

COMMITTEE ON PETITIONS

(TENTH LOK SABHA)

SEVENTH REPORT



[Presented to Lok Sabha on 13 May, 1993]

**LOK SABHA SECRETARIAT
NEW DELHI**

May, 1993/Vaisakha, 1915 (Saka)

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**COMPOSITION OF THE COMMITTEE ON PETITIONS
(1992-93)**

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

INTRODUCTION

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:—

- (1) Petition No. 4 regarding need for providing a Railway level crossing at Daund, District Pune (Maharashtra).
 - (2) Petition No. 11 regarding grant of Indian Citizenship to the Chakma and Hajong Tribals of Arunachal Pradesh.
 - (3) Petition No. 23 regarding problem of water logging in Bandel Subway and need for construction of foot overbridge connecting all platforms of Bandel junction.
 - (4) Representation for reinstatement in the service of Delhi Transport Corporation.
 - (5) Action Taken by Government on the recommendations contained in their Twelfth Report (Eighth Lok Sabha) of the Committee on Petitions on the Representation regarding grievances and demands of construction workers.
2. The Committee considered the draft Report at their sitting held on 10 May, 1993 and adopted it.
3. The observations/recommendations of the Committee on the above matters have been included in this Report.

NEW DELHI;
10 May, 1993

20 Vaisakha, 1915 (Saka)

P. G. NARAYANAN,
Chairman,
Committee on Petitions.

I

PETITION NO. 4 REGARDING NEED FOR PROVIDING A RAILWAY LEVEL CROSSING AT DAUND, DISTRICT PUNE (MAHARASHTRA)

1.1. On 16 September, 1991, Shri Anna Joshi, MP presented to Lok Sabha a Petition (No. 4) signed by Shri Sanjay Madanlal Dabi of Shivaji Chowk, Daund, District Pune, Maharashtra and others regarding need for providing a Railway level crossing at Daund, District Pune (Maharashtra).

Petitioners' grievances and prayer

1.2. In their petition, the petitioners stated as follows:—

"The town is divided in two parts by railway line and there is no level crossing except one small passage which is actually a water drain and unable to withstand increased traffic and is not a regular vehicular traffic path. All these days though difficulties were being experienced the same was not much felt since traffic was negligible. Recently, this hurdle took the lives of many women, children, students and railway workers also.

However, it has now become quite impossible due to increase in traffic many folds, vehicular as well as pedestrians. The area is fast developing and therefore, there is an urgent need for a level crossing.

Though many efforts have been made in the past through different sources, unfortunately nothing has been done so far and citizens are facing lot of difficulties."

1.3. The petition was referred to the Ministry of Railways (Railway Board) for furnishing their factual comments thereon for consideration by the Committee on Petitions. In their factual note dated 17 September, 1991, the Ministry of Railways (Railway Board) stated as follows:—

"The matter has been examined in this Ministry and it is advised that a manned level crossing near Daund is technically feasible. It may, however, be mentioned that new level crossing on existing lines are provided at the cost of the sponsoring authorities.

The Railways will consider the proposal for the said level crossing when the Road Authorities sponsor the proposal and undertake to bear the initial as well as recurring costs."

1.4. The Committee considered the matter at their sitting held on 9 January, 1992 and decided to hear oral evidence of the representatives of the Ministry of Railways.

1.5. Subsequently, the Committee took oral evidence of the representatives of the Ministry of Railways (Railway Board) at their sitting held on 28 January, 1992.

1.6. During evidence, the Committee asked the representatives of the Ministry of Railways to state what safety requirements were kept in view while laying railway lines near to the cities and towns particularly when the railway line was to pass through a town dividing it. The representative of the Ministry stated that while considering the proposal for laying Railway lines, places where to provide level crossings over the rivers, streams or bridges, location of railway stations, etc., were kept in mind; written approval of the concerned State authorities, was taken so that the existing rights of the way were honoured.

As regards the safety, the representatives of the Ministry stated as under:—

“We have a Commissioner for Railway Safety, who functions under the Ministry of Civil Aviation. Before any line can be opened or any new facility which carries railway trains can be open even on the existing lines, we have to take his written approval because he is the authority who ensures that we observe all the safety requirements.”

1.7 While explaining the responsibility of Railways when an accident takes place, the representative of the Ministry stated that if a person met with an accident while crossing unauthorisedly, then Railways had no responsibility, however, if a railway passenger was involved in the accident, it was their responsibility.

1.8 When asked to state whether any accident had taken place at that particular place, the representative of the Ministry informed that the last accident was in 1966-67 when two railwaymen who were working in the area were killed while crossing the lines.

1.9 On being asked whether any survey was conducted about the traffic of pedestrians where a manned crossing line had been demanded, the representative stated that survey could only be done if there was any authorised level crossing. Normally on all level crossings traffic survey was conducted once in five years to find out whether the existing line needed to be upgraded. However, they could ask the local railway authorities to make a rough estimate.

When enquired, in case the road authority did not sponsor the proposal what the railways proposed to do, the representative stated that as per the rules, they would not be able to spend any money. Initially when the railway line was laid, approval of State Government was obtained.

1.10 While stating the norms of providing Railway level crossing, the representative of the Ministry of Railways (Railway Board) informed that level crossing is provided at the time of construction of railway line. If there was any demand after 10 years of the construction of railway line,

the expenditure involved has to be incurred by the State Government itself. These norms were universally applicable all over the country and there was no discrimination.

1.11 As regards the demands of the present crossing, the representative stated that this railway line was constructed in 1858. At that time perhaps there would not have been any population or might be very few. The population of that town was 10,000 in 1937 and as per Census of 1980 it was 53,000 or so.

On being pointed out that the demand for a level crossing has been pending for long, the representative of the Ministry of Railways (Railway Board) informed that it might be possible that efforts had not been made by both the sides, seriously. However, the Central Railways were ready to order for that crossing if the State Government gave the acceptance to bear the cost. He assured that if the response came from the State Government, the railway crossing would be provided within two months.

1.12 When enquired about the cost involved for construction of the crossing, the representative of the Ministry stated:—

“We have to go two kilometres away because we cannot make a level-crossing in the middle of the yard. If we want this very location in the middle of the yard, then we will have to make road over-bridge so that it can cross over the yard. We cannot make a level crossing.”

Now it is a small underbridge from where the people pass. Our request would be that if this is the more suitable location for the population, then we should be given clearance that, yes, a road overbridge should be constructed for which the cost will be borne by the party, whichever party sponsors it, Then we will try to build it as soon as possible. Otherwise, the level-crossing will go two kms. away. The cost of the level crossing, which would be two kms. away, would be between Rs. 5-10 lakhs. Then the bridge road would also have to be connected.”

The Committee directed that the Railway authorities should take up the matter with the State Government and apprise the Committee about the progress made in this regard after one month. The representative of the Ministry of Railways (Railway Board) agreed and assured that they would immediately write to the State Government.

1.13 In pursuance of the Committee's directions, the Ministry of Railways issued a letter dated 30 January, 1992 to the Government of Maharashtra and sent a copy to the Committee (See Appendix-I).

1.14 The Ministry of Railways on 21 April, 1992, furnished a brief note bringing out the progress made on the subject stating as follows:—

“Dhaund is an important Junction Station on Pune-Sholapur line of Central Railway in Maharashtra. Its Station yard extends over a

length of 3.8 kms. from km. 265.6 to 269.4. The town of Dhaund has a population of 53,000 and its present settlements are located on both sides of the Station Yard. Access from one side of the town to the other is available through level Crossing No. 18 located at Pune end of the Station yard (Km. 265.600) where State Highway 67 intersects the mainline. This intersection is mainly used by the motorised vehicular traffic. Pedestrians, Rickshaws and cyclists cross the yard through a Railway Bridge known as Kurkumbh Mori Bridge located at m. 267.600, close to the centre of the station. This bridge of 3m width was built essentially for cross drainage, and has a vertical clearance of only 1.8 metre. The bridge is not suitably for heavy vehicular traffic. For Cyclists and Rickshaws, too, it is only a "makeshift" arrangement. There has been a persistent demand for provision of a level crossing near about the location of the said bridge. The level crossing at Pune end of yard is 2 km. away and hence involves a long detour.

