

# COMMITTEE ON PETITIONS

(FOURTH LOK SABHA)

## FIFTH REPORT

*(Presented on the 30th April, 1969)*



LOK SABHA SECRETARIAT  
NEW DELHI

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**COMPOSITION OF THE COMMITTEE ON PETITIONS**  
(1968-69)

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**SECRETARIAT**

1. Shri M. C. Chawla—*Deputy Secretary.*
2. Shri J. R. Kapur—*Under Secretary.*

# REPORT

## I

### INTRODUCTION

1. Having been authorised to submit the report on behalf of the Committee on Petitions, present this their Fifth Report.

2. The Committee, after the presentation of their Fourth Report, held five sittings on the 23rd and 24th January, 7th March and 7th and 28th April, 1969.

3. At their sittings mentioned above, the Committee considered the following Petitions|Representations:—

- (i) Petition from Shri O. N. Mahindroo, Advocate, New Delhi, *re*: Amendment of the Advocates Act, 1961 (Petition No. 6—Appendix I).
- (ii) Petition from Shri H. K. Sahoo, Secretary, Railway Users' Committee, Rourkela, and others *re*: construction of railway line between Bimlagarh & Talcher and introduction of a direct train service from Rourkela to Puri. (Petition No. 10—Appendix II).
- (iii) Petition from Shri Hemraj Vershi Haria and 3 other representatives of the Retail Grain Dealers' Federation, Bombay, *re*: the Prevention of Food Adulteration Act, 1954 and Rules made thereunder (Petition No. 11—Appendix III).
- (iv) 23 Representations inadmissible as Petitions (Appendix VII).

4. At their Forty-fifth sitting held on the 7th March, 1969, the Committee examined Shri O. N. Mahindroo in connection with his Petition No. 6 [Para 3 (i) *Supra*].

5. The Committee have decided that the evidence given before them may be printed *in extenso* and laid on the Table of the House.

The Committee have also decided that the Minutes of the sittings covered by this Report should also be laid on the Table of the House.

6. The Committee considered and adopted this Report at their Forty-seventh sitting held on the 28th April, 1969.

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

## II

### PETITION No. 6 FROM SHRI O. N. MAHINDROO, ADVOCATE, NEW DELHI

8. The Petition (See Appendix I) was presented to Lok Sabha by Shri Kanwar Lal Gupta, M.P., on the 2nd August, 1968.

#### A. Petitioner's Grievances

9. The petitioner states that complaints of professional misconduct by Advocates have gone up nearly twenty times in Delhi alone during the last few years and the manner of their disposal by the elected members of the Bar Council is most shocking. He traces the history of the Advocates Act, 1961, and refers to the observations of the All India Bar Committee under the Chairmanship of the Hon'ble Shri S. R. Das, Judge, Supreme Court of India, regarding the desirability of a completely unified Bar for the whole of India. One of their recommendations was that the All India Bar Council should be composed of two Judges of the Supreme Court who had been Advocates, to be nominated by the Chief Justice of India, the Attorney-General and the Solicitor-General. On introduction of the Legal Practitioners' Bill, 1959, prepared according to the above recommendations and its reference to a Joint Committee of both Houses, the Hon'ble Judges decided to inform the Joint Committee of their decision to disassociate the future Bar Councils. The Joint Committee recommended (and this was incorporated as Section 38 of the Act) that in the absence of the Hon'ble Judges, an unfettered statutory appeal by right to the Supreme Court from the orders of the Disciplinary Committee of the Bar Council of India might be provided. He feels that a direct appeal to the Supreme Court would not only affect the Court's jurisdiction over the same order under Art. 136 of the Constitution, but would also oust indirectly the Jurisdiction of High Courts under Article 226 *ibid* and deprive people of far off places like Kerala and Assam of their right to approach the High Courts. He refers to the Deputy Minister's assurance in Lok Sabha on the 26th April, 1961 in this connection.

The petitioner has argued that appeal by right means that the appellate court has no discretion not to admit an appeal but owes a duty to the petitioner to re-hear the whole matter, review the evidence independently and give its own finding of fact. To deprive a person from any hearing on merits, appears to him, to be most unjust and improper especially when the same may lead to the person losing his livelihood and

reputation of character and integrity. He feels that at present that right has been reduced to a mere opportunity and that too in the undefined and unrestricted discretion of Hon'ble Judges and the rules merely equate the appeal by right to a special leave petition under Art. 136.

