registration.

* * * * *

By this new section 32B, compounders who are working since 1947 in establishments with Pharmacies and approved by the Licensing authority (i.e. Drugs Controllers) under Drugs Rule 65(15) (c) prior to 31st December, 1969 are entitled to be registered without an examination along with repatriates and displaced persons. While others working in Hospitals and Dispensaries who were certified by Civil Surgeons/Deans of Medical Colleges and Hospitals and by the employers in case of Private Medical Practitioners have been refused registration. Why? Is it not discrimination and hence injustice? Can these persons not go to the Court?

* * * * *

By inserting a provision to prohibitive Section 42, this section will automatically be implemented from 1st September, 1982, causing great unemployment and shortage of Registered Pharmacists and increase in the suffering of ailing persons.

* * * *

Parliament may appoint an inquiry committee of say 5 members from amongst themselves to study the present conditions and situation in the practising Pharmacists profession as regards availability of persons, their qualifications remuneration in the context of the present margin and submit the report within six months only.

* * * *

Amend the Pharmacy Act, 1948 (taking into consideration amended Act, 1976).

* * * *

The present occupant, H. N. Bahuguna, promised to implement the Hathi Committee's recommendations within a month of his assuming the portfolio. The deadline was May, and we are in July; but the multinationals continue to mock those who would resurrect a dead, drugged, murdered report.

* * * *

It is my suggestion that persons already in the profession for more than 5 years may be absorbed with an examination and at the same time highly advertised that no person can start a shop unless he is himself a registered Pharmacist."

B. Comments of the Ministries of Health and Family Welfare (Department of Health) and Petroleum, Chemicals and Fertilizers (Deptt. of Chemicals and Fertilizers).

2.3. The representation was referred to the Ministry of Health and Family Welfare (Deptt. of Health)/Petroleum, Chemicals and Fertilizers (Deptt. of Chemicals and Fertilizers) for furnishing their factual comments thereon for consideration by the Committee.

2.4. In their factual note dated the 20th January, 1978, the Ministry of Health and Family Welfare (Department of Health) have stated as follows:—

"As regards the contention of Shri Rege in para 4 and 5 that section 32B of Pharmacy Act, 1948 is discriminatory in

nature in so far as it does not provide for the registration of persons on experience basis in dispensing and compounding of drugs since 1947 in various sectors and that, therefore, the said Section is liable to be challenged in a Court of Law, it would be appreciated that section 32B is not discriminatory in character to any category of pharmacists. On perusal of the process of registration as envisaged under section 31 and 32 of the said Act, it would appear that the unqualified but experienced pharmacists have already been provided with a number of opportunities to get themselves registered.

The requests in paras 14, 15, 19-B etc. to downgrade the present diploma course in pharmacy and/or to register persons having experience in dispensing with or without any examination, have been examined in consultation with the Pharmacy Council of India and the following comments are offered:

- (a) That any lowering down of the standards required to qualify as a pharmacist would not be in the best interests of the Nation and the profession;
- (b) That lowering down of the prescribed educational standards is no answer to the shortage of pharmacists;
- (c) That the present course in itself is of one year duration after Intermediate in science which qualification is possessed by a great number of persons;
- (d) that the Pharmacy Council of India is not empowered to prescribe more than one minimum standard of education;
- (e) That there could not be two sets of standards, one for urban area and another for rural area;
- (f) That it should not be difficult to provide facilities to enable the unqualified pharmacists in position to get themselves duly qualified. In this connection attention is invited to this Ministry's letter No. V.13011|2|76-MPT, dated the 21st/25th August, 1976 (See Appendix II) addressed to all State Governments/Union Territories.

However, the State Governments and Pharmacy Council of India are being requested separately for their comments as to whether they would like the Pharmacy Act to be amended, if they anticipate any shortage of Pharmacists for manning the Hospitals/Rural dispensaries.

The other suggestions contained in para 9 of Shri Rege's letter have been examined but they are not found to be acceptable for the reasons mentioned above.

As regards the contention made by Shri Rege in para 6 of his letter about the news regarding the passing of the Pharmacy amendment Bill in the Rajya Sabha on 8th August, 1977, in view of Mrs. Sathi Nair's letter of 1st August, 1975 (not 1st August, 1976), it may be mentioned that Shri Rege was informed that necessary amendments are being made in the Pharmacy Act, 1948 and the decision when reached will be communicated to the State Governments. (See Appendix III). It had not been mentioned in the letter that the proposed amendments when drafted would be sent to the State Governments for their opinions and suggestions, if any. The Pharmacy Act, 1948 was amended in 1976 after considering all the issues.

As regards para 7.22, attention is invited to the facts mentioned at para 4 above.

As regards para 7.26, the Memorandum dated 20-5-1977 to Shri Morarjibhai Desai, Prime Minister does not appear to have been received in this Ministry.

Remarks of Shri Rege regarding conduct of the meetings of the Pharmacy Council of India do not merit any consideration since the issue involved is a matter of concern for the members of the Pharmacy Council of India and Shri M. P. Rege is not a member of the Council."

2.5. In their factual note dated the 7th March, 1978, the Ministry of Petroleum, Chemicals and Fertilizers (Deptt. of Chemicals and Fertilizers) have stated as follows:—

"This Ministry is concerned with para 13 of the petition dated the 25th August, 1977, particularly relating to the Hathi Committee's recommendations. Hathi Committee has, *inter alia* made recommendation relating to regulation of activities covered of C.O.B. Licences, Permission Letters/No Objection Letters and regulation of excess production of bulk drugs and formulations.

2.6. In their subsequent reply dated the 3rd May, 1978, the Ministry of Petroleum, Chemicals and Fertilizers (Deptt. of Chemicals and Fertilizers) have stated that Government have since taken decisions on the recommendations of Hathi Committee. The Ministry

have also forwarded a copy (See Appendix IV) of the Statement laid on the Table of Lok Sabha on the 29th March, 1978, by Shri H. N. Bahuguna, Minister of Petroleum, Chemicals and Fertilizers, containing the decisions of the Government on the Report of the (Hathi) Committee on Drugs and Pharmaceuticals Industry.

C. Observations/Recommendations of the Committee

2.7. The Committee note that Shri H. N. Bahuguna Minister of Petroleum, Chemicals and Fertilizers had laid a statement on the Table of Lok Sabha on the 29th March, 1978, containing decisions of the Government on the Report of the Hathi Committee on Drugs and Pharmaceuticals Industry.

2.8. The Committee note from the factual comments furnished by the Ministry of Health and Family Welfare (Department of Health) that the unqualified but experienced pharmacists have already been provided with a number of opportunities to get themselves registered and that the Government are not in favour of lowering of the prescribed educational standards for dispensing and compounding of drugs under the provisions of the Pharmacy (Amendment) Act, 1976. The Government of India have further written vide their letter dated the 25th August, 1976 to the State Governments/Union Territories suggesting to them that they should provide facilities to unqualified Pharmacists already in employment to enable them to get in service training outside duty hours so that they get themselves duly qualified.

2.9. The Committee recommend that the Central Government should urge the State Government/Union Territories to extend suitable facilities to unqualified persons already in employment to enable them to get themselves duly registered. The problems of such trainees who do not reside in towns where training facilities are available, may be sympathetically considered so that no hardship is caused to them. This matter may be reviewed by the Central Government in 1980 to watch the progress made in the matter and to find ways and means to ensure that pharmacists already in service are not rendered jobless in 1982, due to the provisions of Section 42 of the Pharmacy Act.]

III

REPRESENTATION REGARDING ALLEGED UNJUST AWARD OF CONTRACT FOR TRANSPORTATION OF STEEL BY M/S. HINDUSTAN STEEL LTD., VISAKHAPATNAM.

A. Petitioner's Grievances

3.1. Shri Rajagopal Rao Boddepalli, M.P. forwarded a representation dated the 10th December, 1977, from the Secretary, Visakhapatnam Lorry Operators Association, Visakhapatnam regarding alleged unjust award of contract for transport of steel by M/s. Hindustan Steel Ltd., Visakhapatnam.

3.2. In the representation (See Appendix V), the petitioner stated *inter alia* as follows:—

"M/s. Hindustan Steel Limited, Visakhapatnam, had invited public Tenders in 'Sealed Covers' under Tender No. TC (VZ)-1(8) for 'Transport of Steel in the Export Yards of M/s. Hindustan Steel Ltd., at VPT Area' and fixed 31st August, 1977 as the last date for receipt of Tenders.

* * * *

After the opening of the Tenders and pending their finalisation for award of the Contract, M/s. Hindustan Steel Ltd. apparently with a view to catering to their transport needs entrusted the work of Transporting Steel Materials to the lowest Tenderer, *viz.* Sri T. Suryanarayana Reddy on an *ad-hoc* basis at the rates quoted by him.

* * * *

Thus, while Sri T. Suryanarayana Reddy had not only submitted the lowest Tender but had also established his reputation and standing by a practical demonstration of his capabilities etc. in the transport work that was entrusted to him by M/s. Hindustan Steel Ltd. on an *ad hoc* basis, M/s. H.S.L. played a cruel joke and awarded the contract to M/s. Orissa State Commercial Transport Corporation who were not the lowest, but were the 4th lower in the open and sealed Tenders.

* * * *

8

There is yet another glaring twist to the Contract awarded to M/s. Orissa State Commercial Transport Corporation in that the said Corporation is not doing the work itself but has entrusted the work to another local Contractor by name Sri V. Venkateswara Rao, who was the highest in the 'Public' and 'Sealed' Tender invited by M/s. Hindustan Steel Ltd.

* * * * *

As president of the Visakhapatnam Lorry Operators' Association and sharing the anxiety of constituent members, I would request your honour kindly to institute an enquiry into the above matter so that further damage to the good name of the Government may be prevented and the wrong done to the lowest Tenderer, viz. Sri T. Suryanarayana Reddy, rectified. I would urge upon you, Sir, kindly to intervene with M/s. Hindustan Steel Ltd. immediately to suspend the work awarded to M/s. Orissa State Commercial Transport Corporation pending the result of the enquiry and restoration of justice."

3.3. The representation was referred to the Ministry of Steel and Mines (Department of Steel) for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 1st June, 1978, the Ministry of Steel and Mines (Department of Steel) have stated as follows:—

"The contract referred to is in respect of transportation of steel from the export yards of Messers Hindustan Steel Ltd., to the Visakhapatnam Port Trust area and vice-versa. For this, Messers Hindustan Steel Ltd. had floated a tender against which 8 parties quoted.

From the comparative statement, it is seen that there were 20 items of work for which the rates were quoted by different parties. The Tender Committee appointed for the purpose recommended that the work may be awarded to Messers Orissa State Commercial Transport Corporation Ltd., a fully owned public undertaking of a State Govt., on the basis of the lowest rates quoted for various items. This was because the experience of Hindustan Steel Ltd., with the local contractors in the past was not happy. It has been stated that these contractors used to adopt some unfair tactics and unscrupulous methods. They also quoted low rates after mutual understanding among themselves in order to ensure that no outsider got

the contract, but, having got the contract, they would ask for increase in the rates on one pretext or the other. If such increases were not allowed the matter used to be referred to arbitration, resulting in a lot of expenditure and waste of energy.

Messrs OSCTC asked for a 10 per cent preference over the lowest rates being a public sector undertaking. However, after subsequent discussion, this margin was reduced to 5 per cent. The contract is effective from 7th December, 1977 for a period of one year.

Three specific allegations have been made in the petition:

- (i) Messrs T. Suryanarayana Reddy had been entrusted with the work on an *ad-hoc* basis pending finalisation of the award as he was the lowest tenderer.
- (ii) Messrs OSCTC are not doing the work themselves but have only entrusted it to another local contractor.
- (iii) There is collusion between Sri V. Venkateswara Rao and Messrs Orissa State Commercial Transport Corporation.

As regards (i) above, out of the 20 items of work, the quotation of Sri T. Suryanarayana Reddy was lowest only in respect of 8 items. The job of carrying out the transport work on an *ad-hoc* basis pending finalisation of the award was given not only to Messrs. T. Suryanarayana Reddy but to several others also.

Regarding (ii) above, Messrs. OSCTC have confirmed that they are not sub-letting their work to others. Due to want of road permits and some modification being undertaken on their trucks for handling the cargo, their entire fleet had not moved to Visakhapatnam, and therefore, they were engaging the transport facility available from other sources on an *ad-hoc* basis.

As regards (iii) above, it is true that pending the setting up of their full-fledged office in Visakhapatnam, Messrs. OSCTC had given the address of their local representative as "C/o V. Venkateswara Rao, Butchirajupalem, Visakhapatnam-6". This by itself does not establish the charge of collusion particularly in the face of the categorical statement of Messrs OSCTC that they have not sub-let their work to others.

According to HSL, the prime reason for awarding the contract to OSCTC which is a State owned undertaking, was for breaking the monopoly of local contractors who indulged in questionable practices thereby causing innumerable problems and loss of revenue to H.S.L.

SAIL is, however, looking into certain deficiencies noticed in an examination of the case."

C. Observation of the Committee

3.4. The Committee note the factual comments furnished by the Ministry of Steel and Mines (Department of Steel) on the representation and are of the view that it is not a matter in which the Committee should intervene.

IV

REPRESENTATION FROM SHRI C. P. AGARWAL, HONY. SECRETARY, TOBACCO MERCHANTS ASSOCIATION, KAIMGANJ (U.P.) REGARDING REVIEW OF CERTAIN PROVISIONS OF THE CENTRAL EXCISES AND SALT ACT, 1944.

4.1. Shri C. P. Agarwal, Hony. Secretary, Tobacco Merchants Association, Kaimganj (U.P.), submitted a representation dated the 23rd April, 1977, countersigned by Shri Arjun Singh Bhadoria, M.P., regarding review of certain provisions of the Central Excises and Salt Act, 1944.

A. Petitioner's Grievances

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

“The Central Excises & Salt Act and Rules, 1944, is a very rigged and cumbersome law and what is more alarming is that almost whole of the working under the law is based on Departmental instructions at the sweet will of the Officer or Authority concerned.

* * * *

So far the Adjudication matter u/s 33, Appeal u/s 35, and Revision u/s 36 of the Act are concerned and though they being pertaining to ‘Judicial Function’ under the Act, no proper procedure has so far been prescribed to be followed by the authorities with the result that justice is denied to the subject. In this connection judicial decisions including the following of the Supreme Court reported in (1969) I S.C.J. page 110 and (1977) I S.C.J. page 116 may be of some help to prove that norms of law and justice is not properly followed in these matters resulting in serious consequences.

* * * *

In this connection reference can be further made to the Public Accounts Committee 111th Report (1969-70) 4th Lok Sabha and another 31st Report (1971-72) 5th Lok Sabha of the aforesaid Committee, in which it is held that Rule 8 was mostly used for political purposes during the last Congress regime.

That the Central Excise & Salt Act, 1944, might be suitably amended so that:

- (a) the accumulation of all powers—Legislative, Executive and Judiciary under the Act in one and the same Authority might be properly separated with a view to end the public dissatisfaction regarding the operation of the Act;
- (b) there should be some body, authority or tribunal to discharge 'judicial function' pertaining to adjudication, appeal and revision;
- (c) in executive orders there might be proper limitation as and when and how and under what circumstances and by whom this power is to be exercised keeping the fundamental idea in view that such order may not curtail the rights of the individual on the one hand on the other it may not offend one's self respect and good name; and
- (d) Amendment Act No. 36 of 1973 as aforementioned be kindly repealed immediately."

2.3. The representation was referred to the Ministry of Finance (Department of Revenue) for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 16th February, 1978, the Ministry of Finance (Department of Revenue) have stated as follows:—

"The representation of Shri C. P. Agarwal has been examined. Although he has referred to a number of points, his basic points, as summed up in the prayers at the end, are the following:—

- (1) Amendment of the Central Excises & Salt Act, 1944 (1 of 1944).
- (2) Repeal of the Central Excises & Salt (Amendment) Act, 1973 (36 of 1973).

The petitioner has criticised the Central Excises and Salt Act as being very 'rigged' and cumbersome and has alleged that it curbs basic and fundamental rights guaranteed by the Constitution of India. The said Act has been duly passed by the Legislature. Various provisions of the Act have been challenged in the Courts from time to time, and necessary amendments have been made through due legal process in the light of judgments given by the

various courts. It may not be appropriate for this Ministry to presume to comment on the legality or propriety of an Act which has been duly passed by the Legislature.

Similar considerations apply to the petitioner's request that Amendment Act No. 36 of 1973 should be repealed. This is an Act of Parliament, passed in pursuance of certain recommendations of the Law Commission and in the absence of specific authority show that the Amendment Act could in any way be considered as improper or illegal, the question of repealing it would not arise.

In regard to the specific points made by the petitioner, it has been stated in para 9 of the petition that in some of its reports the P.A.C. of the Lok Sabha had held that Rule . of the Central Excise Rules was mostly used for political purposes during the last Congress regime. This Ministry has not been able to find any specific observation of the P.A.C. of the nature cited by the petitioner. Lok Sabha Secretariat might like to ask the petitioner to indicate the precise observations of the P.A.C. on which his aforesaid submission is based.

With further reference to prayer (b) of the petitioner, it may be mentioned that a number of Committees and bodies had recommended that revisional power under the Central Excises & Salt Act (but not powers pertaining to adjudication and appeal) should be entrusted to a separate tribunal. Government have accepted in principle the desirability of entrusting the appellate/revisional and executive functions to separate sets of officers. For instance, appeals at the Collectors' level are dealt with by appellate Collectors who have no executive functions and revision applications to Government are dealt with by a Special Secretary and the Joint Secretary who have no executive functions. Appeals to the Board have also in recent years generally been dealt with by a Member who normally is not given executive work. While thus maintaining a separation between quasi-judicial and executive functions, Government have not been in favour of setting up separate Tribunals. When this question was discussed at the 20th meeting of the Customs and Central Excise Advisory Council held on the 10th and 11th July, 1975, the then Finance Minister observed that experience with the Income-tax Tribunals had not been encouraging and in fact it had been noticed that the proceeding before

the some Tribunals were considerably delayed. He further observed that in matters relating to commodity taxation expeditious disposal was of greatest importance and that delay defeats justice. Consequently, if judicial trap-pings were introduced in these proceedings there would be considerable delay in the disposal of the cases, and it might also involve engagement of counsels and the remedy might prove to be expensive.