Location of a level crossing in the vicinity of the said bridge is not feasible. There are 7 tracks crossing at this location. Apart from safety considerations, the frequent movements trains and shunting engines., will result in closure of the level crossing for long durations, if it is provided. A site inspection of the Dhaund area was arranged jointly by Officers of State Government of Maharashtra, representatives of Dhaund Municipality and Central Railway to explore a feasible solution to the problem of providing an access across the Railway lines in Dhaund area. The nearest spot where a level crossing could be conveniently provided is at km 269.400 i.e. at the Wadi end of the Yard. This site was, however, not acceptable to the Municipal authorities, as the site would be 1.8 kms. away from the said Kurkumbh bridge and about 2.5 kms. from the town centre. The Inspecting Team, therefore, examined other likely alternatives. The site inspection amply made clear that construction of a ROB near the location of Kurkumbh bridge would not be feasible, it would not be practicable to construct approaches for the ROB in heavily built-up areas, in vicinity of the Kurkumbh bridge.

In the opinion of the visiting team a more practical alternative, *prima facie*, was provision of a Road Under Bridge close to the Kurkumbh bridge. The Government of Maharashtra have advised in their letter dated 17.3.92 that the concurrence of the Dhaund Municipality to this alternative is under process. The Railways would be able to take further action in processing the proposal, once a firm view of the Municipal Committee and the State Government becomes available.

Incidentally the State Government are also considering a proposal for replacement of the level crossing No. 18 located at Pune and by a Road overbridge. Such a proposal may speed up the movement of vehicular traffic on the State Highway No. 67 and may have to be justified on its

own merits. It is, however, clear that this would be a proposal not in any way linked with the problem of light vehicular traffic which the Dhaund Municipality has been projecting.

However,...as per rules, the expenditure-initial as well as recurring—for the said under bridge near Kurkumbh bridge will have to be born by the authorities sponsoring the bridge i.e. State Government or the Municipal Committee. The Railways will execute the work on 'deposit' terms. As regards the replacement of level crossing at the Pune end of the yard with a road overbridge, the work can be undertaken by the Railways on cost sharing basis (50:50) provided the traffic levels exceed the qualifying limit of 1 lakh Train-Vehicle Units. In the meanwhile Central Railway has been asked to verify the traffic levels on the level crossing to determine whether the replacement qualifies for cost sharing or is required to be carried out on deposit terms.

1.15 On 27 July, 1992, the Ministry of Railways forwarded copy of a letter dated 26 June, 1992 received from the Public Works Department, Bombay, extracts of which are given below:-

“.....various proposals....have been examined by the Officers of Public Works Department and Railway Department by conducting a joint inspection of the sites.

After considering the various aspects and difficulties likely to be experienced in each case, this department has come to the conclusion that the construction of road over bridge in km. 265/600 in place of existing level crossing and on State Highway No. 67 and 10 belonging to the State Public Works Department on the cost sharing basis, is the only solution to the traffic problem on Ratas-Daund-Ahmednagar Road and Daund City. Even though the new R.O.B. as proposed above is little away (say by 2 km. on Pune side), it will help easing the local traffic to a great extent. The Government of Maharashtra has already made a reference to the Railway Department to include this work in the annual works programme of Railways.”

1.16 Shri Anna Joshi, M.P. who had present the petition to the House, had in a letter dated 1 April, 1992 to the Chairman, Committee on Petitions desired that before a final decision was taken in the matter, the petitioners should also be given an adequate opportunity to explain their point of view. As directed by the Chairman, relevant extracts of the reply furnished by the Ministry of Railways were forwarded to Shri Anna Joshi, M.P. with the request to send his comments, if any in the matter. Since no communication was received from Shri Anna Joshi, another letter was addressed to him on 31 August, 1992 requesting him to send his comments, if any. However, no reply was received from the member.

The matter was again considered by the Committee at their sitting held on 9 February, 1993.

Observations/Recommendations of the Committee

1.17 The Committee note that initially the Ministry of Railways in their factual comments had admitted that a manned level crossing near Daund was technically feasible. However, during evidence the Ministry informed the Committee that a level crossing could be provided at a place two kilometres away from the Daund Yard and if it was to be provided at that very location in the middle of the yard, then they had to make a road over-bridge.

1.18 There is no denying the fact that with the increase of population of the town manifold an urgent necessity of providing a level crossing or a road overbridge has emerged out. The existing Railway bridge in the Station yard, which was hitherto being used as a subway by the pedestrians and light vehicular traffic is not able to cope with the requirements of the increased traffic and population of the town.

1.19 The Committee have been informed by the Ministry of Railways that Daund is an important Junction Station on Pune-Sholapur line of Central Railway in Maharashtra. Access from one side of the town to the other is available through level crossing No. 18 located at the Pune end of the Station Yard (km. 265.600). The bridge is not suitable for heavy vehicular traffic. Location of a level crossing in the vicinity of said bridge is not feasible. They have stated that a site inspection of the Daund area was arranged jointly by officers of the State Government of Maharashtra, representatives of Daund Municipality and Central Railway to explore a feasible solution to the problem of providing an access across the railway lines. The nearest spot where a level crossing could be conveniently provided is at km. 269.400 *i.e.* at the Wadi end of the Yard. This site was, however, not acceptable to the Municipal authorities as the site would be 1.8 kms. away from the Kurkumbh bridge (a Railway bridge used by pedestrians and cyclists to cross the yard) and about 2.5 kms. from the town centre.

1.20 The Committee have also been informed by the Ministry of Railways that they provide level crossings, manned or unmanned, and Road over/underbridges in consultation with the State Government at the time of laying of new Railway lines as also during a further period of 10 years after opening the Railway line for traffic. The entire expenditure for such works is borne by Railways. Construction of new crossing facilities thereafter is undertaken by the Railways only if sponsored by the State Government/local authority duly consenting to bear the initial as well as recurring expenditure.

1.21 The Committee note that the Railways have been informed by the Public Works Department, Bombay that after considering the various aspects and difficulties likely to be experienced in each case, they have come to the conclusion that the construction of road overbridge in

km. 265/600 in place of existing level crossing and on State Highway No. 67 and 10 belonging to the State Public Works Department on the cost sharing basis is the only solution to the traffic problem on Ratas-Daund-Ahmednagar Road and Daund City. The Committee are informed that the Government of Maharashtra has made a reference to the Railway Department to include this work in the annual works programme of Railways.

1.22 The Committee note that the Railways had to face various difficulties in finalising the location and the type of crossing facility at Daund Yard. As it has been finally decided to construct a road overbridge, the Committee desire that the proposed work might be taken up on priority basis and included in Annual Works Programme of Railways so that the long Standing demand of the people of the region is fulfilled. It will make the life of the people safe and instil a sense of security in their minds. The Committee would like to be apprised of the action taken in the matter within three months.

II

PETITION NO. 11 REGARDING GRANT OF INDIAN CITIZENSHIP TO THE CHAKMA AND HAJONG TRIBALS OF ARUNACHAL PRADESH

2.1 Shri Lalit Oraon, M.P., on 11 March, 1992 presented to Lok Sabha Petition No. 11 (See Appendix II) signed by Shri Uttam Chakma, resident of B-5/67, Safdarjung Enclave, New Delhi, regarding grant of Indian Citizenship to the Chakma and Hajong tribals of Arunachal Pradesh.