A second point of the petitioner is that although section 29 of the Advocates Act, 1961 provides for only one single class of Advocates, yet as seen in sections 20 and 36 of the Act, there are two entirely different classes of Advocates, one of them being unable to approach the Supreme Court except by a second appeal.

A third point of the petitioner is that Section 44 of the Act enables the Disciplinary Committee of the Bar Council to review its orders after an appeal has been filed in the Supreme Court and this appears to be directly in conflict with Article 137 of the Constitution whereunder the Court can itself review its orders and judgments.

*Prayers of the Petitioner*

10. The petitioner had, therefore, prayed that:—

- (i) Under Sec. 38 of the Advocates Act, 1961 right of appeal ought to lie to High Courts whereafter the Supreme Court might be approached by a certificate from the High Court or by a special leave from the Supreme Court. Otherwise, the section might be amended to provide that the Supreme Court shall decide an appeal against the orders of the Disciplinary Committee of the Bar Council of India under Section 36 or Section 37 of the Act, on merits on the basis of evidence and record (and *not* as at present, as it deems fit). Further, if any order is made by the Supreme Court under Section 38, Section 44 *ibid* might be amended to provide (by insertion of a fresh proviso) that prior approval of the Court should be obtained to make the order in review effective; and
- (ii) he might be permitted to appear before the Committee for giving evidence to show that the Advocates Act, 1961, is not only unconstitutional but deprives Advocates of their rights.

**B. Factual Comments of Ministry of Law on the petition.**

11. The Committee have perused the comments of the Ministry of Law (Department of Legal Affairs) on the petition (*See Appendix IV*) and gather the following facts therefrom:

- (i) Shri Mahindroo was found guilty of professional misconduct on a complaint made by a subordinate Judge of Delhi, by the Disciplinary Committee of the Bar Council of Delhi and suspended from practice for one year. His appeal to the Bar

Council of India and to the Supreme Court and his review petition were dismissed. He filed a writ petition before Punjab High Court for quashing these orders but did not succeed. His appeal to the Supreme Court from that order was also not successful. The Ministry have invited reference to the Supreme Court Judgment as reported in AIR 1968, S.C. 888 sub nom O.N. Mohindroo vs. Bar Council Delhi. Shri Mahindroo appears to have based his petition on his own personal grievance against the Bar Council and the Courts.

- (ii) The Ministry have no comments to offer on the history of the Advocates Act, 1961, or on facts *re*: recommendations of All India Bar Committee etc. except to state that these were commented on by the Law Commission in its Fourteenth Report on Reform of Judicial Administration.
- (iii) As regards reasons in support of changes in the Advocates Act, 1961, urged by petitioner, they have no comments to offer.
- (iv) According to the Supreme Court decision in Shri Mahindroo's case, the Advocates Act in so far as persons entitled to practice in High Courts and Supreme Court are concerned is relatable not to entry 26 of the Concurrent List, but to Entries 77-78 of List I.
- (v) The Ministry refute the petitioner's argument that appeal under Section 38 has been equated by the Judges to a right to move a special leave petition under Article 136 by citing the Supreme Court's observations that the rules providing for a preliminary hearing of such appeals was constitutionally valid and disposal of an appeal in preliminary hearing "does not mean that the content of right to appeal under Section 38 is in any way curtailed as the party filing the appeal has to be heard on all points raised by him therein".
- (iv) As regards abolition of two classes of Advocates (Para 19 of the petition), the Ministry point out that the Advocates (Second Amendment) Bill\*, 1968, introduced in Rajya Sabha, seeks to do away with the class of Advocates of Supreme Court whose names are not borne on any State Roll.

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\*Since passed by Rajya Sabha and pending in Lok Sabha.

### C. Other facts noted by the Committee

12. The Committee have also noted the following facts:—

- (a) Clause 26 of the Advocates (Second Amendment) Bill, 1968, as passed by the Rajya Sabha, inserts the following proviso at the end of Section 38 of the Advocates Act, 1961 viz—

“Provided that no order of the disciplinary Committee of the Bar Council of India shall be varied by the Supreme Court so as to prejudicially affect the person aggrieved without giving him reasonable opportunity of being heard”.

Clause 25 *ibid* seeks to insert similar proviso in respect of State Bar Councils.