A similar proposal for setting up an independent machinery to resolve disputes has recently been made by the Indirect Taxes Inquiry Committee (Jha Committee) and the matter will be examined in the light of this Committee's Report.

As regards prayer (c) of the petitioner, it is not quite clear what he might have in mind. It may, however, be stated that the Central Excises and Salt Act, 1944 and the Central Excise, 1944 read with the notifications and orders made thereunder, clearly lay down the powers which can be exercised by the officers under the Act and Rules. In case any officer acts in excess of his jurisdiction, there are various remedies available to the affected parties, such as a representation to higher executive authorities, or an appeal or revision application under the Act or, if the affected person deems fit, by invoking the writ jurisdiction of the Courts."

4.4. The Committee at their sitting held on the 30th March, 1978 considered the matter and directed that Shri C. P. Agarwal might be asked to furnish to the Committee particulars of specific instances in support of his allegation made in his representation that rule 8 of the Central Excise Rules was mostly used for political purposes.

4.5. Shri C. P. Agarwal who was accordingly requested to furnish the requisite information, in his letter dated the 12th May, 1978 (See Appendix VII) has not given any specific instance in support of his allegation and has only made general statements.

C. Observations of the Committee

4.6. The Committee note that the Government have accepted in principle the desirability of entrusting the appellate|revisional and executive functions to separate sets of officers under the Central Excises and Salt Act, 1944. Thus, appeals are being dealt with by

appellate Collectors and revision applications to Government are being dealt with by Special Secretary and by Joint Secretaries who have no executive functions. Also in recent years, appeals to the Board have generally been dealt with by a member who normally is not given executive work. A proposal for setting up an independent machinery to resolve disputes has recently been made by the Indirect Taxes Enquiry Committee (Jha Committee) and the matter would be examined Government in the light of that Committee's Report.

4.7. The Committee observe that Shri C. P. Agarwal has not furnished any specific instance in support of his allegation that rule 8 of the Central Excise Rules was mostly used for political purposes, and has made general statements only. The Committee are of the opinion that in view of the facts furnished by Government and the failure of Shri C. P. Agarwal to substantiate his allegations, no further action is called for in the matter by the Committee.

V

REPRESENTATION REGARDING EXPORT OF ONIONS
A. Petitioners' Grievances

5.1. Shri Kanjibhai Vashrambhai Vashnani and others of village—Gingni, District—Jamnagar addressed a representation dated the 27th March, 1978 regarding export of onions.

The representation was counter-signed by Shri Dharamsinhbbhai Patél, M.P.

5.2. In their representation, the petitioners stated as follows:—

“That the ban on export of onions is resulting in huge loss to onion growers of Saurashtra region in Gujarat, hence we pray the Government to allow the export of onions.

That the Saurashtra region, particularly Uplets, Jamjodhpur, Dhoraji, Kandorna, Kutiana, Ranavav, Mangrol, Porebunder, Manabadar, Vanthali, Lalpur Taluks, is rich in onion cultivation and production cost for 20 k.g. onions comes to Rs. 4/- that the new produce has started coming into the market and being sold at the rate of three rupees per 20 k.g. The rate is decreasing every day.

That the huge stock of onions has piled up as a result of ban on its export as such export of onions should be allowed by the Central Government in order to protect the interests of onion growers.”

B. Comments of the Ministry of Commerce

5.3. The representation was referred to the Ministry of Commerce for furnishing their factual comments thereon for consideration by the Committee. The Ministry of Commerce have furnished a note dated the 29th April, 1978, indicating the factual position with regard to production and export of onions. The Ministry have added that export of onions by NAFED is now allowed without any qualitative restrictions.

In their note, Ministry have stated as follows:—

“India is the third biggest producer of onions in the world. Although no statistical data regarding production of onions is maintained by the Ministry of Agriculture, it is estimated that the total production is 15.6 lakh tonnes and the area under onion cultivation is 1.64 lakh hectare. Maharashtra State is the biggest producer of onions and other important onion growing States are Karnataka, Tamil Nadu, Andhra Pradesh, Bihar, Madhya Pradesh and Gujarat. The producers of Nasik and Nagapattinam, have been related to the export trade for over 25 years. The requirement of export therefore is a part of the production in these areas. Production figures are given in Annexure I.

EXPORTS

- (2) India has been a traditional exporter of onions to Sri Lanka, Singapore and Malaysia. However, Sri Lanka imposed total ban on import of onions in 1971.
- (3) Till October, 1974 export of onions was allowed freely by all exporters. It was, however, noticed that the unit value realisation was far below the f.o.b. cost; the quality of onions exported was poor and damages were to the extent of 70 per cent of the total shipment. In order to bring an end to all these malpractices, it was decided to canalise exports to Singapore and Malaysia through NAFED which is the apex body of the State level Agricultural Cooperative Marketing Societies.
- (4) During 1975 there was acute drought condition in various parts of India and the total production was 30 per cent less than the previous year. This led to phenomenal rise in prices of onions. However, export of onions was made by the private traders to countries other than Malaysia and Singapore. It was, therefore, decided in December, 1975 to canalise export of onions to all destinations through NAFED. Export figures are given in Annexure II.
- (5) Export of onions was stopped with effect from 13-5-77 as there was steep rise in the prices. However, to meet the urgent requirement of friendly neighbouring countries and to honour pre-ban commitments export of 25,100 tonnes have been made from 13-5-77 to 31-3-78. Of late the prices of onions in internal market have been showing

a downward trend. NAFED was asked to purchase onions for supply in the up country and for meeting urgent export requirements. They have procured 42,000 tonnes during the period 1-12-77 to 10-4-78. The summer crop of onions which is harvested from mid March to June is expected to be very good. It has therefore, been decided to allow export without any quantitative restriction.

The prices of onions in Gujarat during March, 1978 were as follows:—

	<i>First Fortnight</i>	<i>Second Fortnight</i>
Ahmedabad	37.50	27.50
Rajkot	25.00	25.00

It has also been decided that NAFED should supply onions in the non-producing high price consuming areas by opening suitable market outlets and they should keep a constant review of the prices*

C. Observation|Recommendation of the Committee

5.4. The Committee note the position stated by the Ministry in their factual comments on the representation.

5.5. The Committee recommend that [suitable machinery may be set up by Government to enable them to take quick decisions in advance regarding the export of a particular vegetable, in the interest of growers, based on upto date and proper estimates of production, likely internal consumption and quantity available for export or to stop its export, commensurate with Governments contractual commitments, in the event of shortage and inordinate rise in prices, in order to protect the interests of consumers.]

VI

REPRESENTATION REGARDING DEMANDS OF INDIAN SEAMEN

A. Petitioners' Grievances

6.1. Shri Ashutosh Banerjee, General Secretary, Forward Seamen's Union of India, Calcutta and others submitted a representation dated the 7th February, 1978 (See Appendix X) regarding demands of Indian seamen.

B. Comments of the Ministry of Shipping and Transport (Transport Wing)

6.2. The representation was referred to the Ministry of Shipping and Transport (Transport Wing) for furnishing their factual comments thereon for consideration by the Committee. The Ministry of Shipping and Transport (Transport Wing) have furnished their parawise factual comments dated the 3rd May, 1977 on the demands made in the representation as follows:—

Points raised in the Petition

Comments of the Ministry.

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) Immediate introduction of 'Secret Ballot System' in recognising Seamen's Unions in India to represent Indian Seamen's causes in all statutory Boards and Committees on proportionate representation basis. | A procedure for verification of the Membership of the registered Seamen's Unions has been evolved by the Govt. in the Ministry of Labour and that Ministry have initiated action for verifying the membership of the Unions. Representation on various bodies will be given only after the results of the verification are available. The question of adopting the secret ballot system therefore would not arise. At present only the National Union of Seamen of India Calcutta which has been recognised by the Shipowners who are the employers, as the majority union has been allowed the facility of collection of subscription inside the premises of the Shipping Office, Calcutta. This is a normal facility granted to a recognised union. No instance of forcible collection of subscription from any seamen, it is understood, has been so far reported to the Directorate General of Shipping Bombay who are directly concerned in the matter. |
| (2) Gangsterism, collection of money and corruption inside the Government Shipping Office should immediately be outlawed and/or abolished. | |

Points raised in the Petition

Comments of the Ministry

- (3) Every union of seamen should have the day to day representation rights to proper authorities in this shipping industry as per their choice.
- (4) As per earlier declaration in the Rajya Sabha by the Former Shipping and Transport Minister, a thorough 'probe' against the continuous supply of bad food and provisions, ill as well as sub-human accommodations on board vessel, heavy as well as intolerable work-load against all existing international norms, threatnings of 'Off and on Log-Entry Reports' and punishment of seamen through the fabricated machinery of Disciplinary Sub-Committee should immediately be conducted now afresh without making any further delay.
- (5) (i) Immediate implementation of ILO minimum wages of 78 Sterling pounds per month per seamen.
- (ii) Immediate implementation of Un-employment benefits and security in services of seamen.
- (iii) Immediate implementation of Works Load Free Manning Scale.
- (iv) Immediate implementation of "Scraping of Co-Medical Examination system".
- It is not practicable to allow every Union of Seamen except recognized unions to represent their grievances to authorities in the Shipping Office.
- We do not seem to have received any complaint about this. If specific instances are brought to our notice, the same can be looked into.
- The wages of Indian seamen are determined through bilateral negotiations in the National Maritime Board (India) which has representatives of both Shipowners and Seafarers. The present NMB wage effective from 1-1-1978 is Rs. 57. India has not ratified the ILO minimum wage recommendation particularly because our wage structure is based on the socio-economic conditions in the country and the financial position of the Indian shipping who have to compete with international shipping. In fact, any attempt to pay the Indian Seamen any wage other than the Indian NMB wage would be harmful to the Indian Seamen and Indian Shipping and, therefore, cannot be accepted.
- It is understood that the question of un-employment benefits has been discussed by the recognized unions with the Shipowners' Association in the last National Maritime Board's Meeting and it has been decided by them to evolve a suitable scheme in this regard.
- No manning scale has so far been prescribed under Section 88 of the Merchant Shipping Act, 1958. The possibility of laying down the minimum manning scale is under consideration in consultation with all interests concerned.
- Every seamen is required to be medically examined by Government doctors once in 8 years. The doctors of the Shipping Companies also examine the seamen before they are taken up for employment on their ships and this is necessary because the ship owners are charged

*Points raised in the
Petition*

*Comments of the
Ministry*

- with the responsibility for meeting the expenditure on the medical treatment of the seamen. Companies, therefore, have to be satisfied about the fitness of the seamen before they are taken on board the ships.
- (v) Immediate implementation of Family Medical Treatment'. The seamen are the employees of the Ship-owners and as such the question will have to be taken up by the recognised unions with the Ship owners in the appropriate forum.
- (vi) Scrapping of all anti-seaman de-vices. Unless a specific item is mentioned, it would not be possible to offer comments.
- (vii) Immediate implementation of As a gratia Scheme envisaging payment of Rs. 75/- p.m. for a period of 10 years to retired/disabled seamen and seamen dying before superannuation has been evolved and introduced by the Seafarers' Welfare Fund Society with effect from 5th April, 1978. However, a scheme for pension can be discussed by the recognized Seamen's Unions with the Shipowners at the appropriate forum namely the National Maritime Board (India).
- (viii) Immediate implementation of Equal and standardised food for seamen. The scale of provisions for supply to seamen is arrived at a tripartite meeting of Government, Shipowners and the recognised Seafarers' Unions. This scale is then prescribed by the Govt. under the provisions of the Merchant Shipping Act. This being the position the point raised is not understood. The scale of provisios prescribed taken into account the nourishment required for the type of work expected of the seamen.
- (ix) Immediate implementation of Insurance scheme for the safety of seamen's life at sea. This is a matter which seamen should take up with the employers at the National Maritime Board. However, under the MS Act and the various rules framed thereunder, necessary measures are required to be taken for the safety of life at sea.
- (x) Immediate implementation of 'National Shipping Board recommended items of Merchant Shipping Act, 1958.' All recommendations of National Shipping Board are duly examined and implemented where necessary. The reference obviously is to certain amendments to the MS Act recommended by the National Shipping Board. These are under consideration.

*Points raised in the Petition**Comments of the Ministry*

- (5) (xi) Immediate implementation of 'Scheme for revival of all cancelled registrations of seamen'. The seaman whose registration is cancelled have got the Seamen's Employment Office Rules to appeal against the order of cancellation of registration to the DG, shipping. These appeals are considered by the Appellate Authority and decisions are taken on the merits of each case. It would be difficult to agree to revive all cancelled registration of seamen as requested.
-

C. Observation of the Committee

6.3. The Committee note the facts furnished by the Ministry of Shipping and Transport (Transport Wing) on the representation of Forward Seamen's Union of India, Calcutta. The Committee are of the view that it is not a matter which calls for their intervention.

VII

REPRESENTATION FROM SHRI B. N. GURURAJACHAR, SUB-POST MASTER, HAMPAPURA, REGARDING DISCRIMINATORY TREATMENT METED OUT TO HIM BY THE MINISTRY OF WORKS AND HOUSING IN NON-GRANT OF ADDITIONAL HOUSE BUILDING ADVANCE.

A. Petitioner's Grievance

7.1. Shri B. N. Gururajachar, Sub-Post Master, Hampapura, Karnataka State addressed a letter dated the 3rd May, 1978 enclosing therewith a copy of the representation dated the 26th May, 1976 addressed to the President of India regarding discriminatory treatment meted out to him by the Ministry of Works and Housing in the matter of grant of additional house building advance.

7.2. In his representation (See Appendix XI), the petitioner stated *inter alia* as follows:—

“That the Ministry of Works and Housing have displayed a very untenable and discriminatory attitude towards me in not granting the additional house building advance requested for. It is not my intention to impute motives to such treatment as I am quite sure that there is absolutely no bad motive involved in the matter. The fact, however, remains that my request for grant of additional house building advance has not been dealt with in an objective manner and I propose to illustrate this fact in the following lines.

The Ministry of Works and Housing have raised two important objections in their communication cited above to the grant of additional house building advance requested for by me. First is that my request for the grant of additional house building advance was made after a period of 24 months from the date of drawal of the first instalment of the original house building advance sanctioned to me. The facts set out in the said representation do not admit of any controversy. I have pointed out therein the following salient facts against the time limit which has been made out as a “BAR” against the grant of my request.

These are:—

(a) that the house building advance rules framed by the President do not contain any such time-limit nor the so called administrative instructions of the Ministry of Works and Housing, imposing the time-limit of 24 months for applying for grant of additional H.B.A. from the date of drawal of the first instalment, have been properly made known to all officials of the department. In addition, in my individual case, there was the further fact of blanket BAN (total BAN) having been imposed against the grant of all kinds of H.B.A. for a period of about fourteen (14) months from 30-8-1973 to 6-11-1974 which acted as a deterrent against officials applying for any advance. If this period of 14 months is added to the time limit fixed by the Ministry of Works and Housing, my application would be quite in time because I took payment of the first instalment of House Building Advance in June, 1972 and my application for grant of additional House Building Advance was made in January, 1975. It is needless for me to emphasise that the time limit fixed by the Ministry of Works and Housing would be pointless and would become a mere shadow, if the period of ban of 14 months on the grant of HBA is not added to the said period of time limit. In additions, I may point out that in my own unit i.e. Mysore postal division, several officials have been granted additional H.B.A. overlooking the time limit. Particular mention may be made in this connection of the case of:—

- (1) Shri A. G. Venkatanarasimha Iyengar, Sub Postmaster, Metagalli pay Rs. 454/-: Amount sanctioned—Rs. 28,500/- Ministry of Works and Housing Memo. No. I|17012|25|348|74-H-III 7-1-75 refers and Postmaster General, Bangalore Casemark: AP|2-2|691 refers.
- (2) Shri H. K. Ramamurthy, Clerk, K. R. Mohalla Sub Post Office (Mysore) Pay Rs. 340/- Amount sanctioned Rs. 25,500/- Ministry of Works and Housing Memo. No. I|17012|25|344-H-III dated 16-1-75 and Postmaster-General, Bangalore Casemark AP|2-2|692 refers.
- (3) Shri R. N. Krishna, Clerk, Mysore Head Post Office—Pay Rs. 332/- amount sanctioned Rs. 22,500/- Ministry of Works and Housing Memo. No. I|17012|25|364|H-III

dated 9-1-76 refers and Postmaster-General, Bangalore
 Casemark: AP/2-2/574 dated 22-1-76 refers.

I respectfully submit that it would be a grave injustice and also invidious discrimination meted out to me in not being granted the additional H.B.A. It pains me very much that I have been singled out for application of the time limit in a ruthless manner while the time limit has been overlooked in the case of the above three officials. It is this fact which has made me to approach your kind-self for justice and fair-play.

I now come to the consideration of the second reason adduced by the Ministry of Works and Housing viz., that I am not eligible for the grant of additional H.B.A. under the relevant provisions. According to Rule 6(2) (iii) of H.B.A. Rules and note below O.M. No. I/17015/4/76/III dated 30-1-76 of the Ministry of Works and Housing, pay for the purpose of house building advance rules, is the pay of the applicant at the time of conveying the Ministry's approval. In my case, the Ministry's approval was conveyed in Memo. No. I/17012/25/73-H/III dated 2-7-74 and I was drawing a pay of Rs. 432 plus special pay of Rs. 25 i.e., Rs. 467/-. Based on this figure, I am entitled for a total house building advance of a sum of Rs. 35,025/- ($467 \times 75 = 35025$ -), as against the amount of Rs. 20,900/- sanctioned to me. In the context of the above facts, I am entitled to an additional H.B.A. of Rs. 14,125/- while the amount applied for by is only Rs. 3,900/-. It surpasses my comprehension as to how the Ministry of Works and Housing has come to the conclusion that I have been granted the maximum permissible amount of H.B.A.