2.2 The petitioner *inter alia* stated that about 30,000 Chakma and Hajong tribals had migrated to India in 1964 from the Chittagong Hill Tracts in East Pakistan (now Bangladesh) and were rehabilitated by the Government of India in the then North East Frontier Agency (N.E.F.A.), now Arunachal Pradesh. Their present population is stated to be around 65,000. The Chakmas and Hajong tribals have not been granted Indian Citizenship even after 27 years of their migration to Arunachal Pradesh. The petitioner has contended that as per the Assam Accord of 1985, all the migrants who had settled in Assam, on or before January 1, 1966, were *ipso facto* citizens of India. These migrants were facing lot of difficulties as they were not considered Indian Citizens.

2.3 The petitioners prayed that:

- (i) The Chakmas and Hajongs of Arunachal Pradesh may be granted Indian Citizenship.
- (ii) Ban on employment of Chakmas and Hajongs in Arunachal Pradesh may be lifted immediately.
- (iii) Their access to educational institutions may be immediately restored at par with other local tribals in Arunachal Pradesh.
- (iv) Their trading facilities should be restored.

2.4 The petition was referred to the Ministry of Home Affairs for their factual comments on 12 March, 1992. The Ministry of Home Affairs in their communication dated 13 April, 1992 have stated as follows:

“Consequent on the influx of refugees from the then East Pakistan (now Bangladesh) into India during 1966, a scheme for settlement of about 3000 Chakma and Hajong refugee families in Arunachal Pradesh was approved. However according to the State Government of Arunachal Pradesh about 4012 families of Chakma and Hajong were finally settled in Arunachal Pradesh from 1964.

In terms of the provisions of the Assam Accord and Section 6 (A) (2) of Citizenship (Amendment) Act, 1985, refugees from

erstwhile East Pakistan who came and settled in Assam between 1.1.1966 to 24.3.1971 (inclusive) and were resident of Assam are entitled to grant of citizenship after their detection by the Foreigners Tribunals set up under the Foreigners Act, 1946 and Foreigners Tribunal (Amendment) order (1985). Their right to vote is to be withheld for a period of 10 years from the date of their detection as a foreigner by a Foreigners Tribunal. These provisions are not applicable to refugees from East Pakistan who were settled in Arunachal Pradesh during 1966 as they were resident of Arunachal Pradesh and not Assam on the relevant day.

These Chakma refugees in Arunachal Pradesh have not been granted Indian Citizenship so far. This is mainly owing to the fact that the Government of Arunachal Pradesh fear that it will have wide social and other implication in a small State with limited population. Original inhabitants of this State are also opposed to the proposal and there has been sporadic skirmishes between the local tribals and the Chakmas.

In view of the social tension, economic problem and scarcity of cultivable land, the State Government has taken a policy decision not to give any facilities to Chakma Hajong/refugees in the matter of employment and issue of trade licence. However, educational facility to some even are provided by the State Government under the various rehabilitation schemes. Tribals are also allowed to carry on their trade and commerce in the settlement areas. All Chakmas have been issued ration cards.

The Chakma tribals inhabiting Mizoram, Tripura and Assam have been recognised as scheduled tribes. However, Chakma tribals who came to Tripura during 1986 have not been granted Indian Citizenship. The Government of India is in touch with the Arunachal Pradesh Government with a view to find an amicable solution to the problem.

2.5 The Committee considered the petition at their sitting held on 22 May, 1992 and decided to take oral evidence of the representatives of the Ministry of Home Affairs on the subject.

2.6 Accordingly, the Committee took oral evidence of the representatives of the Ministry of Home Affairs at their sitting held on 6 August, 1992.

2.7 Explaining the original plan in 1964 while rehabilitating the Chakma and Hajong tribals and their present status the representative of the Ministry of Home Affairs stated as under:

“These people came in 1964. They were a part of a very large number of refugees who escaped from the then East Pakistan and

entered India. They were mostly minorities—Hindus, Budhists, Christians and others—in the then East Pakistan. Approximately 1,40,000 came into Assam. The Assam Government expressed its serious difficulties in absorbing all of them. So, a decision was taken to distribute them. Arunachal Pradesh got about 3,000 families. At that time they were about 15,000 persons. This was done with the consent of the then NEFA Administration. The considerations were that these people were Chakmas, Buddhists and tribals. Arunachal Pradesh is predominantly inhabited by tribals. Then, the population density was very low. It is still very very low. There were large tracts of vacant land where these people could be accommodated and rehabilitated without affecting the interests of other tribals and local people. In fact, they were given virgin jungles and five acres and they were resettled there. They got the jungles and started cultivation there. The idea at that point of time was not to send them back because they could not be sent because firstly East Pakistan could not accept them and secondly, being a minority group and given the attitude of East Pakistan there, they may be facing humiliation, death and persecution. So on humanitarian grounds, it was thought that they should be kept here. It was later following the liberation of Bangladesh from March 1971 onwards, the Bangladesh Government started accepting the return of refugees. At that time there was no option left and hence, the decision was taken by the Government of India to settle them and to give them Indian Citizenship. The Central Government policy decision is to grant them citizenship. The difficulty, as reported by the Government of Arunachal Pradesh, was that it is causing social tension and law and order problem on the ground and, therefore, they should not be granted citizenship. We have been trying to persuade the State Government to accept the realities and also the commitment of the Government of India to give them citizenship. So far, we have not succeeded and efforts are continuing.”

2.8 When asked whether it was a fact that the State Government of Arunachal Pradesh had taken a policy decision neither to give any employment facilities to these migrants nor to issue any trade licences to them, the witness replied in the affirmative. He informed the Committee that the State Government was of the opinion that since these migrants were not citizens of India so they would not be granted trade licences. Earlier these licences were granted to the migrants and though some of the migrants were running their shops in the colonies but their licences were not renewed by the State Government.

2.9 As regards the stand taken by the Central Government for grant of Indian Citizenship to these migrants, the representative of the Ministry of Home Affairs categorically stated that the policy of the Government of India was to grant them Indian Citizenship. The Government was of the view that they should be permanently settled in India.

2.10 When enquired whether it was not the responsibility of the Central Government to extend all necessary facilities like education, employment and rehabilitation to these migrants as the State Government of Arunachal Pradesh could not be persuaded to do the needful, the witness stated as follows:

“In this context permit me to submit that as long as citizenship question is not sorted out, all these small ad-hoc measures will benefit only very very few persons who are local and all others will continue to suffer. We want to tackle this problem at the root. This august Committee’s concern in this matter with the Arunachal Pradesh and enable them to give the citizenship to these people.”

2.11 Explaining the procedure for grant of Indian Citizenship to the migrants the representative of the Ministry informed the Committee as follows:

“The authority to register is with the Collector to transmit all applications to the Central Government with a report. That is Rule 9 of the Citizenship Rules. The Collector shall transmit application under section 5(i) (a) received by him, to the Central Government through the State Government, along with a report as to whether the applicant is: (a) of Indian origin and has been actually resident of India for the last five years; (b) has close relations born in India; (c) has the intention to make India his/her home; (d) registered as a Citizen of India, etc.”

Observations/recommendations of the Committee

2.12 The Committee note that originally in 1964 about 30,000 (presently about 65,000) Chakma and Hajong tribals migrated to India from the Chittagong Hill tracts in East Pakistan (now Bangladesh) and were rehabilitated by the Government of India in the then North East Frontier Agency, now Arunachal Pradesh. The Chakmas and Hajong tribals have not been granted Indian citizenship even after 27 years of their migration to Arunachal Pradesh.