Further, Clause 28 of the Bill seeks to insert sub-clause (2) under Section 40 of the Act providing that a stay of the orders may be made by the Disciplinary Committee of the State Bar Council|Bar Council of India|Supreme Court, for sufficient cause on application made for this purpose before expiration of time allowed for appeal.

- (b) The amending Bill does not contain any amendments to Section 38 and 44 of the Act, in the manner suggested by Shri Mahindroo. Further, under Section 42(1) of the Act the Disciplinary Committee of a Bar Council shall have the same powers as are vested in a Civil Court under Civil Procedure Code 1908.
- (c) The petitioner's suggestion for abolition of two classes of Advocates has been provided for in the Bill, by substitution of a new section 20—*vide* clause 14 of the Bill which deletes the provisions relating to preparation of a common roll and to provide for copies of State Rolls of Advocates being sent to the Bar Council of India. Thus every Advocate practising before the Supreme Court would be on the rolls of one State or the other.

### D. Evidence of the Petitioner

13. In his oral evidence before the Committee, Shri Mahindroo has stated that Article 138(1) and (2) of the Constitution confers on the Supreme Court further jurisdiction and powers with respect to any of the matters in the Union List and to any matter as the Government of India and the Government of any State might, by special agreement, confer, if Parliament by law provided for the exercise of such power by



Supreme Court. Referring to Entries 26 and 46 of the Concurrent List (List III), the witness has argued that no Legislature should confer jurisdiction and powers on the Supreme Court with respect to matters in the Concurrent or State List, except as provided for in Article 138 (2). He has also referred to Article 368 under which entries from one list in the Seventh Schedule could be transferred or amended after following the procedure laid down in that article which gave very wide powers to Parliament to amend the Constitution. In other words, by amending the Constitution the 'legal profession' can be put in any of the Lists and, thereafter, Parliament can extend Supreme Court's Jurisdiction thereon. He, therefore, feels that Section 38 of the Advocates Act, 1961 is *ultra vires* of the Constitution.

14. As regards the right of appeal to the Supreme Court conferred by Parliament under that Act, Shri Mahindroo contends that this right means going into the record, reviewing the evidence and then deciding the appeal. He refers to the then Deputy Minister, Shri Hazarnavis's assurance in Lok Sabha that the right of appeal meant that the Supreme Court would go into merits. The Supreme Court Rules framed under Article 145 of the Constitution, however, do not provide for sending for the record of evidence at the time of preliminary hearing of the appeal. Citing as example of his own case (AIR 1968 SC 888 *O.N. Mohindroo vs. Bar Council of India*), he has pointed out that his appeal was dismissed without going into the record and evidence. On his filing a writ petition in the High Court, which was admitted and a *rule nisi* was issued to Supreme Court, the latter objected to the High Courts looking into the matter and the Judge who had admitted the writ, dismissed the petition. His contention is that that judgment was erroneous and based on sections 29 and 30 of the Advocates Act, 1961, which have not so far come into force and hence the Supreme Court had committed a mistake. He requests the Committee to ask the Court to review this order of judgment under article 137 or by reference by the President of India to that Court for giving their opinion as regards the Constitutional position. He feels that the relevant rule is *ultra vires* of section 38 of the Act and Section 38 of the Act is in turn *ultra vires* of Article 138 of the Constitution.

15. As regards the powers conferred by section 42(1) of the Advocates Act, 1961 on the Disciplinary Committee of a Bar Council similar to those vested in a Civil Court under the Civil Procedure Code, 1908, Shri Mahindroo states that those powers are for only certain limited purposes *viz*, for summoning and enforcing the attendance of persons and examining them, requiring the discovery of papers etc. He draws attention to the recommendation of the All India Bar Committee in their Report (para 90) that the disciplinary powers might be given to

the Bar Council only if the High Court|Supreme Court Judges were also members of the Bar Council. He supports that recommendation and feels that non-implementation thereof had taken away the remedy available under Article 226 of the Constitution.