That the H.B.A. Rules have been framed with the intention of providing maximum financial assistance to Central Government servants to own their houses. These rules have been liberalised from time to time and keeping in view the general rise in the cost of building materials and also cost of labour, the maximum amount of advance has been raised from an amount equal to 48 times the monthly pay to 60 times the monthly pay during 1970 and again it was further raised to 75 times the monthly pay during November, 1972. It is my firm belief that the grant of insufficient amount of advance would not only put the officials into financial hardship but also defeat the very purpose of granting of H.B.A. It is also significant to

mention that whenever the H.B.A. Rules are liberalised, they were made applicable to past cases also.

* * * *

In the light of the above submissions, I respectfully request the President to set aside the objections raised by the Ministry of Works and Housing against the grant of additional house building advance requested for by me, as these objections are not tenable and order the sanction of the additional house building advance requested for by me. I have strained every nerve (NERVE) to expound the justness as also the fairness of my request and in spite of this, it is felt that I am not entitled for the grant of additional house building advance, I may kindly be permitted to dispose off the house and repay the outstanding balance of H.B.A. together with interest due to the Government of India in one lump. I am driven against my will to make this request as it is not possible for me to complete the construction of the house without the grant of additional house building advance."

B. Comments of the Ministry of Works and Housing

7.3. The representation was referred to the Ministry of Works and Housing for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 29th June, 1978, the Ministry of Works and Housing have stated as follows:—

"That this Ministry's File No. I|17012|25|1600|73-H.III containing the original papers is not available in the records and it seems that the same has since been returned to the Post Master General, Bangalore as the applicant had applied for enhancement of advance after the expiry of prescribed period of 18 months from the date of drawal of the 1st instalment of the construction advance. This fact is clear from the enclosure to the representation of the applicant now made to the Speaker, Lok Sabha, which reveals that the case of Shri B. N. Gururajachar, for grant of enhancement in the quantum of advance already approved, was thoroughly examined and a reply rejecting the case on account of its being time-barred, was issued, *vide* this Ministry's D.O. No. I|17012|25|1600|73-H. III dated 19-3-1976.

In the absence of the original record, it is not possible to re-examine the case in its true perspective. House building

advance is a limited assistance and the employees are expected to plan in such a way that they should be able to complete their house within the limited advance made available by the Government and such other resources, if any, of their own. Lok Sabha Secretariat have, however, requested this Ministry for factual comments on the various points raised in the representation now made to them for consideration of the Committee on Petitions, Lok Sabha. Para-wise comments are offered as follows:—

Paras 1 & 2—These are self-explanatory and no comments are offered.

The applicant drew 1st instalment in June, 1972 and applied for grant of addl. advance in January, 1975. Thus the request was found time-barred and accordingly, PMG Bangalore was informed on 9-3-1976.

The cases of S/Shri A. G. Venkatanarasimha Iyengar, H. K. Ramamurthy, and Shri R. N. Krishna mentioned as precedents, it seems, were approved in 1975/76 and the requests were made within the prescribed period of 18 months. These are the cases which have also since been returned to the Department concerned and it is not possible to place these cases on the file for perusal.

The pay of an employee keeps on increasing from year to year. Hence the principle which this Ministry follows is to go by the pay at the time of filling the application. Shri B. N. Gururajachar drew his 1st instalment in June, 1972 and, as such, his pay in July, 1974 being raised to Rs. 432/- P.M. cannot be taken into account. Accordingly, when the rate of advance is liberalised, application for enhancement of the advance on the basis of liberalised rates is not entertained except when there is a specific provision for this. In such a case the terms and conditions, as laid down, have to be followed.

The plea of the official that the administrative instructions of this Ministry imposing the time limit from the date of drawing the first instalment have not been properly made known to all the officials of the Department cannot be accepted. The O.M. No. 10/4/69-H.III Vol. III dated 16-11-1972 is addressed not only to all Ministries & Departments, but also to all the recognised Unions of P&T Department to which Shri B. N. Gururajachar belongs. Perhaps there is no better way of circulating Government orders than done in this case.

In fact, the order raising the ceiling of the advance to 75 times the pay subject to a ceiling of Rs. 75,000/- was issued in November, 1972, whereas the application for enhancement of advance in this case was made in January, 1975, while the 1st instalment is stated to have been drawn in June, 1972.

The main point of the applicant is that the ban was in force for 14 months and if the period of 14 months is deducted from the period between sanction of the 1st instalment and the date of application for enhancement, his case should be covered under the rules. This deduction is not permissible as there was no ban on making application. Therefore, the contention of the applicant is not tenable."

C. Observation of the Committee

7.4. The Committee note the factual comments furnished by the Ministry of Works and Housing on the representation and feel that in view of the position stated by the Ministry of Works and Housing, no further action is called for in the matter.

NEW DELHI;

Dated the 21st December, 1978

H. V. KAMATH,

Chairman,

Committee on Petitions.

Appendix I

[Representation re. amendment of the certain provisions of the Pharmacy Act, 1948 and implementation of Hathi Committee Report on Drugs]

From

Shri M. P. Rege,
Member,
Maharashtra State Pharmacy Council
and its Executive Committee,
OM Villa, Ram Maruti Ist Lane,
Ram Maruti Road, Thana.

Thana.

25-8-1977

To

1. Honourable Speaker, Lok Sabha,
2. Honourable President, Rajya Sabha,
3. Honourable Members of Lok Sabha and
Rajya Sabha, Parliament House, New Delhi.

SUBJECT: The Pharmacy Act, 1948
The Pharmacy (Amendment) Act, 1976.

Respected Sirs,

Ours is a Democracy and Janata, Voters, are sovereign. But for practical purposes powers are delegated to the members of the Parliament to make laws and to keep a watch on the enforcement of laws. *Before approaching sovereign body*, I may kindly be allowed to place the following for your Honours kind consideration immediately to rectify the discrimination made while passing 1976 Act, probably due to non-information or misguidance at the hands of Government benches presumably due to misguidance by the bureaucracy. For this statement, I quote as follows.

2. As per report of questions and answers in Maharashtra Assembly quoted in Loksatta of 26-7-77, Hon. Shri Pasha, Rajya Mantri informed that during academic year 1977-78 Pune Municipal Corporation did not apply to the Government to open middle school. On objection by Smt. Lila Merchant (Cong.) stating the applications were given to Hon. Ratnappa Kumbhar and Chief Minister and how

is it that the answer is No by Rajya Member. At theis Hon. Shri Ratnappa Kumbhar, Supply Minister, who was present in the Assembly stated that the application (Nivedan) was given to him and he did send to Education Department. Does this not prove the misguidance by either Minister or presumably by the staff and officers?

3. The Pharmacy (Amendment) Act, 1976, was passed in the Parliament in both Sabhas. The bill was piloted by the then Hon. Shri Karansingh, Health Minister and received assent of Honourable President of India in the May 1976.

4. This is a Memorandum by way of an appeal and I may be permitted to bring to your kind attention that an injustice has been made on certain sections of Pharmacists (Compounders) as the new section 32B inserted in the principle Act allows only those persons who were approved by the licensing authority prior to 31st December, 1969 under Drugs and Cosmetics Act, 1940, and Rules thereunder while persons working in Government Hospitals, etc. etc., as stated below since 1947 have been deprived of registration. Compounders are working in:—

1. Hospitals and dispensaries, medical centres, mobile dispensaries of State and Central Governments including Railways and E.S.I.S.
2. Hospitals, dispensaries, mobile dispensaries of Local Self Governments.
3. Establishments of Chemists and Pharmacies.
4. Charitable hospitals, dispensaries, mobile dispensaries.
5. Factories and other establishments dispensaries by shifts.
6. Dispensaries and Hospitals of Private Medical Practitioners.
7. Repatriates and displaced persons.

5. By this new section 32B, compounders who are working since 1947 in establishments with Pharmacies and approved by the licensing authority (i.e., Drugs Controllers) under Drugs Rule 65(15) (c) prior to 31st December 1969 are entitled to be registered without an examination along with repatriates and displaced persons. While others working in Hospitals and Dispensaries, i.e., categories 1, 2, 4, 6 and 6 who were certified by Civil Surgeons/Deans of Medical Colleges and Hospitals and by the employers in case of Private Medical Practitioners have been refused registration. Why? Is it not discrimination and hence injustice? Can these persons not go to the Court?

6. As there are thousands of persons working as Compounders, I had a long correspondence with the then President, Pharmacy Council of India, for registering all after an examination. But the same was rejected. Then a Memorandum of 16-11-1974, along with copies of the correspondence with President, PCI—was sent to our Hon. President of India, which was forwarded to the Health Ministry for necessary action. This was, in a way, an appeal to Hon. President of India against President of PCI. A reply to my reminder of 16-5-1975 was sent on 1st August, 1975 by Mrs. Sathi Nair, Under Secretary, Health Ministry intimating me that a decision to amend Pharmacy Act, 1948, has been taken and the proposed amendments, when drafted will be sent to the State Government for their opinions and suggestions, if any. But to my utter surprise and shock the news of passing Pharmacy Amendment Bill in Rajya Sabha on 8th August, 1975, appeared in *The Times of India* of 9th August, 1975. I interpret this as either no bill was drafted as informed to me and sent to the State Governments or the reply was only just an eyewash thinking that no further action will be taken by me.

7. I give below a gist and other informations for your ready reference:

1. Drugs and Cosmetics Act, 1940, and Rules 1945 (then only called Drugs Act) were implemented in 1948. Under Rules 65(15) (c) licensing authorities were empowered to approve persons as qualified for the purposes of dispensing and selling certain drugs in the licensed Pharmacy Establishments, which they did.

2. Last date for submission of applications under Pharmacy Act made applicable in 1949, was fixed 30-9-1951 for the first registration by virtue of having 5 years experience in compounding and dispensing on the prescriptions of Medical Practitioners.

3. First register was completed by the Tribunal and 1st pharmacy Council was formed in 1954.

4. In 1955 or so I submitted a resolution for the implementation of section 42. But, at the request, it was withdrawn as there were no Pharmacy Institutions.

5. The State Government could not devote time etc., for Pharmacy institutions because of its pre-occupation in organisation and re-organisation of linguistic States, especially Maharashtra.

6. Maharashtra State consists of 26 districts, 13 of Old Bombay State, 8 of Vidharbha, then of M.P. and 5 of Marathwada.

7. Last dates for submission for application for 1st registration were as follows:

13 districts of Bombay—30th September, 1951.

8 districts of M.P.—30th September, 1952

5 districts of Marathwada—31st March, 1966.

8. Pharmacy Institutions were started in 1968 and later. At present, 492 students are admitted every year for Diploma Course in Pharmacy in 9 institutions in Maharashtra.

9. In 1969 or so the question of shortage of qualified persons was raised and considered in State Drugs Advisory Board and it was stated also that Diploma Holders will not go to rural areas as they will not get proper remuneration and hence the Chairman of the Board, Dr. R. Zakaria, Health Minister, informed that the State Government will take up this matter with PCI suggesting a shorter course of one year.

10. In the inaugural speech of National Pharmacy Week in November, 1971, Hon. Dr. R. Zakaria passed certain remarks against the Members of PCI as they had rejected his proposal.

11. The excerpts of speech of Hon. Dr. R. Zakaria appeared in the newspapers next day and it was reported that PCI members were called adamant etc.

to start Pharmacy institution and implement section 42.

President, PCI appeared in Eastern Pharmacist of March, 1972 blaming Maharashtra only even when other States did not care to start Pharmacy institution and implement section 42.

13. Thereupon I wrote to Dr. Rohatgi the then President, PCI, regarding blaming Maharashtra Government and Pharmacy Council when about 18 States are in the boat as Maharashtra, I gave full details of conditions in Maharashtra and also the situation and informing that there would not be much difference in their States.

14. I suggested that thousands of persons working in Practising Pharmacy profession since 1947 may be registered and absorbed with an examination. The syllabus was sent. It was practically equal to that of 2nd Year of Diploma Course. It is likely that more than 90 per cent of these persons shall be non-S.S.Cs and are working for more than five years. Hence they may be allowed to appear directly as ex-students—Appendix 'A'.

15. The Examination shall be conducted by State Governments.

16. All this was turned down, without practical considerations as the suggestion was made by Maharashtra, i.e. by me.

17. The refusal for absorption will increase unemployment or the contravention of the Act by State Pharmacy Council, Drugs Controllers and State Government or the Act will be kept in cold storage. This is because of a very great shortage of persons and causing unemployment and inconvenience to the general public.

18. If not connived at, the ailing persons will suffer which needs no elaboration.

19. I had submitted to our Hon. President of India a memorandum dated 16-11-1974 with the copies of full correspondence with President PCI which was forwarded to Health Ministry. No acknowledgement from Health Ministry was received.

20. A reminder dated 16-5-1975 was sent by me to Hon. President and in reply to my reminder a letter of 1-8-1975 was sent by Mrs. Sathi Nair Under Secretary, Health Ministry. Here it was stated that a decision was taken to amend Pharmacy Act, 1948, and amendments when drafted will be sent to the State Governments.

21. The bill passed in Rajya Sabha on 8th August, 1975 was published as news in *Times of India*, Bombay of 9th August, 1975.

22. I wrote a letter on 16th August calling attention of Mrs. Sathi Nair, to hers of 1-8-1975 and the report in *The Times of India*. But silence was the only reply.

23. The Pharmacy Amendment Act, 1976, received assent of the President on 27-5-1976 and published in Part II, Section II of Gazette of India of 27-5-1976.

24. Then as a last resort, I submitted a memorandum to the then Hon. Prime Minister, Indira Gandhi, on 1st September, 1976. Sorry not acknowledged except postal A.D. Form.

25. By inserting a provision to prohibitive Section 42, this section will automatically be implemented from 1st September, 1982 causing great unemployment and shortage of Registered Pharmacists and increase in the suffering of ailing persons.

26. A Memorandum dated 20th May, 1977 to Shri Morarjibhai Desai, Hon. Prime Minister, drawing his attention and begging to do justice, has been acknowledged and the same was sent to Health Ministry. But neither a reply nor acknowledgement by Health Ministry is received upto now.

27. *Statistical Information—*

- (a) In Maharashtra, there will be about 7000 registered Pharmacists on 1-9-1981.
- (b) Maharashtra consists of 26 Districts, 232 Tehsils, 289 Towns and 17 Cities having a population of more than one lakh.
- (c) In Maharashtra there are 14 Medical Colleges admitting 1587 students every year. Note—in 1974-75, 1520 students passed the Degree Examination.
- (d) Population of Maharashtra is 50412 in thousand number.
- (e) *Veterinary—*
- | | |
|---------------------------|------|
| Polyclinics and Hospitals | 65 |
| Dispensaries | 240 |
| Branch Dispensaries | 55 |
| Air Centres | 1192 |
- (f) Hospitals and Dispensaries figures are not available. Director of Health Services can give figures.
- (g) Licensed premises in Form 20 and 21 not available.
- (h) Medical Practitioners in Maharashtra—figure not available.

*Note.—*A Dighe Committee appointed by Maharashtra Government to fix minimum wages of the workers with medical practitioners has stated that there are approximately 8,000 Doctors and about 13,000 persons working with them in Greater Bombay. It may be easy to judge the figure in Maharashtra.

- | | |
|------------------------------|------|
| (i) Students pass every year | 1587 |
| Less 1/4 do not practice | 397 |
| | 1190 |
- (j) Diploma in Pharmacy Institutes in Maharashtra—9.
- (k) Students admitted in these 9 Institutions—169.

28. *In India.*—105 Medical Colleges admit 11,213 students per annum. Students passed in 1974-75—11,911.

Note.—Number of students admitted and passed in 106th Guru Govind Singh Medical College, Faridkot, not available.

29. Registered Pharmacists required on vst September, 1981—

To vet. dispensaries, etc.	1600
Hospitals and Dispensaries of Governments	—
Charitable Institutions, etc. approx.	8,000
Chemists and Pharmacies	8,000
Private Medical Practitioners	36,000
TOTAL	53,600

30. By second method, one Pharmacist per 10,000 population 50,412.

31. In 1944, in Russa, one dspensary per 10,i000 people. ..

32. In Japan—Population in 1973—103522000.

In 1968 only

General Hospitals	6,579	Doctors	1,13,630
Infectious Hospitals	37	Dentists	36,630
Leprosy Hospitals	14	Medicine Dealer	74,336
T.B. Hospitals .	220	Gen. Health Nurses .	13,560
Cychiatric Hospitals .	853	Mid Wives .	29,440
General Clinics .	67,962	Nurses for Clinics	2,61,275
Dental Clinics .	29,489		

From the above it will be clearly judged as to how many Pharmacists are required. It must be noted that private medical practitioners do engage a person, train him to dispense drugs on the prescriptions. Perhaps 1 or 2 per cent of practitioners may not be engaging. This is negligible.

In United Kingdom and other advanced countries medical practitioners prescribe and prescriptions are dispensed in Pharmacies.

8. Result of Implementation of Section 42.

1. All unregistered persons, in thousands, working since 1947 will be thrown out of their vocation.
2. Great chaos will be created.
3. General Public will suffer which needs no elaboration.

Important Note.—The same situation will be in all the States.

4. P.C.I.'s expected figure is too low.

9. *Suggestions.*—(A) Parliament may appoint an inquiry committee of say 5 members from amongst themselves to study the present conditions and situation in the practising Pharmacists profession as regards availability of persons, their qualifications, remuneration in the context of the present margin and submit the report within six months only.

The Committee may ask for the information and figures of Pharmacists, working and required.

1. Pharmacists in Government, Semi-Government Hospitals.
2. Charitable Dispensaries.
3. Government Centres, E.S.I.S.S. Hospitals and Dispensaries.
4. Railways.
5. Private Hospitals and Dispensaries, etc.

Note.—One per window is required in all above cases.

6. Chemists and Pharmacies.

Note.—At least two per shop are required.