2.13 According to the petitioner, the ban on employment of Chakmas & Hajong may be lifted immediately, their access to educational institutions may be immediately restored at par with other local tribals in Arunachal Pradesh and their trading facilities be restored. As per the information furnished by the Ministry of Home Affairs, the Government of India had approved a scheme for settlement of about 3,000 Chakma and Hajong refugee families in Arunachal Pradesh. According to the Government of

Arunachal Pradesh about 4012 families of Chakma and Hajong were finally settled in the State from 1964. These Chakma refugees in Arunachal Pradesh have not been granted Indian citizenship so far, due to the apprehension of the State Government that it will create social tension and economic problems and scarcity of cultivable land, and the original inhabitants are also against the grant of citizenship to these Chakmas and Hajong refugees. The Ministry have also stated that the Chakma tribals inhabiting Mizoram, Tripura and Assam have been recognised as Scheduled Tribes.

2.14 Explaining the original plan in 1964 while rehabilitating the Chakma and Hajong tribals and their present status the Ministry have stated that these people came in 1964, they were mostly minorities viz Hindus, Budhists, Christians and others, in the then East Pakistan. Approximately 1,40,000 came into Assam. The Assam Government expressed its serious difficulties in absorbing all of them. So, these people were distributed and accordingly, Arnuachal Pradesh got 3,000 families. These persons were accommodated in the large tracts of vacant land where people could be accommodated and rehabilitated without affecting the interests of other tribals and local people. They were given five acres virgin jungles and they were resettled there. The Ministry have submitted that the idea at that point of time was not send them back because they could not be sent because firstly East Pakistan could not accept them and secondly being a minority group they might be facing humiliation, death and persecution. So, on humanitarian grounds, it was thought that they should be kept here. Following the liberation of Bangladesh from March, 1971 onwards, the Bangladesh Government started accepting the return of refugees. At that time the Government of India had taken a decision to settle them here and grant them Indian citizenship.

2.15 The Committee also note that the Central Government is keen to grant the citizenship to these refugees, but the Government of Arunachal Pradesh are reluctant to provide them basic facilities and citizenship. The apprehension of the State Government that law and order problem would be affected if these people were granted India citizenship.

2.16 The Committee desire that the Government of Arunachal Pradesh may be persuaded not to deny the basic facilities like education, trade ration cards etc. to the migrants for sustenance of their lives.

2.17 In view of the long stay of over 27 years in India as refugees the Committee would also urge upon the Government to explore further the possibility of grant of Indian citizenship to these refugees as early as possible.

III

PETITION NO. 23 REGARDING PROBLEM OF WATER LOGGING IN BANDEL SUB-WAY AND NEED FOR CONSTRUCTION OF FOOT OVER-BRIDGE CONNECTING ALL PLATFORMS OF BANDEL JUNCTION

3.1 Shri Rup Chand Pal, M.P., presented to Lok Sabha on 20 August, 1992, petition No. 23 (See Appendix-III), signed by Shri Amulya Chandra Saha and others requesting to stop water-logging in Bandel Sub-way and construction of foot over bridge connecting all platforms of Bandel junction.

3.2. In the petition the petitioners raised *inter alia* the following main points:—

- (1) More than 25,000 commuters who are residents of Hooghly District of the State of West Bengal use the important rail head from Bandel junction.
- (2) A good number of Mail and Express trains stops at this important junction station which connects Katwa, Burdwan Junction, Sealdah and Krishan Nagar Railway line of Sealdah Division *Via* Naithati and Howrah. A number of trains daily run through this junction, but inspite of the recognition by railway authorities of the importance of this Railway Junction, which is adjacent to Chinsura— the District Headquarter of Hooghly District and Divisional Headquarters of Burdwan Division persistent neglect of the station and the sub-way has become not only a major irritant factor but a serious danger to commuter users and to general public.
- (3) The water logging on the sub-way (Bazarpara) as also sub-way down below the Bandel platform has been causing serious inconvenience to commuters particularly during Monsoon.
- (4) The situation has worsened as some work has been completed by Railway authorities on the tracks. Passengers have to walk through water-logged sub-way or to cross the railway line which is dangerous to their lives.
- (5) Persistent demands have been made to the Railway authorities to remedy the situation by renovating the sub-way (Bazarpara) and the sub-way down below the Bandel platform.

3.3 The petition was forwarded to the Ministry of Railways on 25 August, 1992 for furnishing their comments on the points raised in the petition for being placed before the Committee on Petitions for their

consideration. The Ministry of Railway in their O.M. dated 23 September, 1992 furnished their comments as follows:—

“The problems of water logging at Bandel Sub-way has arisen due to the sitting up of Rasbhara canal in the Municipal area. Railways have sanctioned a proposal at an anticipated cost of Rs. 3.73 lakh for provision of a separate under ground 2½ feet hume pipe drain which will ensure proper drainage and will avoid water logging of the sub-way. On completion of the work, the passenger will have a comfortable passage through this sub-way. Since this sub-way connects all the platforms at Bandel and is adequate for the existing volume of passenger traffic, provision of additional facility of a foot over bridge is not considered necessary at present.”

3.4 The Committee considered the matter at their sitting held on 9 February, 1993. The Committee decided that a copy of the comments of the Ministry of Railways might be sent to Shri Rup Chand Pal, M.P., in charge of the petition, for his reaction/comments, if any.

3.5. Accordingly, a copy of the comments of the Ministry of Railways was forwarded to Shri Rup Chand Pal, M.P. for his comments, if any. However, no reply was received from the member.

3.6. The Committee note the position stated by the Ministry of Railways that they have sanctioned a proposal for providing a separate under-ground drain which will avoid water logging of the sub-way; and on completion of the work the passengers will have a comfortable passage through this sub-way. According to the Ministry since this sub-way connects all the platforms at Bandel and is adequate for the existing volume of passenger traffic, provision of additional facility of a foot over bridge is not considered necessary at present. The Committee hope that the proposed drain would adequately meet the demand of the petitioners and the user passengers at Bandel platforms. The Committee would, however, urge upon the Ministry to expedite completion of the proposed drain.

IV

REPRESENTATION FOR REINSTATEMENT IN THE SERVICE OF DELHI TRANSPORT CORPORATION

4.1 Shri Jagdish Kumar, Ex Retainer Crew Driver in the Delhi Transport Corporation, resident of Azadpur, Delhi, submitted a representation dated nil requesting for his reinstatement as R/C Driver in the Delhi Transport Corporation.

4.2 The petitioner stated *inter alia*.

- (i) That the petitioner was selected as Retainer-cum-Driver and after completion of training was appointed as Driver in DTC;
- (ii) That the petitioner was implicated in a false and frivolous criminal cause and his services were terminated without issuance of any show cause notice. No opportunity was given to him before terminating his services;
- (iii) That by judgement dated 12.5.88 passed by the Metropolitan Magistrate (Shri P.K. Saxena), he was acquitted of the false charges;
- (iv) The reasons for dispensing with his services were false.

4.3 The Ministry of Surface Transport (Transport Wing) to whom the representation was referred for ascertaining the factual position, in their reply dated 28 February, 1992 stated as follows:

“...the matter has been examined in consultation with D.T.C

It has been informed that the services of Shri Jagdish Kumar were dispensed with w.e.f. 12.1.83 on being involved in a fatal accident inside the depot premises on 11.1.83 during the period of retainership. He was also declared at fault by the DTC Accident Committee. The Acquittal of Shri Jagdish Kumar by the court has not been considered absolute. His case was considered and rejected by CMD, DTC.

In view of the above, DTC have stated that it is not possible to reinstate Shri Jagdish Kumar in DTC at this stage.”