16. Elucidating the advantages, accruing to the appellant by interposing the High Court in between the Bar Council of India and the Supreme Court; Shri Mahindroo points out that if High Court Judges are on the Bar Council, or the jurisdiction of the High Court is there, it will benefit advocates of far-off places like Kerala, Assam and other places who will not be forced to come to the Supreme Court at Delhi for justice, which is expensive. Secondly, he feels that jurisdiction of the High Courts under article 226 cannot be curtailed by Parliament or any other legislature, unless the Constitution is amended. Moreover, the inter-position of High Courts in between will enable the Judges thereof to better deliver the goods as they know the Advocates, their character, antecedents etc. Even thereafter, under article 136 of the Constitution one can go to the Supreme Court, whose jurisdiction is wide and one can always go to it by special leave or by a certificate from the High Court. Lastly this is the practice for about 200 years in the past.

17. Conceding that the All India Bar Committee's recommendations, as incorporated in section 38 of the Act, were made solely with the intention of vesting responsibility in the State Bar Councils|Bar Council of India with judicial powers in disciplinary matters, to investigate complaints of professional misconduct by its own members and that the right of direct appeal to the Supreme Court was with a view to expedite justice, Shri Mahindroo, however, points out that for the last 200 years in India the jurisdiction and powers of these Bar Councils were only of an advisory nature, but for the time in our history the judicial powers have now been vested in the Bar Councils which are comprised of elected members, who are professional competitors, and professional jealousies and various other considerations play a considerable part.

Moreover, in his view, it cannot be expected that on a complaint coming from a sub-judge, a member of the Disciplinary Committee would be taking an unbiased view of things, since he is more or less always inclined to favour the judges. Only if a High Court|Supreme Court Judge is associated, such unbiased view can be ensured.

18. On his attention being drawn to the Supreme Court's observations while dismissing his appeal that such dismissal "does not mean that the content of the right of appeal under section 38 is in any way curtailed as the party filing the appeal has to be heard on all points raised by him therein", and on being asked to justify that appeal under section

38 could be equated to a right to appeal under Article 136, Shri Mahindroo states that Article 136 gives widest possible jurisdiction to the Supreme Court, and even if section 38 of the Act had not been enacted, one can approach the Supreme Court by way of special leave petition under Article 136 to grant leave for appeal. Section 38 confers a right of appeal. His point is that there should be *no discretion not to admit* an appeal and that the decision of the Court thereon should be on merits *after going through* the entire field of evidence afresh in each such case.

19. Asked whether on the analogy of the Press Council|Chartered Accountants Council considering the conduct of Journalists|Chartered Accountants, the Bar Council should not normally be the final judge of its own members|peers, Shri Mahindroo observes that as far as Chartered Accountants are concerned, he knows it for certain that the matter goes to the High Court Judges. His objection is that the powers conferred by Parliament on the Bar Council should not be absolute but limited as the Act is based on All India Bar Committee's Report and that Committee's recommendation for inclusion of Judges on the Council should be implemented. He states that the number of complaints of professional misconduct against advocates in Delhi during the past eight years was more than 200 while during the past 200 years, there was not that number of complaints. The term "professional misconduct" is a very wide and loose term and there should be no difference between a lawyer and a non-lawyer so far as criminal offences are concerned. He desires that as section 38 is *ultra vires* of the Constitution, the right of appeal should vest in the High Courts, and if Parliament decides that there should be only a right of appeal to the Supreme Court, then the Advocates Act must be amended so that every appeal is decided on merits. Citing the opinion of eminent advocates and jurists, Shri Mahindroo feels that the Committee has very wide powers to recommend this. After all, the entire purpose of going to the Court of Law is that it should be decided by the Court whether the man was guilty or not.

He has also furnished written opinions of eminent jurists on his case and points out that his petition for review is now pending before the Bar Council of India but he cannot say whether they would rectify the mistake committed by them thrice earlier.

### E. Recommendations

20. The Committee have given careful consideration to all the points urged by the petitioner in support of his petition. The Committee find that Shri Mahindroo's petition relates to (1) amendment of the Advocates Act, 1961 (which can be done by the House alone) and to his personal

**grievance regarding the disciplinary action taken against him by the Bar Council of India. The Committee recommend that the amendments suggested by the petitioner in his petition (See Appendix I) may be considered by the House when it takes up for consideration the Advocates (Second Amendment) Bill, 1968, as passed by Rajya Sabha, and now pending before Lok Sabha.**

**As regards Shri Mahindroo's personal grievance regarding the disciplinary action taken against him by the Bar Council of India for alleged professional misconduct and dismissal of his appeal by the Supreme Court, the Committee note that a review petition filed by the petitioner is pending before the Bar Council of India. The Committee feel that it should be left to the Ministry of Law to take such action, if any, as they consider expedient in the personal case of Shri O. N. Mahindroo.**

### III

#### PETITION NO. 10 FROM SHRI H. K. SAHOO, SECRETARY, RAILWAY USERS COMMITTEE, ROURKELA AND OTHERS

21. The petition (*See Appendix II*) was presented to Lok Sabha by Shri Samarendra Kundu, M.P., on the 20th December, 1968.