(B) Amend the Pharmacy Act, 1948 (taking into consideration amended Act, 1976).

- (a) Delete Section 2(d).
- (b) In section 3(g) for the words 'from amongst themselves' the following words be substituted namely, 'from amongst the persons elected under section 19(a).'
- (c) Section 15A and 15B be deleted.

Explanation.—State Councils maintain registers. Accounts are audited by Government Auditors and 1/4 share is given. This is nothing but duplication of work, wasting money.

- (d) In section 32B of Principal Act, the following sub-section shall be substituted by namely:—
 - (d) the names of the persons who have passed an examination conducted by the State Government, on the basis of syllabus as mentioned in Schedule A provided these persons, who may be having 5 years experience but may not have passed S.S.C. or its equivalent examination, prior to the date of publication of this Act in Government Gazette and have enrolled their names within six months from the publication of the Act in Government Gazette with the State Pharmacy Council with a fee of:

Rs. 5 showing their intention to appear for the examination conducted by the State Government, on basis of syllabus prescribed in Schedule A on Rules and Conditions that will be laid down by the State Government—Appendix 'A'.

10. It will not be out of place to point out that prohibitive section 42 has been implemented in Assam, Delhi, Kerala and U.P. In these States, I am sure, the persons approved under Rule 65(15) (c) of D & C Rules, 1945, were working even when they were not registered and were contravening the Act. To register them the Act has now been amended.

In the States where prohibitive section has been implemented so far the Pharmacy Act *was being contravened and or connived at both by the State Councils or the Drugs Controllers and the State Governments*. As pointed, about the great shortage of registered persons in all States it is quite clear that the contravention will be connived at or kept in cold storage. If this is going to be the condition, why not scrap the Act or repeal carry on as was being done?

11. *This does not mean that I am for repealing but on the contrary, I wish first, by any means, to stop the deterioration of the profession and then try to increase the standard with slow rapidity.* It is no use insisting on high standard immediately. The Council of PCI is mainly consisting more manufacturers and they are quite aware that it is not possible to start the Diploma Courses by spending heavily, i.e., for the admission of 60 students every year, the capital expense will be about 25 lakhs and recurring expense of rupees 3 lakhs every year and this Government cannot spend and indirectly allow the drugs to be sold without proper prescriptions which a qualified person will demand. This in turn will increase their sales and will always try to prove how the sale is increasing every year. Actually, the sale is more due to self-drugging. This is definitely against the very object of the Act. In short, majority of the Members of the PCI are not practising Pharmacists and do not find the difficulties. Further when these manufacturers are not prepared to increase the margin from 10 per cent to 20 per cent do you and can anyone expect the Diploma Holders to go to rural areas or work with Chemists?

12. In this connection, may I quote Blitz article of 16th July, 1977, pages 1 and 6 under the heading 'Hathi Report on Drugs is dead as Sunderkali and what's Bahuguna doing about drug racket' and on

page 6, heading is 'Janata cannot fight drug swindle'. I quote below certain part of this article written by Joga Rao, Blitz Delhi Bureau. Further, manufacturers are contravening Drugs and Cosmetics Rules. What Drugs controllers are doing? Does it not mean that the Act and Rules have been kept in cold storage by majority of States. Appendix 'B'.

13. "Page 6—Blitz, July 16, 1977".—'Janata cannot fight drug swindle' (contd. from the Front Page).

In spite of the clear-cut policy of the previous Government against this racket, permission to produce these products was obtained as recently as in January this year.

Unethical practices condemned—There are allegations of the company resorting to unethical practice like selling some of its veterinary products to unqualified persons and cattle-breeders such as field assistants, compounders and livestock assistants. The sales are made through the field representatives of the company.

The West Bengal Veterinary Association has passed resolution condemning such unethical practices.

Glaxo alone cannot, however, be singled out for resorting to such gross malpractices, which give instant and bumper profits. In clear disregard of rules and other government stipulations, Hoechst is alleged to be producing excess quantities of items like Catilan (Chloram-phenicol), Vitahext, Hostacycline and several other formulations to rake in increased profits of around Rs. 56 lakhs per annum.

They have been able to create liquid and other assets, including stocks and raw materials, to the tune of Rs. TWO CRORES per annum through excess and unlicensed production of these and other items.

The Hathi Committee Report has pointed out that formulations manufactured by this company under permission letters are being produced by Indian companies and Public Sector units. Still, no action has been taken to cancel these permission letters.

Officers swindle Government.—Hoechst has cornered a substantial amount of Analgin imported through the STC and also produced indigenously by the IDPL by exceeding their approved capacity.

In collusion with some of the indenting officials Hoechst has been selling its products to Government departments at rates which are five per cent higher. The increase is later distributed as commission to these officials. The Government has thus been overcharged to the tune of several crores of rupees.

The profit-hungry multinationals are now resorting to several unfair trade practices through their field representatives. The latter have been protesting against these, but even repeated representations to the Government have not produced any results.

In dealing with this transnational menace in drugs, the Janata Government has proved itself equally inept as its predecessor.

Janata Regime helpless?—The monster has already “drugged” two Union Ministers to political death. K. R. Ganesh invited punishment by Indira regime for his attempt to control the pharmaceutical racket; and his successor P. C. Sethi had to quit the portfolio and move into a clinic after almost physically throwing out representatives of the industry from his camp in Bombay.

The present occupant, H. N. Bahuguna, promised to implement the Hathi Committee’s recommendations within a month of his assuming the portfolio. The deadline was May, and we are in July; but the multi-nationals continue to mock those who would resurrect a dead, drugged, murdered report.

It is obvious that the Janata Government which has received a larger allocation of funds from the World Bank Consortium this year, is finding it more difficult to curb the profit-hunting of the multi-national cartel at the expense of the sick and the dying in India. What is Bahugunaji going to do about this racket?”

14. Definitely, it will not be out of place here if I point out as to how the State Government is slow to the last minute, then attempts with the I.M.C. and Central Government for allowing additional seats in Medical Colleges and reserving and keeping 20 crores of rupees with Central Government for making the required arrangements and staff in Medical Colleges.

In this very way our State Government will try to make a move in 1981 for the postponement of implementation of Prohibitive Section 42 with five years prior warning to see that the required Pharmacists are trained and secondly/my own attempts for the last four years.

When the State Governments do not take proper care due to very often changes in Ministries and Ministers why the members of recognised Councils should be blamed. Actually the leaders and Ministers and bureaucracy have to shoulder the blame.

I am extremely sorry, I shall not be able to come personally to Delhi, if any additional information is required, as I am penniless, without fund or pension and depending solely on my sons. This also I am spending by borrowing from friends on clear understanding that I may if I can or otherwise they may consider as charity for betterment of profession and persons working therein.

15. It is my suggestion that persons already in the profession for more than 5 years may be absorbed with an examination and at the same time highly advertised that no person can start a shop unless he is himself a registered Pharmacist.

16. I am quite confident that if the practising profession is reserved for the persons having passed certain examination as in the case of lawyers, I do not think that our Constitution will never come in the way.

17. I think I am perhaps the only conspicuous person who is taking keen interest while others are not. Perhaps because of my age I am keen because none can influence me anyway. Actually since 1972, I am unemployed and has refused the offers only to do this work. This can give one idea as to how much monetary loss is suffered and how my sons have overlooked this. In PCI meetings, 2 or 3 persons take interest and others simply nod their heads and try to finish more than 50 items in hardly 2 hours. Certainly, it is not the prerogative of PCI to do things that will make people suffer and force Government to do so.

18. Before closing, let me solemnly declare that what has been stated above is true to the best of my knowledge and belief. Secondly, I am 67 years old on the verge of bidding good-bye to this world as I am suffering from heart disease and according to the doctors, I was lucky to survive. Further, I am not interested personally in any way as out of three sons one is C.A., another is employed in Bank and the third has taken Commerce Course.

19. I shall appreciate if you will send the enclosed Post Card *duly signed, early.*

Thanking you in anticipation,

Yours faithfully,

Sd/- M. P. Rege.

ANNEXURE 'A'

Syllabus

- | | |
|--------------------------------------------------------------------------------------------------------------------|-------------|
| 1. English | 50 Periods. |
| 2. Elementary Anatomy and Physiology and Hygiene | 30 Periods. |
| 3. Prescribing, Weights and Measures, common Latin terms formulations, types, forms, their mode and choice of uses | 25 Periods. |
| 4. Pharmacology and Materia Medica equal to that of Nurses or all I.P. Preparations | 75 Periods. |
| 5. Forensic Pharmacy | 15 Periods. |
| (a) Drugs and Cosmetics Acts and Rules. | |
| (b) Dangerous Drugs Act. | |
| (c) Other State and Central Acts. | |
| (d) General idea of Mercantile Laws (as applicable to Chemists). | |
| 6. General idea of other such requirements for patients, bed pans, urinals, oxygen gas, etc. and how to use them | 5 Periods |
| 7. Pharmacy Economics, Management of Establishments, etc. | 5 Periods. |
| 8. Can be arranged on Holidays and early mornings for the enrolled persons. | |
| 9. Period of 60 minutes. | |
| 10. Stress should be given on Demonstrations. | |

BOOKS RECOMMENDED

1. Drugs Presentation & Prescribing (Published by Pargamon, London)—by WRL Brown and J. W. Hadgraft.
2. (a) Pharmacology for Nurses—by Rosemary E. Bailey.
(b) Materia Medica for Nurses—by W. Gordon Sears.

ANNEXURE 'B'

Extract from pages 37/38 of THE DRUGS AND COSMETICS ACT AND RULES (THE DRUGS AND COSMETICS ACT, 1940).

(ee) Registered Medical Practitioner means a person—

- (i) holding a qualification granted by an authority specified under section 3 of the Indian Medical Degrees Act, 1916 (7 of 1916), or specified in the Schedules to the Indian Medical Council Act, 1956 (102 of 1956); or
- (ii) registered or eligible for registration in a medical register of a State for the registration of persons practising the modern scientific system of medicine; or
- (iii) registered in a medical register of a State, who although not falling within sub-clause (i) or sub-clause (ii) is declared by a general or special order made by the State Government in this behalf as a person practising the modern scientific system of medicine for the purposes of this Act; or
- (iv) registered or eligible for registration in the register of dentists for a State under the Dentists Act, 1948 (16 of 1948); or
- (v) who is engaged in the practice of veterinary medicine and who possesses qualifications approved by the State Government.

APPENDIX II

No. V. 13011/2/76-MPT

GOVERNMENT OF INDIA

MINISTRY OF HEALTH & FAMILY PLANNING

(Department of Health)

New Delhi, the 21-8-1976

25th

To

The All State Governments/Union Territories.
(except Jammu & Kashmir & Sikkim)

Sir,

I am directed to say that after taking into account the comments received and other suggestions made, the Pharmacy (Amendment) Bill, 1976 to amend the Pharmacy Act, 1948, was finalised and has been passed by both the Houses of Parliament and received the assent of the President. A copy of the Amendment Act is enclosed. It will come into force on the date to be notified in the official Gazette. It is proposed to notify "1st September, 1976" as the date on which the Act will come into force. The Government of India would like to draw attention of the State Governments to two important provisions in the Bill.

2. The first one refers to Section 17 of the Amendment Act which makes special provision for registration of displaced persons from Bangla Desh and repatriates from certain other countries. When the Bill came up for discussion in Parliament, the members expressed deep concern that while granting such registration extreme care should be taken to ensure that only persons who have been really carrying on profession or business of Pharmacy as their principal means of livelihood should be recognised and for this purpose adequate proof should be insisted on before registration but at the same time the hardships involved in supplying such proof should also be appreciated. There should therefore be no hesitation in prescribing some sort of test. The State Pharmacy Council should be advised accordingly. The Pharmacy Council of India will also be addressing the State Pharmacy Councils.

3. Another important section of the Amendment Act is Section 19 which adds a proviso to Sect. 42 of the principal Act providing that where no date has been appointed by the State Government for bringing into force the provisions of Sec. 42(1) of the Act, these provisions will become automatically effective on the expiry of

a period of five years from the commencement of the Pharmacy (Amendment) Act, 1976. The effect of this will be that thereafter no person other than a registered pharmacist shall compound, prepare, mix or dispense any medicine on the prescription of a medical practitioner. Adequate steps should, therefore, be taken to expand the training facilities that the demand for the qualified pharmacists may be adequately met within this period of five years. There will also be a large number of unqualified persons already in employment. It is not the intention that their services should be dispensed with. On the contrary, it should not be difficult for the State Government to provide facilities to enable them to get inservice training outside duty hours so that they get themselves duly qualified. This practice is being followed in the State of Karnataka and can be usefully adopted by other State Governments.

4. Another minor point is that the Act provides for registration of certain persons who were approved as qualified persons before 31st December, 1969 for compounding and dispensing a medicine under the Drugs & Cosmetics Act, 1940 *vide* Section 32(B) (b) of the main Act as introduced by Section 17 of the Amending Act. The intention is to register approved persons who qualified themselves on 31st December, 1969 also. The Section will be amended formally at a suitable opportunity but in the meanwhile, registration need not be denied to those who get themselves qualified on 31st December, 1969 as the intention was to approve all qualified persons on or before 31st December, 1969.

Sd/

(S. SRINIVASAN)

Dy. Secretary.

Copy to:—

- (1) The D.G.H.S., New Delhi.
- (2) Ministry of Law & Justice (Shri A. P. Pande).
- (3) The Pharmacy Council of India with the request that the question of prescribing a test for refugees and repatriates seeking registration, as contemplated in para 2 of the letter may be further examined and suitable instructions given to State Pharmacy Councils. The contents of para 4 of the letter may also be brought to the attention of all State Councils for guidance.
- (4) Copy to Chief Secretary, Govt. of Sikkim and Jammu & Kashmir.

Sd/-

DEPUTY SECRETARY.

APPENDIX III
No. 7-43/62/D(MPT)
GOVERNMENT OF INDIA
MINISTRY OF HEALTH & FAMILY PLANNING
(Department of Health)

New Delhi, the 31st July, 1975.
1st August, 1975.

To

Shri M. P. Rege,
11/401, Dadabhoy Naoroji Nagar,
Jayprakash Road,
Andheri West,
Bombay-58.

SUBJECT—*The Pharmacy Act, 1948.*

Sir,

I am directed to refer to your letter dated the 16th May, 1975, addressed to the President of India, on the subject mentioned above and to say that necessary amendments are being made in the Pharmacy Act, 1948 and the decision when reached will be communicated to the State Government.

Yours faithfully,
Sd/-
(MRS. SATHI NAIR)
Under Secretary.

APPENDIX IV

GOVERNMENT OF INDIA

MINISTRY OF PETROLEUM, CHEMICALS AND FERTILIZERS

(Department of Chemicals and Fertilizers)

**Statement laid on the Table of the Lok Sabha on 29th March, 1978
by Shri H. N. Bahuguna, Minister of Petroleum Chemicals and
Fertilizers containing Government decisions on the (Hathi)
Committee on Drugs and Pharmaceuticals Industry.**

Mr. Speaker, Sir, with your permission, I place on the Table of the House the following Statement containing the decisions of Government, on the Report of the Committee on Drugs and Pharmaceuticals Industry, popularly known as the Hathi Committee.

The functioning and growth of the drugs and pharmaceuticals Industry in India over the past few years had been engaging the attention of the Government, particularly with a view to finding out ways and means to meet the growing requirements of drugs and pharmaceuticals in the country as well as the broad social objective of providing quality drugs at fair prices. Questions about the performance of the public sector units, the role of multi-national firms, licensing policy and prices were prominently raised in parliament also from time to time. Following suggestions laid in Parliament, Government of India, set up on February 8, 1974, a Committee under the chairmanship of Shri Jaisukhlal Hathi and other Members of Parliament along with various officials and non-officials, to enquire into the various facts of the drugs industry in India. The terms of reference of this Committee were as follows:—

- (i) To enquire into the progress made by the industry and the status achieved by it;
- (ii) To recommend measures necessary to ensure that the public sector attains a leadership role in the manufacture of basic drugs and formulations, and in search and development;
- (iii) To make recommendations for promoting the rapid growth of the drugs industry, and particularly of the Indian and small scale industries sector. In making its recommendations the Hathi Committee will keep in view

the need for a balanced regional dispersal of the industry;

- (iv) To examine the present arrangements for the flow of new technology into the industry, and make recommendations therefor;
- (v) To recommend measures for effective quality control of drugs and for rendering assistance to small-scale units in this regard;
- (vi) To examine the measures taken so far to reduce the prices of drugs to the consumer, and to recommend such further measures as may be necessary to rationalise the prices of basic drugs and formulations;
- (vii) To recommend measures for providing essential drugs and common house-hold remedies to the general public, especially in the rural areas; and
- (viii) To recommend institutional and other arrangements to ensure equitable distribution of basic drugs and raw materials, especially to the small scale sector.

2. The Hathi Committee submitted its Report to Government in April, 1975. The report was laid on the Table of both Houses of Parliament in May, 1975. After several discussions with representatives of the industry as well as several high level inter-Ministerial consultations, the views of the Cabinet Committee, designated therefore, were put up to the Cabinet in Feb., 1977, but could not be considered. Immediately after the General Elections of 1977, the Minister for Petroleum, Chemicals and Fertilizers directed that the recommendations should be examined on priority keeping in view the large number of representations received from various Associations of the industry and allied sectors, as well as individual manufacturers.

A series of discussions were held by the Minister with the following Associations:—

- (i) Indian Medical Association (IMA).
- (ii) Indian Drug Manufacturers Association (LRMA).
- (iii) Organisation of Pharmaceutical Producers of India (OPPI).
- (iv) All India Manufacturers Organisation (AIMO).

- (v) Indian Pharmaceutical Manufacturers Association (IPMA).
- (vi) Pharmaceutical and Allied Manufacturers Association (PAMDAL)
- (vii) All India Chemists and Druggists Association.