4.4 The Committee considered the matter at their sitting held on April, 1992 and felt that the reply of the Government was not complete in as much as the acquittal of Shri Jagdish Kumar—the petitioner— by the Court had “not been considered absolute” by the D.T.C Authorities. The Committee desired that an elaborate reply on this point, indicating the basis on which the acquittal of

the petitioner was not considered to be absolute might be called for from the Ministry to consider the matter further.

4.5 As directed by the Committee, the Ministry of Surface Transport in their O.M. dated 25.6.1992 furnished the information as follows:—

“DTC has reported that Shri Jagdish Kumar, Ex-Driver B.No. 11661 was appointed as retainer driver on daily rates of pay w.e.f. 23.7.82. During the course of retainership he caused a fatal accident on 11.1.83 while driving bus No. DHP-3148 inside BBM Depot II killing another workshop employee namely Shri Om Prakash, Fitter, B.No. 3360. After the accident the ex-driver fled away from the spot. Accordingly his services were dispensed with as per provision of the formula laid down for dealing with retainer crew drivers. Since this was a fatal accident, the matter was reported to the Police also who challenged the driver and filed a criminal case in the Court of Law. The Court of Law acquitted the ex-driver for want of evidence and the fact that witnesses turned hostile. However, the case was placed before the Departmental Accident Committee of DTC which endorsed the findings of the then Depot Manager that the Ex-driver in this case seemed to be at fault.

The Ex-driver however, submitted an appeal after his acquittal from the Court of Law which was considered by the then Chairman-cum-Managing Director in 1988 who observed that since Driver's acquittal as ordered by the Court was not considered absolute, his request for re-employment in the Corporation could not be acceded to.

This matter was also examined by the Legal Department of the DTC which opined that since the decision to dispense with the services of the ex-driver was taken in accordance with the laid down and established norms pertaining to the retainer crew drivers and was in order, the acquittal of the ex-driver by the Court of Law was not relevant.”

4.6 The additional information furnished by the Ministry of Surface Transport was considered by the Committee at their sitting held on 8 September, 1992. The Committee felt that the information received from the Ministry was not satisfactory and decided to hear the representatives of the Ministry of Surface Transport before arriving at their conclusion.

4.7 Accordingly, the Committee took oral evidence of the representatives of the Ministry of Surface Transport and Delhi Transport Corporation on 25 September, 1992. During evidence, the Committee *inter alia* enquired about the difference between a driver and retainer-cum-driver and the terms and conditions of service of the retainer-cum-driver, the representative of the Ministry replied as under:—

“The retainer-cum-driver, in loose term, is something like casual

labour. Of course, he is a daily rated workers who is retained on retainership. On a day when we need additional driver, he is put on the job and he works as driver. For the day he works as driver, he gets the salary as driver for that day. For the day he does not get any work or he is not required as a driver, he gets retainership fee of about Rs. 3/- per day. It is pure casual relationship between him and the Corporation.

After that he comes on probation and would be on probation for about a year. After he completes his probation successfully, only then he is confirmed as a driver. When he is confirmed as driver, then he gets full benefits under the terms and conditions of the Corporation."

He added:

"The fundament difference would be, retainer-cum-driver Works on daily wage basis whereas driver is on a regular monthly employment. In case retainer-cum-driver causes any services accident or is found at fault, then we have the liberty to terminate his services, because he is on purely casual basis, without assigning any reasons. The appointment is purely temporary. Their services will be liable to be dispensed with at any time without notice and without assigning any reason therefor."

4.8 When asked whether before terminating the services of the petitioner, he was given the required show-cause notice and given adequate opportunity to explain his case, the representatives of the Ministry stated as follows:—

"In this case, what had happened was, he was at the B.B. Marg Depot on that particular day at about 21.05. While driving the bus, he caused an accident and the particular person who was fitter, name Om Parkash met with the accident. The moment the accident took place, he fled from the spot and was not available. The Depot Manager was informed of the accident and he first went to the accident site to see the person who was injured. After having gone there, he was told about the condition of the fitter who was ultimately declared dead on reaching the hospital. Then he organised the family to reach the hospital and to look after the body. From there, he came to the depot around 11 O'clock. Then he questioned the people who were on the spot and took their statement and satisfied himself about whatever facts that had taken place and thereafter he left. This driver was not available because the moment the accident took place, he fled from there. The police also came and they also could not locate him. The Depot Manager next day filed report with the management. Since the Depot Manager is competent to appoint as well as dismiss retainer-cum-driver he had terminated the services of that gentleman. The police filed an

FIR based on the evidence given by the three people who were present at that point of time. They went further ahead for prosecuting him in the court.”

4.9 It was further stated:—

“As per the rules of the Corporation, in case of any fatal accident, the action taken and the nature of the accident are also reviewed by high-powered accident committee which meets once every quarter, which has ACP (Traffic), Works Manager, DTC, Senior SO and the Additional GM (Traffic) as members. They review all the documents and evidence before them. They also came to the conclusion that the conclusion reached by the Depot Manager need not be interfered with. It was also accepted by the high-powered Committee.

Thereafter, in the court, the three witnesses whose statements had been recorded by the Depot Manager, during the course of evidence in the Court, have turned hostile.”

4.10 When asked to clarify the statement —“Acquittal is not absolute”—the representatives of the Ministry stated that the point taken was that he was acquitted on the basis of no evidence coming up.

4.11 When the Committee enquired whether they had appealed against the court’s verdict the representative of the Ministry stated that they had taken legal opinion and the legal opinion was that Shri Jagdish Kumar could not be reinstated on the grounds of his acquittal only.

4.12 On being asked why the Ministry had not gone by the court order which declared that he was acquitted, the representative of the Ministry stated as under—

“There is no attempt on our part of over rule the court’s verdict. There is one other condition of his service as retainer. The very first condition is that a driver’s services will be dispensed with if he is involved in one major accident. Here, of course, he was not convicted. The court acquitted him for want of evidence. But based on the investigation conducted by the Depot Manager as well as by the Police, they had come to the conclusion that he was involved in this major accident.”

4.13 The Committee pointed out that the High Powered Committee dismissed him and the court acquitted him; that meant that the judgement was absolute and he was declared as innocent. Thus there was no scope for any comment. As the offence was not established, he could have been given a chance. One cannot be convicted on flimsy grounds. To this, the representative of the Ministry replied that:—

“The Supreme Court has gone on record to say that the decision of the criminal court need not upset the administrative decision if already taken.”

4.14 The Committee drew attention of the Ministry to the reply furnished by them to the effect that the Departmental Accident Committee of DTC endorsed the findings of the then Depot Manager that the Ex-Driver in that case seemed to be at fault and that the appeal was considered by the then CMD in 1988 who observed that since the Driver's acquittal as ordered by the Court was not considered absolute, his request for re-employment in the Corporation could not be acceded to. The Committee enquired about the rationale why the acquittal by the court was not considered absolute and at what level was that decision taken. The representative of the Ministry replied as under:—

“The Driver appeared before the then CMD in 1990 and not in 1988. He moved an application to the Chairman saying that after his acquittal from the Court the management had not taken any action. On that basis, the then Chairman called the comments of the concerned officers along with the judgement and also he heard them. The judgement itself says that the total inquiry was not conducted by the metropolitan magistrate. Court said that that was not an absolute case. After all the defence witnesses and prosecution witness were examined by the Court and thereafter the Court gave the judgement. In this case there was a summary judgement because three eye witnesses became hostile.”

4.15 Asked to state the period of service rendered by the petitioner the witness stated that on 22.1.1993 he would have completed six month's service. He was appointed on 23.7.1982.