##### A. Petitioners' Grievance

22. The petitioners refer to the examination (by the Ministry of Railways) of the feasibility of constructing Bimalgarh-Talcher Rail Link and provision of direct train|coach service from Rourkela to Puri and point out that doubts regarding these two projects had been expressed as regards (i) non-availability of funds for constructing the railway line; and (ii) inadequate traffic between Rourkela and Puri justifying direct train|coach between them.

23. They, however, point out that the matter had been abundantly focussed in different forums and that the people of Orissa at large, the press, the State Assembly Members and M.Ps. from Orissa are all unanimous in support of these schemes. They also refer to the views of the Estimates Committee, the Deputy Prime Minister, the Planning Commission and Railway Minister re: the merits of the case in view of vital socio-economic significance of the project. They, therefore, pray that Lok Sabha might direct early plan allocation of funds as priority scheme in the Fourth Plan for these schemes which involve laying down of tracks of 120 kms. length at an estimated cost of 18 crores of rupees.

##### B. Factual Comments of the Ministry of Railways (Railway Board)

24. The Ministry of Railways (Railway Board) in their comments (reproduced at Appendix V) state *inter-alia* as follows:

###### (i) *Construction of Bimalgarh-Talcher Rail Link:*

In 1969-70 works programme of the South Eastern Railway, Preliminary Engineering and Traffic Surveys for this rail link have been included. It is too early to allocate funds for its construction, as a decision can be taken in the matter *only after* surveys are carried out by the South Eastern Railway and its reports are examined by the Railway Board.

(ii) *Introduction of direct express train from Rourkela to Puri (w.e.f. 1-1-1969).*

The existing level of through traffic from stations on Puri-Bhadrak Section to Rourkela and *vice versa* is meagre and does not even justify provision of a through service coach, much less a direct train service between Rourkela and Puri. Further, road distance between Rourkela and Cuttack|Puri being shorter, bus journey is quicker and cheaper. Prospects of sufficient rail traffic materialising if direct travel facility is introduced are rather remote.

### C. Recommendations

25. The Committee, while taking note of the position stated by the Ministry of Railways, recommend that Engineering and Traffic Surveys by the South Eastern Railway should be expedited and the question of construction of Bimlagarh-Talcher Rail Link considered by the Railway Board in the light of the demands and aspirations of the people of Orissa.

## IV

### **PETITION No. 11 FROM SHRI HEMRAJ VERSHI HARIA AND THREE OTHER REPRESENTATIVES OF THE RETAIL GRAIN DEALERS' FEDERATION, BOMBAY.**

26. The petition (*see* Appendix III) was presented to Lok Sabha by Shri George Fernandes, M.P., on the 7th April, 1969.

#### **A. Petitioners' Grievance**

27. The petitioners, while supporting the provisions of the Prevention of Food Adulteration Act, 1954 refer to the Dictionary meaning of the term 'adulterate', *i.e.* "make impure by admixture, lower in quality by intermixing, corrupted or debased by admixture of a less valuable substance", and to the definition of that term given in that Act, namely, "in such a way that though there is no admixture and though the food article is as it is when produced, when yet it is considered to be adulterated."

28. In the light of the difficulties experienced as a result of the working of the various provisions of the Prevention of Food Adulteration Act, 1954 and the Rules made thereunder, the petitioners have made the following suggestions:

- (1) Under Section 2(a) of the Act, the standard of articles should be fixed regionwise for various qualities.
- (2) Under Section 2 (i) (b) *ibid*, for improper processing, only manufacturers be held responsible.
- (3) Under Section 2 (i) (c) *ibid*, article when prepared and packed should bear the stamps of its validity and time.
- (4) Under Section 2(i) (j) colouring should be absolutely prohibited.
- (5) Under Section 2(1), standard should be revised regionwise.
- (6) Under Section 4(2) (b) procedure for submission of samples of articles of food, analysis or tests to the Central Laboratory should include time-limit for such submission & for report.