3. A series of inter-Ministerial meetings at high level were also held to review all points of view. The Foreign Exchange Regulation Act (FERA) Committee also met specially to consider the recommendations concerning the future role of the foreign drug manufacturing companies. A special meeting of the Consultative Committee of the Ministry of Chemicals and Fertilizers convened in November, 1977 discussed exclusively the recommendations of the Hathi Committee at considerable length. The draft recommendation which emerged from all these deliberations were directed by the Cabinet to be considered by a Cabinet Committee on Drugs.

4. The Cabinet considered the conclusions of this Cabinet Committee and have taken a final decision on various recommendations at their meeting held on March 28, 1978.

Background of the Industry

5. The drugs and pharmaceuticals industry in India is one of the most important sectors of the Indian economy—of crucial significance to the public health of the Nation. In the last three decades since Independence, the industry has expanded considerably and India today has wide-ranging capability and production in basic drugs and formulations. From a production of Rs. 10 crores 30 years ago, a production of Rs. 150 crores of bulk drugs and Rs. 700 crores of formulations has been achieved in 1976-77. There are over 2500 drugs units of which 128 are in the organised sector.

6. The break-up of production of bulk drugs and formulation by various sectors of the industry in 1976-77 is as follows:—

(Rs. in crores)

	Bulk	Formulations
(i) Public Sector	48	47
(ii) Foreign Sector	63	292
(iii) Indian Sector (private) including Small-Scale Sector	39	361
TOTAL	150	700

7. Besides the above indigenous production, bulk drugs of a c.i.f. value of Rs. 47 crores were also imported in 1976-77.

Foreign Sector

8. There are, today, 45 foreign drug companies where the direct and indirect foreign shareholding exceeds 40 per cent. The break-up is as follows:—

Foreign equity exceeding 74 per cent	14
Foreign equity between 51 to 74 per cent	11
Foreign equity between 40 to 51 per cent	13

Besides the above 38 foreign companies, there are 7 more companies which are either branches of foreign companies or with foreign equity above 40 per cent in other than organised sector. The break-up of these 45 companies, country-wise is as follows:—

USA	18
UNITED KINGDOM	13
SWITZERLAND	6
FEDERAL REPUBLIC OF GERMANY	4
OTHERS	4

9. The share of the foreign companies in the production of bulk drugs in the country in 1976-77 was 42 per cent, as against 40 per cent in 1975-76. In respect of formulations, the percentage was 41.7 in 1976-77 as against 53.8 in 1975-76. Overall, the share of foreign companies in the total production of bulk drugs and formulation was 51 per cent in 1975-76 as against 41.8 per cent in 1976-77.

Public Sector

10. Indian Drugs and Pharmaceuticals Ltd. and Hindustan Antibiotics Ltd. are the two public sector drug manufacturing units. In the year 1976-77, these units produced Rs. 48 crores worth of bulk drugs and Rs. 47 crores worth of formulations, amounting to 33 per cent and 7 per cent respectively of the country's total production. It would, thus be seen that while a third of the country's production of bulk drugs comes from the public sector, its share in formulations is negligible. The total investment in the public sector is, as of 31-3-1977, as follows:—

Indian Drugs & Pharmaceuticals Ltd.	Rs. 116.73 Crores
Hindustan Antibiotics Ltd.	Rs. 15.61 Crores

11. Broad objectives of the New Drugs Policy:

The broad principles and objectives which Government have kept in view in formulating the new Drugs Policy are as follows:—

- (i) To develop self-reliance in drug technology;

- (ii) To provide a leadership role to the public sector;
- (iii) To aim at quick self-sufficiency in the out-put of drugs with a view to reduce the quantum of imports;
- (iv) To foster and encourage the growth of the Indian sector;
- (v) To ensure that the drugs are available in abundance in the country to meet the health needs of our people;
- (vi) To make drugs available at reasonable prices;
- (vii) To keep a careful watch on the quality of production and prevent adulteration and mal-practices;
- (viii) To offer special incentives to firms which are engaged in Research and Development; and
- (ix) To provide other parameters to control, regulate and rejuvenate this industry as a whole, with particular reference to containing and channelizing the activity of foreign companies in accord with national objective and priorities.

12. *New Drug Policy:*

The following policy on production and planning in the drugs industry and the role of the public sector therein has been approved by Government:—

- (i) The drugs open to licensing for (a) the public sector and (b) the Indian sector and (c) all sectors (including foreign companies) have been listed at Annexure I.
- (ii) The rate of growth of each sector will be carefully planned to avoid shortages.
- (iii) In considering industrial licence applications, however, preference will be given to Indian companies over MRTP units and foreign companies and in that order. Economy to scale, technology and pricing of products, however, would be the deciding factors.
- (iv) In view of the growing export market for Indian Drugs and Pharmaceuticals, the Ministry of Petroleum, Chemicals and Fertilizers will seek to so regulate production that the required surplus for export is also available.
- (v) *The Public Sector will be assigned a leading role in the production and distribution of drugs and pharmaceuti-*

cal. Adequate outlays will be provided to achieve this objective.

- (vi) The Public Sector will be permitted to obtain the best technology available to improve productivity.
- (vii) The Public Sector would be encouraged to earmark a suitable percentage of their net turn-over for R & D activities.
- (viii) Formulation capacity in the Medical Stores Organisation under the Ministry of Health and Family Welfare will be suitably augmented.
- (ix) Institutes like the C.R.I., Kasauli, B.C.G. Vaccine Institute, Madras, Haffkine Institute, Bombay, which are producing vaccines sera and antigens would be activated to accept a wider role for production and supply of these categories of medicines.
- (x) Public Sector units shall be planned to meet major requirements of drugs for public health services.
- (xi) The Indian drug manufacturers will be allowed formulation licences upto 10 times of the value of their bulk drug production. In order to encourage consumption of indigenously produced bulk drugs, such formulation capacity would be sanctioned, provided the formulation turn-over is based on a ratio of 2:1 between consumption of indigenous bulk drug and imported/canalised bulk drugs.
- (xii) However a case-by-case approach will be adopted in applying these ratios where Indian companies have made substantial investments for production of bulk drugs but actual production has yet to be achieved, because of the gestation periods, timespan for perfection of technology, etc.
- (xiii) The question whether Indian companies may be allowed to expand formulation capacity freely, based on consumption of indigenous bulk drugs and whether restriction on expansion of formulation capacity may be applied only whether the Indian companies are seeking imported bulk drugs, will be reviewed after a year.
- (xiv) At present, certain units in the organised sector are exempt from obtaining industrial licences, but are required to register their activities with the D.G.T.D. With a view to ensure the implementation of the entire complex of

decisions on licensing etc., in the drugs industry, it is proposed that all units which are carrying on so far with DGTD registration only would be required to obtain industrial licences and the registration scheme shall cease, in so far as the drug industry is concerned.

Role of Foreign Companies

13.1. The first view of a majority of the members of the Hathi Committee was that the multi-national units in the field of drugs and pharmaceuticals should be taken over by Government. A second view was that there was no case, at this stage, to justify such drastic measures. In the second view the economic case for take-over has to be based on the advantages accruing to the community from such a step and in this, it would be difficult to make a distinction between foreign and Indian companies. If there is a case for nationalisation, the argument would be equally applicable to the units in the Indian sector above a certain size. A third view endorsed the second view but added that the wholly Indian units to be nationalised may be at least with annual turn-over of Rs. 2 crores and above and those which are determined as sick units need not be nationalised and paid unnecessary compensation.

13.2. The Hathi Committee could not come to any unanimous decision though the majority of the members were of the view that foreign firms should be taken over, as set out in the first view. However, the Hathi Committee was unanimous that the measures set out in the succeeding para should be taken.

13.3. Under the Guidelines issued for administering Section 29 of the Foreign Exchange Regulation Act, 1973, (FERA) Indian Companies having more than 40 per cent foreign shareholding and branches of foreign companies engaged in the production of items specified in Appendix I of the Industrial Licensing Policy of February 1973 of which 'Drugs' and Pharmaceuticals is one, are required within a specified period to associate Indian participation to not less than 26 per cent of the equity of the Company. The Hathi Committee recommended that having regard to the present stage of development of the drug industry, for the purpose of FERA Guidelines, this industry should not be eligible for the preferential treatment given to items specified in Appendix I of the Industrial Licensing Policy of 1973. In the view of the Hathi Committee foreign undertakings operating in this country should be directed to bring down their equity to 40 per cent forthwith and further it progressively to 26 per cent. This, however, is without

prejudice to other concessions to which they are eligible as a result of the industry being in Appendix I of the Industrial Licensing Policy of 1973. The Hathi Committee further recommended that the dilution of foreign equity as suggested above, should not take the form of dispersed holding of the shares by large number of Indian nationals. This is because such widely dispersed holding will not in any way, reduce the effective control of the foreign equity holders. In order to serve national objectives, it would be desirable for Government to purchase these shares either by public sector undertakings which are directly or indirectly connected with the manufacture of drugs, chemicals or by public financial institutions or by Government itself.

14. Keeping in view the need to sustain a high level of drug production in the country and in view of the fact that several other measures of control are included in the new drug policy, which will direct the activities of foreign drug companies to subserve national objectives and interest, Government have decided to redefine "drugs and pharmaceuticals" listed at 14 of Appendix I of Industrial Licensing Policy in a comprehensive manner. *The new definition would be as follows:—*

- "(a) Drug intermediates from the basic stages for Production of high technology bulk drugs; and*
- (b) High technology bulk drugs from stage and formulations based thereon with an overall ratio of bulk drugs consumption (from own manufacture) of formulation from all sources of 1.5".*

15. Government have further decided that, so far as foreign companies engaged only in the manufacture of formulations of bulk drug not involving high technology or both are concerned, they should be directed to bring down their foreign equity forthwith to 40 per cent, so that 66 per cent of the balanced equity currently in the hands of the foreign share-holders is disinvested in favour of Govt. financial or public sector institutions and the rest in favour of Indian investors, preference in the latter case being given to Indian employees of such companies.

16. As there are frequent allegations of unduly large profits by foreign companies, Govt. have decided to set up Committees to carry out an investigation in this regard and suggest measures, where appropriate, to regulate the profits of foreign companies.

16.2. Identification of foreign drug companies engaged only in the manufacture of formulations is simple. However, for the pur-

pose of identifying foreign companies engaged in the manufacture of "bulk drugs not involving high technology," detailed exercises will be carried out through a high level Committee consisting of Secretaries to the Government in the Departments of Chemicals and Fertilizers, Industrial Development, Technical Development and Science & Technology, assisted by experts.

17. In respect of foreign drug companies currently engaged in Appendix I activity on drugs and formulations, the value of turn-over which will be considered as such Appendix I activity, will consist of (a) the value of bulk drugs sold by them to non-associated formulators, plus (b) the value of formulations not exceeding 5 times the value of their total bulk drug production.

18. For the purposes of FERA, a drug company will be deemed to be a foreign company if the direct foreign equity in it is above 40 per cent. The FERA guidelines and dilution formula applicable to all other industries would be applicable to the drugs and pharmaceuticals industry also.

19. Government have also decided that, in respect of foreign drug companies other than those featured in para 15, as a result of reduction of foreign shareholding under FERA Guidelines or on expansion, Government financial and public sector institutions should aim to acquire, to the extent possible, 66 per cent of the balance equity, the rest being disinvested in favour of Indian investors, preference in the latter case being given to Indian employees of such companies.

20. Foreign companies engaged in the manufacture of household remediness will not be granted any expansion in capacity not will they be allowed to take up such activity as additional items hereafter.

21. Foreign companies producing drug formulators based on imported bulk of producing bulk drugs from penultimate stage will have to manufacture within a period of two years, the bulk drugs concerned from the basic stage.

22. *Existing foreign companies will be given formulation licences in future only if they are linked with the production of high techno-per cent respectively.*

23. *The Small-scale sector will be a prohibited area for foreign companies.*

24. *No foreign companies will be given loan licence for operating in the drugs field. The turn-over of the foreign companies based*

on the existing loan licences will not be treated as Appendix I activity, but purely as trading activity.

25. Application for industrial licences (including expansion of capacity over the level existing on 31-12-1977) by foreign drug companies for the manufacture of high technology lines of bulk drugs will be considered, *subject to the overall condition of their supplying 50 per cent of their production of such bulk drugs to non-associated formulators and subject further to their restricting their overall ratio of bulk drug consumption (from own manufacture) to formulation from all sources to 1:5.*

26. The condition of release to non-associated formulators, in similar circumstances, in respect of Indian companies, the public sector and MRTP companies will be 30 per cent, 40 per cent and 50 per cent respectively. n

Regularisation of Capacity

27.1. With regard to the capacities approved for the manufacture of bulk drugs against permission letters and C.O.B. licences, the Hathi Committee recommended that having regard to the national need for bulk drugs, the permission letters and C.O.B. licences issued to such firms, may be regularised on the condition that:

- (a) all bulk drugs are manufactured from the basic stages, and
- (b) 50 per cent of the production of basic drugs should be made available to non-associated Indian formulators.

27.2. The Hathi Committee also recommended that, so far as formulations converted by C.O.B. licences/permission letters are concerned, foreign firms should be asked to switch over within one year to the manufacture of bulk drugs and formulations to the extent of 50 per cent of the production of basic drugs by them, and the balance 50 per cent to be supplied to non-associated formulators.

27.3. *Government have decided that the criterion for regularisation of production in excess of licensed capacity or capacity based on COB licences, permission letters, registration certificates no objection certificates etc. will be, the highest production actually achieved in any year during the three-year period ending March 31, 1977. If the companies had expanded beyond licensed capacity or done any other acts in violation of the conditions attached to the specific industrial licences or other authority granted to them or of any other laws whether during the period 1973—77 or prior to that, action may*

be taken against them on the same lines as applicable to all companies in other sectors of industry which may have committed similar violations.

28. In the case of foreign drug companies, regularisation of excess production on the above criterion will be done (a) subject in their making over to non-associated formulators 50 per cent of their total production of such bulk drugs (including that regularised) and (b) subject further to their restricting the value of their formulations to five times the value of their total bulk productions.

29. In the case of Indian public sector and MRTP companies, regularisation of excess production on the above criterion will be done on the condition that they make available 30, 40 and 60 per cent respectively of their total production (including that regularised) to non-associated formulators and subject to the further condition that they restrict production of their formulations to 10 times the value of their bulk drug production.

30. Excess production in formulations which fall within the decontrolled category will not be regularised and the companies will have to reduce their production in this category to the level of authorised capacity within a period of 6 months from the promulgation of policy.

31. If excess production of price controlled categories of formulations is regularised on the above criterion and such formulations are based on imported bulk drugs, the company will not acquire a prescriptive right to obtain imported/canalised bulk drugs to sustain such excess production and Government bulk reserves the right to reduce supplies of imported/canalised bulk drugs to the level of original authorised capacity.

32. On the excess production so regularised, Government will also have rates fixed by them.

33. The excess production in household remedies produced by the foreign sector will not be regularised.

34. However, in the case of foreign companies which have a ratio of bulk to formulations of less than 1:5 (or 1:10 in the case of Indian companies), regularisation of excess production of decontrolled formulations and household remedies may also be permitted up to the ceiling of these ratios.

35. Excess production in any category will be regularised, if the company undertakes to export such excess for a period of 5 years from the promulgation of the policy.

36. No unauthorised production (that is production not authorised by industrial licences, COB licence, permission letter or DGID registration) shall be regularised.

Consolidation of Industries Licences

37. A fresh consolidated licence will be issued to each company replacing all earlier licences issued under various licensing authorisations like industrial licence, COB licences permission letter, registration certificate etc. This consolidated licence will indicate inter alia the names and descriptions of bulk drugs, the quantity licensed the percentage of production required to be supplied to non-associated formulators and export obligation, along with (a) the approved formulation, and (b) the bulk drugs (with quantity) required for the production of such formulations.

38. In regard to licences where the capacities for bulk drugs or formulations have not been specified so far, capacities will be fixed depending on the nature of items produced and their essentialities. subject to the highest production achieved in any one year during the three years ending March 31, 1977.

Import of Technology

39. The import of technology for new bulk drugs by the foreign drug companies will have to be on such terms as may be determined by Government.

40. The foreign drug companies should undertake transfer of technology laterally to public sector units where national interests justify the setting up of additional capacity.

R&D export obligation and offer of quality control facilities

41. Foreign companies whose turnover in drugs in the excess of Rs. 5 crores per annum shall be obliged (a) to have R&D facilities within the country on which capital investment should be at least 20 per cent of their net block, and (b) to spend at least 4 per cent of their sales turnover as recurring expenditure on R&D facilities.

42. To correct the present situation where industrial licences do not prescribe the export obligation of foreign companies a suitable export obligation based on the total sales turnover in formulations may be prescribed for foreign companies while consolidating their licences under the proposed policy, after a case by case review.

43. Foreign companies should be encouraged to offer quality control facilities to the small scale sector on a no-profit no loss basis.

Pricing Policy

44. The Hathi Committee had recommended that a return post-tax between 12 to 14 per cent on equity, i.e. paid-up capital plus reserves, may be adopted as the basis for price fixation, depending on the importance and complexity of the bulk drug. In the case of formulation, the Hathi Committee felt that the principle of selectivity could be introduced in terms of (a) the size of the units, (b) selection of items, and (c) controlling the prices only of market leaders, in particular, of products for which price control is contemplated. The Hathi Committee considered that units (other than MRTTP units) having only turnover of less than Rs. 1 crore may be exempted from price control. Alternatively, all formulations (other than those marketed under generic names) which have an annual sale in the country in excess of Rs. 15 lakhs (inclusive of excise duty) may be subject to price control, irrespective of whether or not the total annual turn-over of the unit is in excess of Rs. 1 crore. The ceiling price will be determined taking into account the production costs and a reasonable return for the units which are the market leaders. Yet another variant of selectivity, according to the Hathi Committee, would be to identify product groups which individually are important and which collectively constitute the bulk of the output of the industry. In respect of each item of this list, it would be possible to identify the leading producers who account for about 60 per cent of the sales between them. On the basis of the cost analysis in respect of those units, maximum prices may be prescribed and all other units may be free to fix their prices within this ceiling. On balance, the Hathi Committee was of the view that this particular variant selectivity may be administratively simpler.