4.16 The Committee drew the attention of the witnesses to the Ministry's comments which read as follows:

“This matter was also examined by the legal Department of the DTC which opined that since the decision to dispense with the services of the ex-driver was taken in accordance with the laid down and established norms pertaining to the retainer crew drivers and was in order the acquittal of the ex-driver by the court of law was not relevant.”

4.17 Asked to elaborate the above statement, the witness stated:—

“I would like to submit various terms and condition laid down for the post of retainer and driver. It says, among other things, that for dispensation of the services of a driver, if a driver is involved in a major accident then normally it implies dispensation of his services. It is for the consideration of the Committee. Even if we think in terms of reinstating administratively when we have felt that he was involved in an accident, we could not prove it in the court of law, we submit that we failed there.”

4.18 During course of evidence, the Committee directed the Ministry to review the matter in consultation with the Legal Adviser/Ministry of -

Law. In pursuance of the Committee's directions, the Ministry of Surface Transport forwarded an O.M. dated 3.11.1992 stating *inter alia* as follows:

"In pursuance of the direction of the Committee, this Ministry has reviewed the decision taken by DTC in consultation with Ministry of Law, Justice and Company Affairs. They having examined the case in detail have opined as under:—

In the instant case, Shri Jagdish Kumar was acquitted after 5 years 4 months of the dispensation of his services. The representation of Shri Jagdish Kumar does not find legal support. His re-instatement on the ground of acquittal, in view of the above discussions, is not a legal requirement.

The conclusion of Depot Manager that the driver seems to be at fault was subsequently examined by a High Powered Accident Committee comprising of ACP (Traffic) W.M.-I, DTC; Sr. S.O. and A.G.M. (T) and the conclusion of Depot Manager was corroborated by this Committee too. The re-examination of the conclusion of Depot Manager would not be proper in view of the above mentioned circumstances.

After careful examination, we are of the view that the action taken by the Department against Shri Jagdish Kumar does not legally require re-consideration even after his acquittal from the Court.

This Ministry agrees with the views of the Ministry of Law and Justice given above in confirming the action taken by the DTC in not accepting the representation of Shri Jagdish Kumar for his reinstatement after his acquittal by the Metropolitan Court."

Observations/Recommendations of the Committee

4.19 The Committee note that the services of the petitioner Shri Jagdish Kumar, Ex-R/C Driver, were dispensed with w.e.f. 12.1.1983 on being involved in a fatal accident inside the depot premises during the period of retainership. He was also declared at fault by the DTC Accident Committee. The acquittal of Shri Jagdish Kumar by the Court was not considered absolute, and his case was rejected by CMD, DTC.

4.20 The Committee also note that at the time of accident, the petitioner had put in less than six months' service and he caused the fatal accident during the period of retainership.

4.21 The Committee are informed by the Ministry of Surface Transport that his services were dispensed with as per provisions of the formula laid down for dealing with retainer crew driver. The police also filed a criminal case against him in the Court of Law. The Court of Law acquitted him for want of evidence and because, it is stated, the witnesses turned hostile. The Departmental Accident Committee, DTC, before

whom the case was placed also endorsed the findings of the then Depot Manager that the Ex driver in this case seemed to be at fault.

4.22. The appeal filed by the petitioner after his acquittal from the Court of Law was considered by the then Chairman-cum-Managing Director in 1988 who observed that since Driver's acquittal as ordered by the Court was not considered absolute his request for re-employment in the Corporation could not be acceded to.

4.23. The Committee were also informed during oral evidence by the representatives of the Ministry of Surface Transport that as per the rules of the Corporation, in case of any fatal accident, the action taken and the nature of the accident are also reviewed by high powered accident Committee which has ACP (Traffic), Works Manager, DTC Senior SO and the Additional General Manager (Traffic) as members. They also come to the conclusion that the conclusion reached by the Depot Manager need not be interfered with.

4.24 The Committee also note that the Ministry of Law and Justice who were consulted in the matter by the Ministry of Surface Transport have opined that the representation of Shri Jagdish Kumar does not find legal support. His reinstatement on the ground of acquittal is not a legal requirement. They have further opined that the conclusion of Depot Manager was corroborated by the High Powered Action Committee too and re-examination of the conclusion of Depot Manager would not be proper in view of the above mentioned circumstances. Besides, they are of the view that action taken by the Department against Shri Jagdish Kumar does not legally require reconsideration even after his acquittal from the Court.

4.25 In view of the relevant rules of the Delhi Transport Corporation and the specific advice of the Ministry of Law, the Committee feel that no further intervention is required on their part in the matter.

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THEIR TWELFTH REPORT (EIGHTH LOK SABHA) OF THE COMMITTEE ON PETITIONS ON THE REPRESENTATION REGARDING GRIEVANCES AND DEMANDS OF CONSTRUCTION WORKERS

5.1 The Committee on Petitions (Eighth Lok Sabha) had in their Twelfth Report presented to Lok Sabha on 25 July, 1989, considered a representation regarding grievances and demands of construction workers and made certain observations/recommendations thereon. These recommendations were taken up for implementation with the Ministries of Urban Development and Labour.

5.2 Action Taken notes have been received from the Government in respect of the recommendations contained in the Report. The recommendations made by the Committee and the replies there to furnished by the Government are given in Appendices IV and V, respectively.

5.3 The Committee will now deal with the action taken by Government on some of their recommendations:—

Problems Faced by the Construction Workers in the Country
Recommendations (Paragraph Nos. 2.23. to 2.29)

The Committee noted *inter alia* that the National Campaign Committee for Central legislation on construction labour headed by Retired Chief Justice V.R. Krishna Iyer had done considerable useful work at the grass root level to organise the construction workers with a view to enabling them to demand Central legislation as a right to provide security of employment and other social welfare measures, to which they should be entitled like workers in the organised sector. The Campaign Committee had also formulated a draft legislation.

The Committee also noted that the Bill introduced in the Rajya Sabha would apply only to establishments which employ or employed fifty or more building workers in any building or other construction work. As against this, the scheme formulated by the Campaign Committee sought to cover all construction workers wherever they might be employed. The scope of the legislation formulated by the Campaign Committee would thus appear to be more comprehensive and wide-ranging. The Committee desired that the legislation proposed by the Campaign Committee might be examined and considered and all good features thereof might be suitably incorporated in the Government bill.

The Committee on Petitions had, therefore, recommended that the bill pending in Rajya Sabha be withdrawn and a fresh comprehensive bill be introduced so as to cater to the long felt demands of a hitherto neglected segment of the working class.

Action Taken by Government

5.4 In their action taken notes the Ministry of Labour have stated that as per the Committee's recommendation, the consideration of the Building and other Construction Workers (Regulation of Employment and Condition of Service) Bill, 1988, was deferred and a National Seminar on the workers in construction industry was held in February, 1990 to which the representatives of the National Campaign Committee for Central Legislation were also invited, and they had also participated in it. The matter was also considered by the various authorities like National Commission on Rural Labour etc. The Government have also sent a Study Team of officers to Kerala during June, 1992 to gain the experience of that State, who submitted their Report in July, 1992. Further, the whole matter was taken up by the Labour Ministers Conference in August, 1992 who have referred it to a Committee of Eleven State Labour Ministers headed by the Labour Minister of Maharashtra whose report is still awaited.

5.5 The Committee note that the Ministry have agreed to the Committee's recommendations and accordingly withdrawn the Bill which was introduced in Rajya Sabha in this regard. In regard to introduction of a fresh comprehensive Bill, the Committee also find that the Ministry of Labour making their efforts for formulation of the relevant legislative proposals. The Committee hope that the Bill which will be introduced in Parliament would be comprehensive one so as to cater to the long felt demand of a hitherto neglected segment of the working class.