- (7) Under Section 7, the vendor should not be held responsible if he proves that selling has not been done knowingly.
- (8) Under Rule A.05:05.1 of Rules made under the Act preservatives like salt & oil should be allowed in case of chilli powder and standard fixed accordingly.
- (9) Under Rule A, 1804, *besan* should include all types of gram.
- (10) Vender should also be allowed to lead his defence, now prohibited under section 19 of the Act.
- (11) Samples of whole articles like biscuits, toffees, peppermint, sugar, gur etc. should be taken from manufacturers only.
- (12) All produced or manufactured food articles should be made compulsorily 'Agmark' graded.
- (13) To curb adulteration, Government should be more vigilant at manufacturing stage, colouring Dals should be prohibited, none should be prosecuted if articles which are sold are fit for human consumption and manufacturers should be prosecuted if packed stuff is found to be adulterated, there should be no prosecution if preservatives are used, no samples be taken from vendors, question of various grades of quality should be excluded from the purview of the Act, etc. Further, at least one vendors' representative should be appointed on the Central Committee; while taking food sample for analysis from the vendor, the food inspector should note down the name and address of wholesaler or manufacturer as well as take sample of the same article in packed condition as well; and laboratories should be specified by Central Government in each and every local area under the Act.

**B. Factual comments of Ministry of Health, Family Planning and Urban Development (Department of Health & Urban Development).**

29. The Committee have perused the detailed comments on the petition, furnished by the Ministry of Health, Family Planning and Urban Development (Department of Health and Urban Development (See Appendix VI and Annexure II thereto).

The Ministry have *inter alia* stated that as required under Section 3 of the Act, the Central Government have constituted the Central Committee for Food Standards.



30. As regards the various suggestions of the petitioners, the Committee note the following important facts which emerge from the elucidations (See Annexure I to Appendix VI) given by the Ministry.

- (i) Legal definition of 'adulteration' need not always coincide with the dictionary meaning, and in this case it is meant to cover even sub-standard articles.
- (ii) While, usually, standards have been laid down in general terms like limits of extraneous matter, in some food products (e.g. ghee, oils, fats etc.), standards are fixed in technical terms.
- (iii) Section 14 of the Act lays down that every manufacturer|distributor or dealer has to give a warranty to the vendor about nature & quality of articles and a person contravening these provisions is punishable with imprisonment for a term extending to 6 months and with fine not less than Rs. 500. The vendor can therefore proceed legally against manufacture wholesaler who does not give a warranty. In respect of agricultural produce, where there may be a genuine difficulty, the matter is receiving consideration by the Government.
- (iv) The standards have been fixed taking into consideration soil, climatic conditions etc. and also regionwise and State-wise. These are not static and can always be reviewed or modified. The Federation can always make suggestions to the D.G., H.S. for achieving standards in respect of any particular article.
- (v) Under Section 13(2) of the Act, reports of the Central Food Laboratory have to be submitted to the Court within 30 days of receipt of sample in the laboratory.
- (vi) The question of preservation of chillies is being considered in consultation with technical experts.
- (vii) The suggestion that articles should bear the dates of validity and time has been discussed a number of times in various meetings of the Central Committee for Food Standards, but an acceptable procedure has not found possible.
- (viii) Complete prohibition of colours is not possible due to need to meet aesthetic standards of general public. The fact is that in all countries of the world, certain colours have been permitted. Moreover, the approved list includes only 8 coal tar dyes usable only in bakery, confectionery, fruit products etc.