45. The Hathi Committee also felt that the recommendations of the Working Group on pricing of formulations under the alternative scheme of pricing could be adopted with the revised rates of ceilings on profits ranging from 8 to 13 per cent on sales turnover—listing the firms under large, medium and small groups. The Hathi Committee also suggested further that as an alternative criterion, the ceiling on profit may also be specified as between 10 to 12.5 per cent post-tax on net worth.

46. After an exhaustive examination of all aspects of these recommendations, the Government have decided that all bulk drugs which are used in the production of price controlled formulations will be subject to price control. *The post-tax return on bulk drugs required for production of Category I and II formulations which are highly essential and life-saving will be kept at 14 per cent and*

on other bulk drugs, at 12 per cent on net worth i.e. equity plus free reserves.

47.1. However, price of about 100 bulk drugs whose cost structure has already been studied by the Bureau of Industrial Costs & Prices (BICP) will be frozen, initially for one year.

47.2. In regard to those bulk drugs where no such cost study has been made so far, their current declared prices would be reviewed quickly by the BICP on the above criterion.

47.3. The prices of new bulk drugs introduced into the market after the promulgation of the new policy will also be governed by the above criterion.

48. Where the indigenous bulk drug is produced by more than one manufacturer, a common selling price for sales to all formulators will be fixed initially on the basis of average costs of relatively more efficient firms which account for a large percentage of output.

49. The prices of bulk drugs notified by Government would be inclusive of the cost of transportation and transit insurance, but exclusive of local taxes.

50. Government have also decided that price control on FORMULATIONS WILL BE APPLIED on a selective basis and for this purpose, four categories will be established, as at Annexure II.

51. The pricing of formulations in Category I & II will be worked out on the basis of product groups of equivalent therapeutic value. Such pricing will be based on the "Leader product" of leading producers whose price will serve as a ceiling for all other formulators, within that group. The mark-ups shall be 40 per cent and 55 per cent respectively.

52. In so far as Category III is concerned, separate pricing for each producer will be done, as was being done hitherto. However, wherever possible on the basis of standard composition "leader products" would be sought to be identified here also and prices certified for such formulations, which may, at the option of the concerned manufacturers, be adopted by them, under advice to Government. The mark-up for this category shall be a maximum of 100 per cent the manufacturer being free to choose his own mark-up upto the limit of this ceiling.

53. In respect of Category IV, there will be no price control.

54. The gross of profit of the individual manufacturers would be contained as follows:—

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| (A) <i>Large units with turnover exceeding Rs. 6 crores per annum and Pre. Tax return on sales turnover exclusive on excise duty.</i> | |
| (a) having no basic drug manufacturing activity nor any research activity | 8 % |
| (b) having basic drug manufacturing activity corresponding to 5 % or more of turn-over but no research activity | 9 % |
| (c) having basic drug manufacturing activity at 5% or more of the turn-over and engaged in approved research and development work relating to new drug | 10 % |
| (B) <i>Medium size units with turnover between Rs. 1 crore to Rs. 6 crores per annum and</i> | |
| (a) having no basic drug manufacturing activity nor any research activity. | 9 % |
| (b) having basic drug manufacturing activity corresponding to 5% (or more) of turno-over but no research activity. | 11 % |
| (c) having basic drug manufacturing activity at 5% or more of turn-over and engaged in approved research and development work relating to new drugs. | 13 % |
| (C) <i>other units with turnover of less than Rs. 1 crore per annum</i> | |
| (a) having only formulation capacity | 12 % |
| (b) having basic drug manufacturing activity at 5% or more of turnover. | 13 % |

55. While the Government would take a final view on the mark ups to be allowed in respect of Categories I, II, III, it has also been decided that:—

- (a) For an initial period of one year, prices of existing formulations in categories I and II would be frozen with the leader prices operating as a ceiling.
- (b) Where, however, the current prices of individual manufacturers in respect of such formulations are lower than the ceiling, no increase in prices will be allowed.
- (c) BICP would, within a period of one year, scrutinise the costing of existing formulations for fixing leader prices.

The basis of costing would be settled by BICP in consultation with the Ministry of Petroleum, Chemicals and Fertilizers.

- (d) If any increase in leader prices for existing formulations were to be suggested as a result of the BICP's scrutiny these would be brought before the Cabinet.
- (e) The prices of formulations in category III would also be frozen at the existing level for the initial period of one year.
- (f) The prices of category IV formulations would be decontrolled with immediate effect.
- (g) However, the overall ceiling on profitability as given above would apply.

56. In respect of new formulations, including formulations arising from new bulk drugs mentioned earlier at para 47.3 while the general principles enumerated above would be applicable, the following mark-ups would be permitted:—

Category I	40%	} 'Subject to the over all 'ceiling on profitability
Category II	50%	
Category III	not to exceed 100% as above.	
Category IV	not subject to price control.	

57. The gross profit beyond 8 to 13% for the groups listed earlier shall be funded separately for such purposes including R&D, as may be specified by Government.

58. While the existing exception limit of a turn-over of Rs. 50 lakhs in respect of small-scale drug units will continue for exemption from price control, the leader price will be followed up by the small-scale sector also in respect of categories I & II formulations.

59. It will be ensured progressively that at least 20% of the turn-over of an individual drug company is in Categories I & II formulations.

60. For Government purchases of drugs and medicines, other things being equal, preference will be given to producers in the public sector, considering the leadership role being assigned to the public sector in the manufacture of drugs & pharmaceuticals.

61. The present provision under the Drugs (Prices Control) Order, 1970 regarding marking of equal retail prices shall continue

to apply to both the controlled and decontrolled drugs produced both by the exempt and non-exempt manufacturers.

62. *Incentive for original development.*—In the case of entirely new or original bulk drugs developed through indigenous R&D efforts and which have not been produced elsewhere, there will be no price control on the bulk drug and its formulations for a period of 5 (five) years. The condition of supply of part of the production to non-associated formulators shall not also apply to such bulk drugs during this period. The Department of Science & Technology will certify claims made in this regard.

63. *Appropriate packaging costs necessary for retaining the efficacy of drugs will be allowed.* A Committee will be set up by the Ministry of Petroleum, Chemicals & Fertilizers to standardise and lay down norms for the packaging required for various types of formulations. The Committee will consist of experts drawn from the drug industry (both public and private sectors), the packaging industry, doctors, representatives of consumer interest and officials of the Ministries of Health & Family Welfare, Petroleum, Chemicals & Fertilizers and the BICP.

64. *Notification of norms:* The norms of (a) process loss (b) conversion cost of bulk drugs into formulations and (c) packing charges shall continue to be notified by the Government.

65. *Trade Margins:* The existing trade margin for wholesalers and retailers will continue, that is:

- (a) minimum of 2 per cent and 10 per cent for wholesaler and retailer respectively for non-ethical formulations; and
- (b) minimum of 2 per cent and 12 per cent for wholesalers and retailers respectively for ethical formulations.

66. *Price control on Intermediate:* Ministry of Petroleum, Chemicals & Fertilizers will fix, from time to time, in consultation with BICP, the prices of intermediates produced the public sector undertakings.

67. The following 8 (eight) critical drug intermediates will also be brought under the purview of price control, while ensuring a return of 12—14 per cent on net worth as in the case of bulk drugs:—

- (i) Meta-Amino-Phenol.
- (ii) Para-Nitro-Chlorobenzene.
- (iii) Picolines.
- (iv) Para-Nitro-Benzoic Acid.

- (v) Methyl Imidazole.
- (vi) Dextrose.
- (vii) Acetanilide, and
- (viii) Ethylene Oxide.

68. This list of critical drug intermediates could, if necessary, be amended by notification by Government from time to time.

69. *Sole selling agencies for drugs and formulations where such arrangements exist, should ultimately disappear. Where existing leader prices are based on sole selling agency commissions of more than 5 per cent BICP would review such leader prices and reduce them appropriately with immediate effect.*

NATIONAL DRUG AUTHORITY, BRAND NAMES, QUALITY CONTROL ETC.

70.1. The Hathi Committee had recommended the setting up of a National Drug Authority—an autonomous body which would handle all matters concerning the future expansion of the drug industry licensing, imports, exports, technological development. Government has given careful consideration to this recommendation and has come to the conclusion that it would not be possible to establish a totally independent authority on the lines suggested by the Committee. Government recognize, however, the need for close co-ordination in the formulation of drug policy and in the implementation of expansion programmes. Government have, therefore, approved of the following advisory|administrative|organisational set up:—

70.2. *A field organisation in the Department of chemicals and Fertilizers under a Development Commissioner (Drugs Industry) with the following prime functions:—*

- (i) To operate the scheme of pricing under the Drugs (Prices Control) order (Essential Commodities Act);
- (ii) To recommend a policy for release of raw materials (indigenous, imported and canalised) and to supervise their distribution so as to ensure that the raw materials allocated to the drug manufacturing units are utilized effectively;
- (iii) To review the list of canalised items as also to review the availability and distribution thereof in the context of

prevailing international economic situation from time to time, with a view to help formulate the ITC policy.

- (iv) To inspect selectively with a view to prevent the misuse of canalised and imported materials.
- (v) To review the shortages of drugs and to take measures to anticipate such shortages as well as obviate them if they do emerge; and
- (vi) To operate as a counselling organisation for development of the drug industry so that new entrepreneurs may be assisted to establish new units in accordance with the policy of the Government.

70.3. *A high level Committee on Drugs & Pharmaceuticals called "Policy & Planning Committee for Drugs Industry" (PPDIC) will be constituted to advise the Department of Chemicals & Fertilizers from time to time.*

70.4 *The Development Council for Drugs and Pharmaceuticals will be activated under the Chairmanship of the Minister for Petroleum, Chemicals and Fertilizers.*

70.5. Within the policy guidelines laid down, various Committees like LC and FERA Committee will continue to deal with their various operational functions as hitherto.

70.6. While the pricing of drugs will be continued to be examined by the DICP, decisions on pricing will be notified by the Department of Chemicals and Fertilizers, as hitherto.

ABOLITION OF BRAND NAMES

71.1. *Brand names shall be abolished in the first instance in respect of the following five drugs:—*

Analgin

Aspirin

Chlorpromazine

Ferrous sulphate

Piperazine and its salts such as adipate, citrate and phosphate.

71.2. All single ingredient dosage forms of the above drugs shall be marketed only under generic names.

71.3. Drugs which are to be exported will be allowed to bear brand names.

71.4. This decision will be kept under constant review in the light of actual experience.

71.5. *Drugs formulations marketed under generic names will also be subject to price control.*

71.6. Such amendments as might be necessary would be carried out immediately in the relevant Acts like the Trade and Merchandise Act, 1958 and Drugs and Cosmetics Acts/Rules.

R & D IN PUBLIC SECTOR

72. The recommendations that the public sector should set an example in respect of R & D activity by setting apart 5 per cent of their net turn-over will be implemented to the extent possible, depending upon the funds available for such investment.

CESS

73. The Ministry of Industry propose to introduce a Bill for the amendment of the IDR Act, 1951, so as to empower the Government to levy a cess up to 1 per cent of the value of goods produced by any scheduled industry and that Bill will provide for the establishment of a Central Research and Development Coordination Authority and Research Direction Committee for different sectors of industry. The proposal to set up five regional laboratories pilot plant and toxicological laboratory will be considered further in the light of this.

QUALITY CONTROL

74. *The quality control functions will continue to be looked after by the Ministry of Health and Family Welfare. There will be need to intensify arrangements for quality control. The Ministry of Health and Family Welfare will strengthen the organisation set up with the aim of ensuring that spurious or sub-standard products are not manufactured or marketed by drug manufacturers. Additional funds which may be required therefore will be met to the extent possible from the cess proposed above.*

75. The setting up of a laboratory for testing sera, vaccines and immunological products will be expedited, in consultation with CSIR/ICMR.

PATENTS

76.1. A subject index of pending application will be prepared and maintained by the Patent Control Office which may be of help to intending entrepreneurs. The patent control office will also bring out a list of rejected patent applications.

76.2. The Recommendation of the Hathi Committee that wherever an Indian entrepreneur has set up any basic production within a certain specified period which might infringe on the coverage claimed in the pending applications, a suitable solution should be found out whereby entrepreneurs could continue with their manufacturing operations, would be considered separately in consultation with the Department of Science and Technology, Ministry of Law and Controller General of Patents, Designs and Trade Mark.

RESEARCH AND DEVELOPMENT

77. The setting up of a strong centre for R & D in enzymology and enzyme technology by the Department of Science and Technology |CSIR will be considered after a view is taken on the Report on the present status of research in the field of applied microbiology in the CSIR laboratories.

78. All efforts would be made to prevent avoidable duplication of R & D activities between public sector units. While efforts are usually made in agreements currently being entered into for foreign technology by public sector units to provide for horizontal transfer of technology, a case by case view will be taken on existing Agreement within the parameters of those Agreements.

79. Public Sector units will maintain the closed liaison with the R & D units of national laboratories, State institutions|other educational institutions. Appropriate facilities will also be created in the identified institutions, where necessary, to promote time-bound completion of individual projects.

80. The Indian Council of Medical Research will be requested to concentrate their attention particularly on the discovery of newer drugs for tropical diseases.

81. Highest priority will be accorded to centrally directed research aimed at discovery of newer drugs for treatment of tropical diseases, anti-malarials, anti-filarials, anthelmintics and anti-laprotics. Research will be accelerated for new drugs for cardio-vascular ailments, metabolic disorders and contraception.

82. Integrated development of basic chemical raw materials and intermediates by the industries and R & D institutions in the country will be encouraged.

83. In respect of imported technologies, concurrent purchase of equipment to the extent not covered by indigenous manufacturers or by other competitive offers will alone be provided for.

TECHNOLOGY

84. Efforts will continue to be made to set up production of existing units by improvement of technology and of imported processes through R & D activities and the efforts of the State owned research laboratories. This should not, however, preclude obtaining crucial technology wherever necessary.

85. The development of technology for steroids in the public sector would be taken up in the overall context of their existing production lines as well as expansion plans.

86. Development of indigenous technology wherever possible will be encouraged in respect of the drugs highlighted by the Hathi Committee—including Chloramphenicol—involving NCL, CDRI and RRL Hyderabad, etc. Import of technology will be permitted wherever necessary and where available without onerous conditions, taking the entire complex of factors into consideration, such as demand, availability of indigenous technology, success of pilot plant trials etc. In order to reduce dependence on import of technology in general, urgent steps will be taken to equip the public sector units as also the national laboratories with such R & D and pilot equipment as may be necessary. Public sector units will also ensure that they have a strong design and engineering component in their R&D structure, so that chemical processes that may be developed may be indigenously tested and scaled up with the necessary complement of competent indigenous design and engineering skill. Wherever necessary, public sector units may also obtain assistance from other public sector or private design and engineering organisations in respect of up-scaling of a given process.

87. Import of technology for the economic production of ergot alkaloids and therapeutically active steramids, if these have not been worked out by the national laboratories, will be resorted to.

POWER

88. State Electricity Boards will be requested not to subject industrial units to power cuts, if such units are engaged in the production of drugs which are thermo-labile and are sensitive to heat such as sera, vaccines and other immunological products and antibiotics, as also generally ensure uninterrupted supplies to the drug industry.

GRANDULAR PRODUCTS

89. Modern slaughter houses and other facilities for collection and storage of glands, extraction of active principles etc. will be encouraged in order to prevent the wastage of valuable raw materials that could be used profitably for biological products, sutures, etc.

INDUSTRIAL DRUG COMPLEXES AT COAL CONCENTRATIONS

90. The Hathi Committee have made several recommendations for non-user of valuable chemicals like Benzene, Toluene as fuel, recovery of these chemicals from coke ovens of steel plants, usage of acids sludge, establishment of new drug units using chemicals recovered from coal-tar distillation at Durgapur, development of coal carbonisation complexes in Andhra Pradesh and Maharashtra, recovery of aromatics from naphtha etc. All these recommendations will be considered in the context of all factors concerning economic viability including the factor of locational advantage.

MEDICINAL PLANTS

91.1. In the order of importance, the Hathi Committee had identified 14 plants having medicinal value, out of which 8, namely discorea species, cinchona, poppy, ergot, digitalis, ipecaco, dubesia (or atropa); and lemon grass are the sources for essential drugs identified by this Committee. The Hathi Committee had endorsed the recommendations of the NCST for increased cultivation of the 14th plant materials and also production of active principles obtainable therefrom with updated technology.

91.2. The recommendations of the Hathi Committee on medicinal plants will be reviewed in the light of the conclusions of the Agro-Herbal Advisory Group constituted in the Ministry of Health and Family Welfare.

DISTRIBUTION

92. Possibilities of enlarging, rationalising and decentralising the distribution system in the public sector, with special reference to rural areas, making use of unconventional agencies for the distribution of household remedies and commonly used medicines will be explored, keeping in view the requirements of the Drugs and Cosmetics Act and Rules.

93. The Hathi Committee had recommended that in order to enable the establishment of pharmacies specially in small towns in rural areas, immediate steps should be taken to revise the present syllabus of training of pharmacists. The Pharmacy Council should be approached to tailor the course to suit our country's needs. An intensive need oriented course of a short duration should be instituted for the training of dispensers. The Pharmacy Council of India would be requested to actively consider these recommendations.

94. The Ministry of Health and Family Welfare will consider the recommendation concerning provision of proper quality drugs in ade-

quate quantities through Primary Health Centres in rural areas, keeping in view the standards for urban areas.

MONITORING

95. Registration and monitoring of the activities of drug and formulation units in the small scale sector will be done by the Development Commissioner, Drug Industry.

PUBLICITY AND ADVERTISEMENT

96. The Ministry of Health and Family Welfare will keep in mind the view of the Hathi Committee that, because of the importance of education the rural population about the use of household remedies, advertisements may have to be permitted to serve this limited need.

97. Adequate availability of alcohol, particularly for chemical based industries, will be kept under constant watch.

MISCELLANEOUS

98. All supplies of single ingredient drugs and drugs included in Indian Pharmacopoeia should be tendered by Central and State Government institutions and local bodies and supplies made to them under generic names.