NEW DELHI;
10 May, 1993

20 Vaisakha, 1915 (Saka).

P. G. NARAYANAN,
Chairman,

Committee on Petitions.

APPENDIX I

(Reference para 1.13 of the Report)

Extracts of letter dated 30.1.92 from the Ministry of Railways to the Chief Secretary, Government of Maharashtra

“Frequent representations are being received by the Railways from the public as well as Members of Parliament for providing a level crossing across Daund Railway Station Yard, which divides the Daund township in two parts. The existing Railway bridge in the station yard, which was hitherto being used as subway by the pedestrians and light vehicular traffic, is not able to cope up with the requirements of the increased traffic and population of the town. Moreover, this Railway bridge (1×3.04 m span) was constructed for drainage purposes and is having a headway of 1.82 m only, which is not suitable for heavy vehicular traffic.

This subject came up for discussion during the meeting of the Parliamentary Committee on Petitions held on 28.1.92 when Shri P.G. Narayanan, Chairman of the Committee directed that suitable measures should be taken in consultation with the State Government for the redressal of the genuine grievances of the local people.

In this connection it is to be stated that the Railways provide sufficient number of level crossings, manned or unmanned, and Road Over/Underbridges in consultation with the State Government at the time of laying of new Railway lines as also during a further period of 10 years after opening the Railway line for traffic. The initial as well as recurring expenditure for such works is borne entirely by the Railways. Construction of new crossing facilities thereafter is undertaken by the Railways only if sponsored by the State Government/local authority duly consenting to bear the initial as well as recurring expenditure, as per rules. Enquiries from Central Railway have revealed that construction of new level crossing in Daund yard is not feasible and the solution lies in construction of a Road Overbridge. Construction of a new level crossing is feasible only at km 269/5-6, towards the Wadi end of the Daund Yard. I would suggest for your consideration that you may kindly instruct the concerned State PWD/Road authorities to finalise the location and the type of crossing facility in consultation with Central Railway and the local Municipality, and sponsor the necessary proposal, duly consenting to bear the cost as per rules, so that the Railways can take further action in the matter. As the Chairman of the Committee on Petitions desired for a report on the subject within a month, I would request you to kindly instruct the concerned State officials for an early action.”

APPENDIX II
(See Para 2.1 of the Report)

LOK SABHA
PETITION NO. 11

[Presented to Lok Sabha on 11.3.1992]

TO

LOK SABHA
NEW DELHI

The humble petition of Shri Uttam Chakma, Voluntary social worker.

SHEWETH

1. That about 30,000 Chakma and Hajong tribals had migrated to India in 1964 from the Chittagong Hill Tracts in East Pakistan (now Bangladesh) and were rehabilitated by the Government in India in the then North East Frontier Agency (N.E.F.A.), now Arunachal Pradesh. The present population of the Chakma and Hajong stands at 65,000.
2. That 27 long years have passed since their rehabilitation in three districts of Arunachal Pradesh, viz. Changland, Subansiri and Lohit. But the appalling fact is that they have not yet been considered for the grant of Indian citizenship.
3. That for the Chakmas and Hajongs of Arunachal Pradesh:
 - a) Employment has been banned.
 - b) Education facilities have been stopped and even access to educational institutions has been deliberately restricted;
 - c) Trade licences have been stopped; and
 - d) Issue of ration cards has been stopped.
4. That as per the Assam Accord of 1985, all the migrants who had settled in Assam, on or before January 1, 1966 are *ipsofacto* citizens of India. Even those who had settled in Assam from 1966 to 1971 are enjoying every conceivable benefit as Indian citizens, and shall 10 years, 1995 hence from the date of the Accord, become automatically Indian citizens.
5. That Arunachal Pradesh (hitherto the North East Frontier Agency) was constitutionally a part and parcel of the Administration of Assam till 1972. And, therefore, the relevance of the Assam Accord should encompass the Chakma and Hajong migrants problem of

Arunachal Pradesh *vis-a-vis* the granting of Indian Citizenship to them.

6. That it is definite fact that the Chakma tribals inhabiting Mizoram, Tripura and Assam are citizens of India, and are also recognised as a Scheduled Tribe, community in these States.

Accordingly, your petitioners pray that:—

1. The matter be thoroughly examined by a Parliamentary Committee to consider the granting of Indian Citizenship to the Chakmas and Hajongs of Arunachal Pradesh.
2. The ban on employment for the Chakmas and Hajongs should be immediately lifted in Arunachal Pradesh.
3. The access to educational institutions for the Chakmas and Hajongs be immediately restored at par with the other local tribals in Arunachal Pradesh.
4. The trading facilities should be restored.
5. The granting of Indian citizenship to the Chakmas and Hajongs of Arunachal Pradesh be considered in accordance with the Assam Accord of 1985 as Arunachal Pradesh was a part of Assam till 1972.

And your petitioners as in duty bound shall even pray.

Name of Patitioner	Address	Signature or Thumb impression
Shri Uttam Chakma	B-5/67, Safdarjang Enclave , New Delhi-110 029.	Sd/-

Countersigned by Shri Lalit Oraon, M.P., Division No. 467

APPENDIX III

(Reference para 3.1 of the Report)

LOK SABHA

PETITION NO. 23

[Presented to Lok Sabha on 20.8.92]

TO

**LOK SABHA
NEW DELHI**

The humble petition of Commuter-users of Bandel Railway junction, Howrah Division Eastern Railway.

SHEWFTH

The Railway authorities should immediately initiate some action to stop water-logging in Bandel Sub-way both Bazarpara and down below platform and construct immediately foot over-bridge connecting all platforms of Bandel Junction.

The undersigned people of Hooghly District of the State of West Bengal are the residents of this District and Commuter-users of Bandel Junction Railway Station of Howrah Division of Eastern Railway and would like to submit the following petition to you for your kind consideration and necessary instructions to the Railway Ministry for urgent measures in respect of the following:

More than 25,000 commuters use the important rail head from Bandel Junction.

A good number of Mail and Express trains do stop at this important Junction Station which connects Katwa (the electrification of Bandel, Katwa railway line has already been undertaken), Burdwan Junction, Sealdah and Krishan Nagar Railway line of Sealdah Division *via* Naihati and Howrah. 72 pairs of EMU trains dail run on the Bandel-Howrah, Bandel-Naihati (Branch) and Bandel-Burdwan railway line. Eleven pairs of trains on the Bandel-Katwa line and 15 pairs of Mail and Express Trains do run through the said Bandel Junction.

But in spite of the recognition by railway authorities of the importance of Bandel Railway Junction which is adjacent to Chinsura, the district Headquarter of Hooghly District and Divisional Headquarter of Burdwan Division, presistent neglect of the Station surrounding and the sub-way had become not only a major irritant factor but a serious danger to the commuter-users as also to the general public.

The water-logging on the sub-way (Bazarpara) as also the sub-way down below the Bandel platform had been causing very serious inconvenience to thousands of commuters and particularly during the Monsoon the situation becomes absolutely unbearable and a veritable danger to the lives of the commuters. Numerous accidents had taken place in Bandel sub-way (Bazarpara) in the last few years. The sub-way has become a cause of serious concern to the people using Bandel Railway Junction.

The situation has further worsened after some work has been completed by the Railways on the tracks. The buses cannot ply through the sub-way which it used to do in the past, so the passengers are left at Pirtala on the Eastern side of the sub-way and the passengers do have to walk through water-logged sub-way. Some of the passengers do cross the railway line to reach the platform which is dangerous to their lives and we are afraid a major accident involving loss of life may take place any moment because of the practice of crossing the railway line. The railway authorities should be held responsible for any such accident who failed to do anything to improve the situation in the sub-way.