99. All single ingredient drugs and drugs included in the Indian Pharmacopoeia other than those in respect of which brand names have been abolished shall bear labels displaying prominently the generic names. Brand names may be shown on labels in a less conspicuous manner.

100. Drug Controller should not, while granting permissions, give recognition to brand names of new single ingredient drugs, nor should such drugs be allowed to be marketed under brand names when first introduced into this country.

101. The Drug Control Administration should immediately go into the various drug combinations and take prompt measures to eliminate irrational drug combinations or use of ingredients far in excess of what is required. No firm should be allowed to incorporate excessive quantities of any drug over and above the requirements for therapeutic and prophylactic purposes. The Pharmacopoeial Committee will be requested to give new generic names for multiple ingredient preparations.

102. While reviewing the policy of abolition of brand names in respect of more drugs in future, the recommendations of the WHO from time to time on non-proprietary names may also be kept in mind.

103. An endeavour will be made to create facilities for bio-availability studies, so that the industry, both large and small scale, can use them to plan and conduct bio-availability and pharmaco-Kinetic studies.

104. Immediate steps to revise the Indian National Formulary and make it uptodate and to publish journals on the lines of the Prescribers' Journals, U.K.; Medical Letter, USA; or Formulary Notes of Sri Lanka will be taken.

ANNEXURE I

Indicative list of lines of production for Public Sector, Indian Sector and Open for all Sectors (including foreign Sector):

PUBLIC SECTOR	INDIAN SECTOR	OPEN FOR ALL SECTORS
(1)	(2)	(3)
1. Penicillin	1. Ampicillin	1. Chloramphenicol
2. Streptomycin	2. Doxycycline	2. Neomycin
3. Tetracycline	3. Sulphacetamide	3. Rifamycin
4. Oxy-tetracycline	4. Vitamin C	4. Pathalyl Sulfathiazole
5. Erythromycin	5. Nicotinamide	5. Sulphadizine
6. Ampicillin	6. Halogenated-oxy-quinolines	6. Sulphaphenazole
7. Doxycycline	7. Metronidazole	7. Sulphamethoxazole
8. Griseofulvin	8. Glybenclamide	8. Sulphasomidine
9. Gentamycin	9. Chlorpropamide	9. Sulphamoxole
10. Sulphaguanidine	10. Thiacetazone	10. Vitamin A
11. Sulphadimidine	11. Sodium PAS	11. Vitamin B-6
12. Sulphacetamide	12. INH	12. Vitamin B-2
13. Sulphamethoxy-Pyridazine	13. Bephenium--Hydroxy-Napthoate	13. Vitamin D-3
14. Sulphadimethoxine	14. Phenacetin	14. Panthenols
15. Vitamin B-1	15. Paracetamol	15. Vitamin-K
16. Vitamin B-2	16. Pethidine	16. Diloxamide-Furoat
17. Folic Acid	17. Diethyl-carbamazine-citrate	17. Tolbutamide
18. Metronidazole	18. Xylocaine	18. Insulin
19. Piperazine & its salts	19. Phenyl Butazone	19. Ethambutol
20. Quinine	20. Oxy-phenyl-Butazone	20. Primaquin
21. Analgin	21. Caffeine (Natural)	21. Amodiaquin
22. Amidopyrine	22. Vaccines & Toxoids	22. Chloroquin
23. Phenobarbitone	23. Diazepam	23. Aspirin including salicyline Acid
24. Morphine		24. Indomethacin
25. Polio Vaccine		25. Pheniramine
		26. Chlorpheniramine
		27. procaine
		28. Chlorpromazine
		29. Caffeine (Synthetic)
		30. Xanthinol-Nicotinate

(1)

(2)

(3)

-
31. Theophylline
 32. Aminophylline
 33. Ephedrine
 34. Nitrofurantoin
 35. Furazolidine
 36. Nitrofurazone
 37. Succinyl Choline-
Chloride
 38. Hydro-chloro-thiazide
 39. Clofazimine
 40. D.D.S. (Dapsone)
 41. Prednisolone
 42. Dexamethasone
 43. Betamethasone & all
other corticosteriod
 44. Ibuprofen
 45. Dextropropoxyphen
 46. Thiabendazole
 47. Tetramisole
 48. Framycetin
 49. Bacitracin
 50. Cyclophosphamide
 51. Mepacrim
 52. Imipramine
 53. Amitryptiline
 54. Diphenyl Hydantoin
 55. Methyl Dopa
 56. Triamcinolone
 57. Phenyl Ephedrine
 58. Salbutamol
 59. Oxytocin
 60. Rutin
 61. Prenylamine Lactate
 62. Thioridazine
 63. Phenothiazine
 64. Allopurinol
 65. Trimethoprim
 66. Furseamide.
-

ANNEXURE II-A

CATEGORY I—FORMULATIONS

1. Aspirin tablets
 2. Digoxin tablets
 3. DDS tablets
 4. DPT Vaccines
 5. Insulin injection (all sorts)
 6. Hydro-chlorthiazide tablets
 7. Iodo-chloro-hydroxy-quinoline tablets and Di-iodo-oxy-quinoline tablets
 8. INH tablets
 9. INH plus Thiacetazone tablets
 10. Morphine sulphate injection
 11. Penicillin injection including procaine Penicillin G and Benzathine Penicillin all strength.
 12. PAS and its salts, granules and tablets
 13. Phenoxymethyl penicillin tablets
 14. Streptomycin injection all strengths plus combination with Penicillin
 15. Pethidine Injection.
-

ANNEXURE II-B

CATEGORY II—FORMULATIONS

1. Analgin tablets
 2. Amodiaquin tablets
 3. Chloramphenicol oral preparations including chloram-phenicol palmitate suspension and syrup and chloramphenicol Sodium.
 4. Chloramphenicol in combination with Streptomycin
 5. Chloroquin salts
 6. Primaquin tablets
 7. Calcium Benzoyl PAS tablets
 8. Diethyl carbamazine citrate tablets
 9. Fur-semide tablets, injection
 10. Glycaryl Trinitrate tablets
 11. Phthayl Sulphathiazole tablets
 12. Prednisolone tablets and injection
 13. Phenobarbitone tablets
 14. Piperazine and its salts—tablets, syrup
 15. Sulphadimidine tablets
 16. Tetracyclines, capsules, tablets, syrup, injection, eye ointment (including Oxy-demethylchloro and Pyrrolidine Methyl Tetracyclines)
 17. Tolbutamide tablets
 18. Tetanus Toxoid Injection
 19. Diphtheria tetanus toxoid injection
 20. Quinine salts, tablets and injections.
-

ANNEXURE II-C

CATEGORY II—FORMULATIONS

Formulations based on drugs falling under the following categories excluding the formulations included in Category I and II.

1. Anaesthetics, General and Local
2. Analgesics and Antipyretics
3. Anthelmintics
4. Antiameobics
5. Anti as thmetic drugs and Enteric Antiseptics
6. Antibiotics
7. Anticancer Drugs
8. Anticoagulants
9. Anticonvulsants
10. Antidiabatics
11. Antihistaminics
12. Antileprotic Drugs
13. Antimalarial Drugs
14. Antirheumatic Drugs
15. Antiseptics
15. (a) Antisepasmodics
16. Antitubercular Drugs
17. Cardiovascular
 - (i) Antihypertensives
 - (ii) Anginal Drugs and Coronary Vasodievator
 - (iii) Peripheral Vasodilators
 - (iv) Cardiac glycosides
 - (v) Others
18. Corticosteroids
19. Diuretics
20. Drugs used for Calcium therapy
21. Haematinics
22. Oral Contraceptives
23. Ophthalmological Preparations
24. Oxytocies
25. Plasma Expanders and Transfusion Solutions

26. Sera and Vaccines
 27. Urinary
 28. Vitamins
 29. Ampicillin, capsules, tablets, syrups and injections
 30. Erythromycin capsules, tablets and syrup
 31. Metronidazole tablets
 32. Antacids
 33. Antidiarrhoeals
 34. Antigout drugs
 35. Disinfectants
 36. Antitussives and Expectorants
 37. Dental products other than those containing local anaesthetics
 38. Dermatological preparations not containing antibiotics, Sulphonamides and Corticosteroids
 39. Otic preparations not based on antibiotics
 40. Parasympathomimetics.
-

ANNEXURE II-D

CATEGORY IV—FORMULATIONS

Categories of Drugs, the formulations falling under which will exempt from price control.

1. Anabolics
2. Antidopressants
3. Antidotes
4. Antiobesity Drugs
5. Aphrodisiaes
6. C.N.S. Stimulants
7. Cholagues
8. Dietotics
9. Enzymes and Digestants
10. Haemorrhoidal preparations
11. Haemostatics
12. Hormones used for menstrual disorders and sterility
13. Laxatives, Purgatives and Lubricants
14. Male Hormones
15. Mouth washer
16. Nasal Decongestants
17. Surgical Dressings
18. Sweeteners
19. Throat Lozenges, paints, etc.
20. Thyroid and Antithyroid preparations
21. Diagnostic aids
22. Anti Parkinsonian Drugs
23. Muscle Relaxants
24. Sedatives and Hypnotics
25. Tranquilisers

APPENDIX V

[Representation dated the 10th December, 1977 regarding alleged unjust award of contract for transport of steel by M/s. Hindustan Steel Ltd., Visakhapatnam].

VISAKHAPATNAM LORRY OPERATORS ASSOCIATION

(Regd. No. 120)

75 Feet Road,

VISAKHAPATNAM-1.

No. VLOA/77-78/09.

Date 10th December, 77.

To

The Chairman,
Petitions' Committee,
Loksabha Secretariat,
NEW DELHI—110001.

Dear Sir,

SUB: Unjust and wrongful award of Contract for 'Transport of Steel' by M/s. Hindustan Steel Ltd., Visakhapatnam—Representation for intervention for justice and fair-play.

M/s. Hindustan Steel Limited, Visakhapatnam, had invited public Tenders in 'Sealed Covers' under Tender No. TC(VZ)-1(8) for "Transport of Steel in the Export Yards of M/s. Hindustan Steel Ltd., at VPT Area" and fixed 31st August, 1977 as the last date for receipt of Tenders.

1.1. In keeping with the nature of a 'Public Tender' which received wide publicity in various News Papers, besides circulation and exhibition on various Notice Boards of different Government Departments, there was a healthy and good competition and in all 8 (Eight) Transport Contractors/Agencies submitted their Tenders in 'Sealed Covers' on the prescribed date of 31-8-1977.

1.2. It may be mentioned that the competition amongst the participating Tenderers was very keen and acute, thus establishing and reinforcing credibility in the system of Public Tenders and in such a keenly contested Tender, the lowest bid received was from Sri T. Suryanarayana Reddy.

1.3. After the opening of the Tenders and pending their finalisation for award of the Contract, M/s. Hindustan Steel Ltd. apparently with a view to catering to their transport needs entrusted the work of Transporting Steel Materials to the lowest Tenderer, viz. Sri T. Suryanarayana Reddy on an *ad-hoc* basis at the rates quoted by him. It is pertinent to submit here that the said Sri T. Suryanarayana Reddy who has a fleet of 30 Trucks and Tractor-cum-Trailors at his command got into the field with full vigour and executed the transport work as ordered by M/s. H.S.L. Ltd. from time to time to their entire satisfaction.

1.4. Thus, while Sri T. Suryanarayana Reddy had not only submitted the lowest Tender but had also established his reputation and standing by a practical demonstration of his capabilities etc. in the transport work that was entrusted to him by M/s. Hindustan Steel Ltd. on an *ad-hoc* basis, M/s. H.S.L. played, a cruel joke and awarded the Contract to M/s. Orissa State Commercial Transport Corporation who were not the lowest, but were the 4th lower in the open and sealed Tenders.

1.5. It is perhaps the contention of M/s. H.S.L. that it is free to award the Contract to any one of its choosing and that since M/s. Orissa State Commercial Transport Corporation is a Government Undertaking of Orissa State, it can be given favoured treatment. While the right of M/s. H.S.L. to award the contract to any one of its choosing is not being questioned, it may kindly be appreciated that they ought not to have invited "Public Tenders" in sealed covers, as has been done in respect of Tender No. TC(VZ)-1(8) for Transport of Steel Materials in the Export Yards of H.S.L. at VPT area.

1.6. There is yet another glaring twist to the Contract awarded to M/s. Orissa State Commercial Transport Corporation in that the said Corporation is not doing the work itself but has entrusted the work to another local Contractor by name Sri V. Venkateswara Rao, who was the highest in the 'Public' and 'Sealed' Tender invited by M/s. Hindustan Steel Ltd.

2. In view of the circumstances stated above and the method and manner adopted for awarding the Contract by over-looking the lowest

Tenderer and the subsequent collusion between Sri V. Venkateswara Rao and M/s. Orissa State Commercial Transport Corporation both of whom had participated in the Tender but neither of them was the lowest, there is a great commotion and unrest amongst the Contractors generally and Transport Contractors particularly.

2.1. It may kindly be appreciated that M/s. Hindustan Steel Ltd. as a Government Department is subject to certain rules and regulations in its functioning and it cannot therefore arrogate itself with powers of arbitrary and unilateral award of Contracts, as has been done by awarding the Contract to M/s. Orissa State Commercial Transport Corporation, who were not the lowest in an open competition. Further, even the argument that M/s. Orissa State Commercial Transport Corpn. is a Govt. Undertaking is of no significance or relevance, since it had participated in the Tenders along with other private parties and hence it cannot be picked up for special and favoured treatment and in the process put the 'Public Exchequer' to an extra expense. Moreover, since the said Corporation had colluded with Sri V. Venkateswara Rao who has been entrusted with the contract awarded to the Corporation, even the plea that it is a State Owned body gets defeated and lost. As pointed out above the same Sri Venkateswara Rao had participated in the Tender and had quoted very high rates but now through the patronage extended by M/s. Orissa State Commercial Transport Corporation this Contractor who had kept his rates up his sleeve in his Tender has been awarded the Contract by dubious means and by circumventing the principles underlying the system of 'Public Tenders' and award of Contracts by Government Organisations.

3. As the atmosphere amongst the business community and Transport Contractors is surcharged with disgust, disbelief and disappointment at the manner in which the Contract for Transport of Steel has been decided and awarded to M/s. Orissa State Commercial Transport Corporation, ignoring the lowest Tender and then again the said Corpn. has perpetrated and colluded with Shri V. Venkateswara Rao to do the work for them, it is abundantly clear that the said Corpn. has acted as a middle-man for Sri Venkateswara Rao and hence the credibility of M/s. Orissa State Commercial Transport Corpn. as a Govt. Owned body is also suspect, because it is now reduced to the level of a commission agent or broker or middle-man for Sri Venkateswara Rao.

4. As President of the Visakhapatnam Lorry Operators' Association and sharing the anxiety of constituent members, I would request

your honour kindly to institute an enquiry into the above matter so that further damage to the good name of the Govt. may be prevented and the wrong done to the lowest Tenderer, Viz. Shri T. Suryanarayana Reddy, rectified. I would urge upon you, Sir, kindly to intervene with M/s. Hindustan Steel Ltd. immediately to suspend the work awarded to M/s. Orissa State Commercial Transport Corporation pending the result of the enquiry and restoration of justice.

Thanking you,

For Visakhapatnam Lorry
Operators' Association,
President.

APPENDIX VI

[Representation regarding review of certain provisions of the Central Excises and Salt Act, 1944.]

To

Lok Sabha,
New Delhi.

The humble petition of Chandra Prakash, Agrawal, Kaimganj (U.P.), SHEWETH:—

1. The Central Excise and Salt Act and Rules, 1944, is a very rigged and cumbersome law and what is more alarming is that almost whole of the working under the law is based on Departmental instructions at the sweet will of the Officer or Authority concerned.

2. Apart from the fact that several provisions of the above law being obsolete, it is not a complete code itself, with the result that instructions in the Department are complied with in VERBATIM in utter disregard to the statutory provisions. The so called law as it stands curbs basic and fundamental rights guaranteed by the Constitution of India.

3. The Customs, Gold (Control) and Central Excise & Salt (Amendment) Act No. 36 of 1973 is a good example to show that it was enacted in utter disregard to all norms of law and justice and what is more surprising is that provisions pertaining to offences including section 136 of Customs Act and section 22 of the Central Excise & Salt Act were not suitably amended while in place of it other provisions including sections 123, 135, 138 and 139 of the Customs Act and sections 9 & 40 of the Central Excise & Salt Act were so completely amended as it completely destroyed their basic structure, apart from the fact that the amendments are made in utter disregard to the basic principles of criminal jurisprudence, equity and justice.

4. Prior to this amendment, sections 9 & 40 of the Central Excises & Salts Act were based on equity and justice, but in place of it most discriminatory and illegal provisions have been placed with the result that it had added the difficulties of the subject.

5. So far the Adjudication matter u/s 33, Appeal u/s 35, and Revision u/s 36 of the Act are concerned and though they being pertaining to 'Judicial Function' under the Act, no proper procedure has so far been prescribed to be followed by the Authorities with the result that justice is denied to the subject. In this connection

judicial decisions including the following of the Supreme Court reported in (1969) I S.C.J. page 110 and (1977) I S.C.J. page 116 may be of some help to prove that norms of law and justice is not properly followed in those matters resulting in serious consequences.

6. Under the circumstances it is very necessary in the interest of justice that there should be some independent authority or Tribunal to deal with the matters of 'Judicial Function' under the Act, to enable the subject to get justice as the same is almost denied at present.

7. A perusal to the rules framed under the Act clearly shows that that the same suffer from excessive delegation of power and function and the same are illegal *ad ultra vires* on several other grounds also.

8. Rule 8 of Central Excise Rules, 1944 is a good example to show that how this provision of law has been misused during last Congress regime, when in fact it was never utilised for such purpose even prior to independence. In this connection, a reference can be of much help to the Report of the Central Excise Reorganisation Committee, 1963 which deals with the subject in all its aspects.