Persistent demands have been made to the Railway authorities during all these years to remedy the situation by renovating the sub-way (Bazarpara) and the sub-way down below the Bandel platform.

But all such public appeals have gone in vain. Resolutions have been passed and conventions and demands have been made for construction of a foot over-bridge (slope type) connecting all the platforms of Bandel but unfortunately the Railway authorities have never woken up to the grave situation and responded to the very just demand of the commuter-users of Bandel.

Accordingly, your petitioners pray that the Railway Minister be asked to initiate appropriate measures immediately to protect the very vital interest of thousands of commuters of Bandel railway Junction by making adequate arrangements so that the water-logging does not take place at the above places. There is an urgent need for construction of a foot over-bridge connecting all the platforms at Bandel to alleviate the sufferings of thousands of commuters. The Railways must work to that end urgently.

And your petitioners as in duty bound shall ever pray.

Name of the Petitioner	Address	Signature or Thumb impression
Shri Amulya Chandra Saha	Bandel, Mahatma Gandhi Hindi Vidyalaya, Bandel, Hooghly.	Sd/-
and others		

Countersigned by Shri Rup Chand Pal, M.P., Division No. 280

APPENDIX IV

Observations / Recommendations contained in their Twelfth Report (Eighth Lok Sabha) of the Committee on Petitions on the representation regarding grievances and demands of construction workers (Paras 2.23 to 2.27)

2.23 The Committee note that next to agriculture, the construction industry employs the largest number of workers. Being closely connected with the development of the economic and industrial base of the country, the construction activity attracts considerable financial investment also. As in several other areas, the labour engaged in construction activity of any kind is totally unorganised with the result that there is no security of employment for workers. These workers are generally paid very low wages because they lack the bargaining capacity. At the same time there is no legislation under which these workers may be provided any social security benefits. Some of the labour laws such as Contract Labour (Regulation and Abolition) Act, 1970, Payment of Wages Act, 1936, Minimum Wages Act, 1948 are stated to be applicable to construction workers like other contract labour, but there is no in-built mechanism for ensuring that the benefit of these laws actually accrues to the construction workers. The contract document of Government Departments, public sector undertakings and organisations like CPWD, DDA, etc. which undertake large scale construction activity, do contain some provisions about payment of Wages, safety measures etc. but these do not go far enough to look after the welfare of workers and what is worse are not enforced effectively even in the limited areas mentioned therein. Although several Members of Parliament have in the past initiated action in the form of Private Members' Bills, which are introduced in Parliament from time to time, it was only in December, 1988 that the Government of India introduced a Bill in Rajya Sabha aimed at protecting the interest of such a large force of workers. The Committee cannot but emphasise that the proposed legislation should not only be comprehensive enough to cover the entire gamut of the problems and right of the construction workers but at the same time it should be ensured that it is brought on the statute book without any avoidable delay.

2.24 Presently, the Committee have under consideration a representation given on behalf of the construction workers in the country. This representation has been routed through the National Campaign Committee for Central Legislation on Construction Labour, which is headed by retired Chief Justice V.R. Krishna Iyer. The Committee find that this Committee has done considerable useful work at the grass-root level to organise the construction workers with a view to enabling them to demand central legislation as a right to provide security of employment and other social

welfare measures, to which they should be entitled like workers in the organised sector. This Committee has also formulated a draft legislation which if enacted should serve the interest of the construction workers. The draft legislation prepared by the Committee proposed compulsory registration of all employers and the workers, vesting of responsibility for determining and disbursement of wages through an autonomous body and the constitution of Tripartite Labour Boards comprising employers, construction workers and Government agencies for looking into and regulating the service conditions of the construction workers. It also lays extra emphasis on the implementation aspect as the actual implementation of all social legislations in the country leaves much to be desired.

2.25 The Committee have been informed that before a legislative measure affecting the labour class is finalised in the Ministry of Labour, under a well established procedure, tripartite consultations among the Government agencies, employers and workers organisations are held. For consultations with the workers' organisations, only recognised trade unions like INTUC and CITU are invited to participate. Accordingly, while formulating the Bill intended for the construction workers only ten recognised national trade unions were consulted and the National Campaign Committee for central legislation on construction workers was not formally consulted. The Committee feel that since this Campaign Committee has done a good deal of pioneering work in this area and formulated certain proposals after in-depth study of the problems faced by construction workers, it would have been appropriate if this Committee had also been invited by the Ministry for consultations and discussions on the proposed legislation. The Committee consider that even now the representatives of the Campaign Committee which is headed by an eminent persons like Justice Krishna Iyer, may be invited for an exchange of views on the scope and objects of the Bill and how these can be best attained.

2.26 Without going into the merits of the schemes proposed by the Campaign Committee, the Committee desire that the Ministry of Labour should take a careful note of the suggestions made by the Campaign Committee and see to what extent these could be incorporate in the Bill already introduced in the Rajya Sabha. Further even after the passage of Bill and at the time of framing detailed rules for implementation of the provisions of the Bill, the Campaign Committee may be involved in the process of consultations so that the objectives underlying the measure could be implemented in letter of spirit.

2.27 From the statement of objects of the Bill introduced in Lok Sabha, the Committee find that the present Bill will apply only to establishments which employ or had employed fifty or more building workers in any

building or other construction work. Thus all establishments employing less than fifty workers will presumably be beyond the purview of the present bill. Thus, the workers employed by private persons and institutions for construction work will not be entitled to any benefit arising from this legislation, if the total work force employed is less than fifty. As against this, the scheme formulated by the Campaign Committee seeks to cover all construction workers wherever they may be employed. The scope of the legislation formulated by the Campaign Committee would thus appear to be more comprehensive and wide-ranging. It is in this context that the Committee desire that the legislation proposed by the Campaign Committee may be examined and considered and all good features thereof may be suitably incorporated in the Government Bill.

2.28 A perusal of the scheme of legislation framed by the Campaign Committee should that the main emphasis is on the creation of a tripartite body, on the lines of Dock Workers Board, which will register all construction workers in the country, regulate their employment opportunities in such a way as to ensure that every worker has an equal opportunity of getting work, create and manage a Welfare Fund from which welfare activities for the workers will be financed. The proposed legislation by the Campaign Committee also envisage creation of a machinery in all-India basis for effective implementation of the measures. According to the Campaign Committee what is required is a self-regulating legislation, a legislation that will guarantee and protect the rights of the women.

2.29 The Committee are of the view that there can be no two opinions about the scope and intent of the proposed legislation. The Committee are indeed glad to note that Government are also of the view that the setting of tripartite Construction Labour Boards as suggested by the Campaign Committee will be "a highly useful step". The Committee, therefore, need hardly emphasis that it is for the Government to ensure that the legislation which is finally enacted encompasses all the above features to the extent practicable. The Committee, therefore, recommend that the Bill pending in Rajya Sabha be withdrawn and a fresh comprehensive Bill be introduced so as to cater to the long felt demands of a hitherto neglected segment of the working class.

directed to give its views by the middle of June, 1992. The Study team visited Kerala during June 23 to 25, 1992, and submitted its report in the last week of July, 1992.

7. On perusal of the report of the Study team it was decided to place the recommendations of the team before the Labour Ministers Conference held on 18th August, 1992. The Labour Ministers Conference have taken a decision to refer the matter of legislation for workers in the building and construction industry to a Committee of Eleven State Labour Ministers headed by the Labour Minister of Maharashtra. Government will take a final decision in the matter on receipt of the report of the Committee of State Labour Ministers.

8. The Ministry has been making a constant endeavour towards formulation of the legislative proposals. However, the subject has its own complexities and the progress had been conditioned by the need for practicability and operational feasibility of the various proposals.