9. In this connection, reference can be further made to the Public Accounts Committee 111th Report (1969-70) 4th Lok Sabha and other Report (31st) (1971-72) 5th Lok Sabha of the aforesaid Committee, in which it is held that Rule 8 was mostly used for political purposes during the last Congress regime.

10. Further, a glance to the Tariff under the Act, show that it is sufficiently defective and also not a complete code itself. So far the Tabacoo is concerned, even the Tobacco Excise Tariff Committee could not evolve a just and proper solution for the levy of excise duty on tobacco.

11. The above Act and Rules made thereunder require complete overhauling in the public interest. It is also absolutely necessary that the aforesaid Amendment Act No. 36 of 1973 be immediately repealed and in place of it old provision be kindly restored.

12. In this connection, it is to be recalled that on the Petition No. 6 (Appendix VI) of the petitioner which was reported by the Secretary to Lok Sabha on 18th July, 1957, Committee persued the comments of the Ministry of Finance (Central Board of Revenue), in which under clause (v) it was stated the 'Government had accepted in principle the recommendations of the Taxation Enquiry Commission by setting up an independent Committee of two officers

(one from the Ministry of Finance and the other from the Ministry of Law) to look into revision applications against orders in appeal passed by the Central Board of Revenue' *vide* Committee on Petitions First Report (Second Lok Sabha) Sept., 1957.

13. The Ministry of Finance (Central Board of Revenue) again reiterated its previous decision on the point in the following words 'Government were considering implementing the recommendations of the Estimates Committee in their 49th and 57th Reports for setting up of an independent Tribunal *vide* item No. 13, Appendix III, Committee on Petitions, 10th Report (Second Lok Sabha) Sept. 1960.

14. The then Finance Minister Shri T. T. Krishnamachari, made a statement on the floor of Lok Sabha during budget session in 1957, stating that matter for setting Tribunals for Central Excise matters was under consideration, but due to his sudden exit from the office, matter remained in pending unnoticed without any action.

15. The Constitution of India provides separation of three organs of the State namely, Legislative, Executive and Judiciary, why not this is well and good in case of Central Excise Law where it is most necessary for the proper functioning of the Act. At present one and the same Authority namely the Executive is doing all functions and further confers wide discretionary powers to certain Officers without even proper safeguards.

16. Human nature being what it is, and power being often an inebriating thing, there should be a safeguard against possible abuse of authority. Recent cases of excesses of misuse of power during emergency are good examples and the Janata Government should not leave any such scope in any field by the Executive or by any other Authority and sooner the better this is done, and in the matter under reference this should be done immediately.

17. Wherever the right of making and enforcing the law is vested in the same body or authority, there can be no public liberty. This is the same case in case judicial power and function is not separated from the legislative and executive powers. There would be an end of every thing if the same body or authority is to exercise these three powers—Legislative, Executive and Judicial.

18. There is provision u/s 37(2) (xx) of the Act to issue orders, but these orders are not normally published and are not also accessible to the public. While the power is vested in the Central Board of Excise & Customs and the Collectors of Central Excise to issue such orders, other officers are not prohibited to exercise this power and function.

19. Due to the facts and circumstances, the actual working of the Statute is very unhappy and the procedure which is followed is most unsatisfactory.

20. Executive power and Law are in one sense opposite poles, one pole represents the idea of arbitrary power unrestrained by any rule of conduct, the other represents the idea of a social system in which power is limited by a maximum of effective check and guarantees. The conception of Law as a check upon arbitrary power is an age long conception—a conception as old as political theory itself.

And accordingly your petitioner prays that the Central Excise & Salt Act, 1944, might be suitably amended so that:

- (a) the accumulation of all powers—Legislative, Executive and Judiciary under the Act in one and the same Authority might be properly separated with a view to end the public dissatisfaction regarding the operation of the Act.
- (b) there should be some body, authority or tribunal to discharge 'judicial function' pertaining to adjudication, appeal and revision.
- (c) in executive orders there might be proper limitation as and when and how and under what circumstances and by whom this power is to be exercised keeping the fundamental idea in view that such order may not curtail the rights of the individual on the one hand on the other it may not offend one's self respect and good name, and
- (d) Amendment Act No. 36 of 1975 as aforementioned be kindly repealed immediately.

And your petitioner as in duty bound will ever pray.

Name of the petitioner	Address	Signature
C.P. Agrawal	Hon. Secretary, The Tobacco Merchants' Association, Kaimganj (U.P.)	Sd/ C.P. Agrawal 23-4-77

Countersigned by:— Arjun Singh Bhadoria, M.P.

APPENDIX VII

[Letter dated the 13th May, 1978 from Shri C. P. Agrawal, Kaimganj, (U.P.), re. alleged misuse of rule 8 of the Central Excise Rules 1944 for political purposes].

To,

The Hon. Chairman Committee on Petitions,
Lok Sabha, New Delhi.

Sir,

Ref.: Secretariat letter No. 53|CI|77|R-10 dt. 7-4-78—Petition
d|23-4-77—C. P. Agrawal, Kaimganj (U.P.)

In the above matter it is respectfully submitted that despite the fact that Rule 8, being there since 1944, but during British Rule its use was confined and there was rational policy in exercise of power under this provision and exceptions were only granted to research and scientific works, but now in the advance age of democratic rule, there being no rational policy, its use is almost political in the hands of few Officers, who exercise this power in their own way to serve some or the other purpose. There is no more dispute on the point that it is a political weapon, and unregulated power is conferred in the Executive to utilise it in its own way to serve its purpose. Under parliamentary form of Government with the Executive fully accountable to the Legislature for all acts of commission and omission, this leaves on the Executive flats to tax or not leaving the Legislature a helpless spectator for which it has no control even to look into it.

In this connection, some of the observations made in Chapter-II—the Central Excise & Salt Act and Rules, of the Report of the Central Excise Reorganisation Committee, 1963, on the point in issue are worthwhile to be referred to, and be considered in the public interest.

Further, in this connection some of the observations and recommendations under para 1.13 at page 5, chapter II page 15, 16, 17, 18, 43, 59 of the Report of the Public Accounts Committee (1971-72) Thirty First Report, Fifth Lok Sabha, are also worthwhile to be considered.

In the present democratic set up, in which despite there being equality clause under Art. 14 of the Supreme law of the land and which should be followed, but there is so called 'PRIVILEGED CLASS OF SOCIETY', which is immune from any law and free to act and this has happened so in case of the petitioner also, in which the petitioner and his family members were given the rewards of torture, injury, harassment, loss and prosecutions in the criminal courts by the Central Excise Officers, who freely indulged in corruption, evasion of huge excise duty, submitted false reports to the Lok Sabha, Committee contempt of the Lok Sabha and treated the Hon'ble Committee as a tobacco dealer to whom and with whom they can act in any way and such things are still going on and they are free, and there is no action against them as they being of that 'Privileged Class' and petitioner being an ordinary citizen, how courageed to point out their racket of corruption and large scale evasion of duty, and in this way the observations of the Hon'ble Committee in its 23rd Report, Fifth Lok Sabha, became a dead letter of no effect on the Govt. which claims the restoration of 'Rule of Law' when rule of the 'Privileged Class' is still inforce.

Under the circumstances, it is not safe and sound when nothing is going to happen against the 'Privileged Class' to say anything in the matter, when in fact much can be said on the subjects in issue.

It may be difficult for the Hon'ble Committee to understand the correct view point of the petitioner, but if the proper opportunity is given and there should be guarantee of safety of the petitioner and further guarantee of the just and proper action against the so-called "Privileged Class" there is no hesitation in pointing out such relevant matters which may be of great use in the public interest.

It is hoped that your honour will be pleased to excuse for the trouble, and oblige.

Yours faithfully,

Sd/-

(C. P. Agrawal)

President,

Kaimganj (U.P.)

13-5-78.

The Tobacco Merchants Association.

APPENDIX VIII

Production of Onions

Year	Area (000 HA)	Yield (KG/HA)	Production (000 MT)
1964	162	7963	1290
1965	166	7952	1320
1966	170	7941	1350
1967	174	7931	1380
1968	178	7978	1420
1969	182	7967	1450
1970	186	7957	1480
1971	190	7842	1490
1972	194	7732	1500
1973	198	7626	1510
1974	200	7500	1500
1975	204	7516	1533
1976	..		1560

APPENDIX IX

Export of Onions

Year	Qty. (Lakh Tonnes)	Value Rs. crores	Unit Value per tonne
1969-70	1.3	5.92	455
1970-71	1.54	6.21	403
1971-72	0.55	2.28	436
1972-73	0.52	2.27	802
1973-74	0.64	5.17	802
1974-75	0.68	5.24	774
1975-76	1.12	13.85	1236
1976-77	1.64	18.85	1153

APPENDIX X

(Representation *re.* demands of Indian Seamen)

LOK SABHA
NEW DELHI

Dated the 7th February, 1978.

The humble petition of Shri Ashutosh Banerjee, General Secretary, Forward Seamen's Union of India, 14/IF, Watganj Street, Calcutta-700023 and undersigned registered seamen of India sheweth:

That the grievances of Indian seamen have been kept pending for several years and their trade union and democratic rights are trampled underfoot by the authorities. Paper organisations with gangster support have been arbitrarily given recognition by these authorities without ascertaining their actual strength. The Statutory Bodies concerning welfare of seamen are not democratically constituted with the result that they are not doing justice to the seamen of India.

And accordingly your petitioners pray.

—DEMANDS—

- (i) Immediate introduction of 'Secret Ballot System' in recognising Seamen's Unions in India to represent Indian Seamen's causes in all statutory Boards and Committees on proportionate representation basis;
- (ii) Gangsterism, collection of money and corruption inside the Government Shipping Office should immediately be outlawed and/or abolished;
- (iii) Every union of seamen should have the day to day representation rights to proper authorities in this Shipping Industry as per their choice;
- (iv) As per earlier declaration in the Rajya Sabha by the former Shipping & Transport Minister, a thorough 'probe' against the continuous supply of bad food and provisions, ill as well as sub-human accommodations on board vessels, heavy as well as intolerable work-load against all existing international norms, threatenings of 'Off and On Log Entry Reports' and punishment of seamen through the

fabricated machinery of Disciplinary Sub-Committee should immediately be conducted now afresh without making any further delay;

- (v) Immediate implementation of (i) ILO-minimum wages of 78 Sterling pounds per month per seamen, (ii) 'Unemployment Benefits and Security in services of seamen', (iii) 'Work Load—Free Manning Scale', (iv) 'Family Medical treatment', (v) 'Scrapping of Co. Medical Examination System', (vi) 'Scrapping of all anti-seamen devices', (vii) 'Pension for seamen', (viii) 'Equal and standardised food for seamen', (ix) 'Insurance Scheme for the Safety of Seamen's Life at Sea' (x) 'National Shipping Board—recommended items of Merchant Shipping Act, 1958', (xi) 'Scheme for revival of all cancelled registrations of seamen'. Your petitioners will ever pray.

Shri Ashutosh Banerjee, C.D.C. No. 19098

Sd/- & others.

APPENDIX XI

[Representation from Shri B. N. Gururajachar, Sub Post Master, Hampapura, regarding discriminatory treatment meted out to him by the Ministry of Works and Housing in non-grant of additional house building advance]

From

B. N. GURURAJACHAR,
Assistant Accountant
Head Post Office,
Mysore-570001.

To

The President,
Republic of India,
New Delhi-110001.
Through: Proper Channel.

Respected Sir,

Subject: Discriminatory treatment meted out to me by the Ministry of Works and Housing, Government of India, New Delhi in non-grant of additional house building advance.

Reference: D.O. No. I|17012|25|1600|73-H-III dated 19-3-76 from the Government of India, Ministry of Works and Housing, New Delhi addressed to Shri N. Somasekharan, Office of the Postmaster-General, Karnataka Circle, Bangalore-1.

I enclose herewith a copy of my representation dated 25-8-75 addressed to the Under Secretary, Ministry of Works and Housing, Government of India, New Delhi and also a copy of the D.O. letter cited above received by me in reply to the said representation.

2. In this connection, I humbly and most respectfully submit to you that the Ministry of Works and Housing have displayed a very untenable and discriminatory attitude towards me in not granting the additional house building advance requested for. It is not my intention to impute motives to such treatment as I am quite sure that there is absolutely no bad motive involved in the matter. The

fact, however, remains that my request for grant of additional house building advance has not been dealt with in an objective manner and I propose to illustrate this fact in the following lines—

3. The Ministry of Works and Housing have raised two important objections in their communication cited above to the grant of additional house building advance requested for by me. First is that my request for the grant of additional house building advance was made after a period of 24 months from the date of drawal of the first instalment of the original house building advance sanctioned to me. This fact has been effectively dealt with by me in a further representation dated 3-10-75 to the Ministry of Works and Housing, a copy of which is also enclosed for your kind perusal. The facts set out in the said representation do not admit of any controversy. I have pointed out therein the following salient facts against the time limit which has been made out as a BAR against the grant of my request. These are:—

- (a) That the house building advance rules framed by the President do not contain any such time-limit nor the so called administrative instructions of the Ministry of Works and Housing imposing the time limit of 24 months for applying for grant of additional H.B.A. from the date of drawal of the first instalment, have been properly made known to all officials of the department. In addition, in my individual case, there was the further fact of blanket BAN (total BAN) having been imposed against the grant of all kinds of H.B.A. for a period of about fourteen (14) months from 30-8-73 to 6-11-1974 which acted as a deterrent against officials applying for any advance. If this period of 14 months is added to the time limit fixed by the Ministry of Works and Housing, my application would be quite in time because I took payment of the first instalment of House Building Advance in June, 1972 and my application for grant of additional House Building Advance was made in January, 1975. It is needless for me to emphasise that the time limit fixed by the Ministry of Works and Housing would be pointless and would become a mere shadow, if the period of ban of 14 months on the grant of H.B.A. is not added to the said period of time limit. In addition, I may point out that in my own unit i.e., Mysore postal division, several officials have been granted additional H.B.A. overlooking the time limit. Particular mention may be made in this connection of the case of:—

- (1) Shri A. G. Venkatamarasimha Iyengar, Sub Postmaster, Metagalli—pay Rs. 454|- Amount sanctioned—Rs. 28,500|- Ministry of Works and Housing Memo. No. I|17012|25|348-H-III, dated 7-1-75 refers and Postmaster General, Bangalore Casemark: AP|2-2|691 refers.
- (2) Shri H. K. Ramamurthy, Clerk, K. R. Mohalla Sub Post Office (Mysore) Pay Rs. 340|- Amount sanctioned Rs. 25,500|- Ministry of Works and Housing Memo. No. I|17012|25|344-H-III dated 16-1-75 and Postmaster-General, Bangalore Casemark: AP|2-2|692 refers.
- (3) Shri R. N. Krishna, Clerk, Mysore Head Post Office—Pay Rs. 332|- amount sanctioned Rs. 22,500|- Ministry of Works and Housing Memo. No. I|17012|25|364|H-III dated 9-1-76 refers and Postmaster-General, Bangalore Case mark: AP|2-2|574 dated 22-1-76 refers.

I respectfully submit that it would be a grave injustice and also invidious discrimination meted out to me in not being granted the additional H.B.A. It pains me very much that I have been singled out for application of the time limit in a ruthless manner while the time limit has been overlooked in the case of the above three officials. It is this fact which has made me to approach your kindness for justice and fair-play.

I now come to the consideration of the second reason adduced by the Ministry of Works and Housing viz., that I am not eligible for the grant of additional H.B.A. under the relevant provisions. According to Rule 6(2) (iii) of H.B.A. Rules and note below O.M. No. I|17018|4|76|III dated 30-1-76 of the Ministry of Works and Housing pay for the purpose of house building advance rules, is the pay of the applicant at the time of conveying the Ministry's approval. In my case, the Ministry's approval was conveyed in Memo. No. I|17012|25|73-H|III dated 2-7-74 and I was drawing a pay of Rs. 432|- plus special pay of Rs. 35|- i.e., Rs. 467|-. Based on this figure, I am entitled for a total house building advance of a sum of Rs. 35,025|- ($467 \times 75 = 35025$ |-), as against the amount of Rs. 20,900|- sanctioned to me. In the context of the above facts, I am entitled to an additional H.B.A. of Rs. 14,125 while the amount applied for by me is only Rs. 3,900. It surpasses my comprehension as to how the Ministry of Works and Housing has come to the conclusion that I have been granted the maximum permissible amount of H.B.A.

I respectfully submit that the H.B.A. Rules have been framed with the intention of providing maximum financial assistance to Central Government servants to own their houses. These rules have

been liberalised from time to time and keeping in view the general rise in the cost of building materials and also cost of labour, the maximum amount of advance has been raised from an amount equal to 48 times the monthly pay to 60 times the monthly pay during 1970 and again it was further raised to 75 times the monthly pay during November, 1972. It is my firm belief that the grant of insufficient amount of advance would not only put the officials into financial hardship but also defeat the very purpose of granting of H.B.A. It is also significant to mention that whenever the H.B.A. Rules are liberalised, they were made applicable to past cases also. Your esteemed Government are pleased to introduce so many schemes under the 20 point economic programme to improve the lot of the poor, to render social justice, eradication of poverty, liquidation of indebtedness and many socio-economic measures.

In the light of the above submissions, I respectfully request the President to set aside the objections raised by the Ministry of Works and Housing against the grant of additional house building advance requested for by me, as these objections are not tenable and order the sanction of the additional house building advance requested for by me. I have strained every nerve (NERVE) to expound the justness as also the fairness of my request and if in spite of this, it is felt that I am not entitled for the grant of additional house building advance, I may kindly be permitted to dispose off the house and repay the outstanding balance of H.B.A. together with interest due to the Government of India in one lump. I am driven against my will to make this request as it is not possible for me to complete the construction of the house without the grant of additional house building advance.

I solicit the favour of your kind early orders in the matter.

With best respects,

I remain, Sir.

Yours faithfully,

Sd|-

(B. N. Gururajachar)

Mysore-570001

Dated: 26th May, 1976.