- (ix) The vendor can lead his defence under section 19 of the Act.
- (x) Since Adulteration can take place at any stage, it will be very difficult to exempt vendors from the purview of the Act. The State Governments have already been requested to draw a large number of samples from manufacturers, but this does not mean that the vendor can be absolved of his responsibility towards the consumers.
- (xi) The suggestion to draw regularly samples from manufacturers for analysis would need a large Governmental machinery, but the Ministry would provide any technical assistance to the Federation or other Co-operatives who establish laboratories jointly.
- (xii) 'Agmark' is a voluntary scheme in respect of agricultural products only and it is for the trade to get their food articles Ag-marked.
- (xiii) Colouring of Dals is not permitted under the Act.
- (xiv) Mere fitness of an article for human consumption is not enough, and it is essential that nutritional standards be maintained.
- (xv) The Act provides for impleading of a manufacturer in the trial if the court is satisfied that he is also involved in committal of offence.
- (xvi) The Ministry do not agree to allow the use of preservatives as a rule, and state that preservatives beyond a certain limit are injurious to health.
- (xvii) On the Central Committee for Food Standards, (a technical statutory body to advise Central|State Governments on matters arising out of implementation of the Act), two representatives are nominated to represent the interests of agriculture, commerce and industry. The vendors can put forth their points through them. Their request to be represented on any of the sub-committees can be considered if they send a list of such nominees with particular interests to the D.G.H.S.
- (xviii) The suggestion for simultaneously taking samples of food article from the wholesaler or manufacturer along with the vendor, is not practicable as the two may be residing at different places in different States. Local food inspectors do not have jurisdiction beyond their local municipal areas.

(xix) Each State Government has set up at least one State Laboratory for analysis of food articles. Rajasthan, Maharashtra and West Bengal have set up more than one laboratory. In addition, some local bodies have also established their laboratories. The Central Government have not set up any laboratory for testing of articles at the first stage, as implementation of the Act is State Governments' responsibility.

31. The Committee have also perused the brief (Annexure II to Appendix VI) and the statement enclosed thereto and note the measures taken by Government to prevent adulteration of food stuffs. The Committee further note that the provision of the Act are implemented through the State Governments and local bodies. The aims and objects of the Act are two-fold, viz (i) to provide a fair trade between the dealers and consumers and thus to protect the innocent consumers against cheating by dealers, and (ii) to protect the consumers against health hazards that might arise as a result of adulteration, whether wilful or not.

To achieve the above two aims, food articles falling short of certain standards, as prescribed in the Prevention of Food Adulteration Rules are to be considered as adulterated for the purposes of the Act.

#### C. Conclusions and Recommendations

32. The Committee observe that preventive and punitive provisions exist in the Act and the Rules made thereunder and that the petitioners have ample avenues for redressal of their grievances through those provisions. The Committee, however, recommend that, in view of large scale adulteration being practised in the country the following steps be taken by the Central Government to eradicate the socio-economic evil: (a) the provisions of the Prevention of Food Adulteration Act, 1954 and the Rules made thereunder should be enforced more rigidly (b) the State Governments might be advised to set up more food testing laboratories; and (c) Action might be expedited for deciding the questions of (i) preservation of chillies with proper preservatives; and (ii) implementing the suggestion that articles should bear the dates of validity and time.

Apart from the above, the Committee would also like to observe that mere legislation or rules thereunder are not enough to curb this evil. What is required is an honest effort on the part of the Administration and trade—whether manufacturer, wholesaler or retailer—in co-operation with each other,—to carry out the purposes of the Act and to seek to achieve the objectives of fair trade and highest standards of purity in articles of consumption. The Committee trust that such effort would be readily forthcoming and that their recommendations and observations in this regard would have the desired effect.

## REPRESENTATIONS INADMISSIBLE AS PETITIONS

33. During the period under report, the Committee have also considered 24 representations and letters addressed to the House, the Speaker or the Committee by various individuals and associations etc. and which were inadmissible under the Rules of Procedure as petitions.

34. The Committee observe with a sense of gratification that though their intervention during the period under report, the petitioners (of whom seven were displaced persons) had been provided expeditious, partial or complete relief or due redressal of their grievances, or that the Ministries|Departments concerned have explained satisfactorily the grounds for not being able to remove the petitioners' grievances (See Appendix VII Parts I & II).

S. C. SAMANTA  
*Acting Chairman,  
Committee on Petitions.*

NEW DELHI;  
*The 28th April, 1969.*

## APPENDIX I

[See Para 8 of the Report]

### PETITION NO. 6

[Presented to Lok Sabha by Shri Kanwar Lal Gupta, M.P. on 2nd August, 1968]

To

Lok Sabha,  
New Delhi.

The humble petition of Shri O. N. Mahindroo, Advocate, New Delhi,  
SHEWETH

On 27th April, 1961, Lok Sabha adopted the Advocates Act, 1961, in spite of and after the following prophetic statement:

“that the disassociation of the Judges from the future Bar Councils will be a matter of regret for all of us, for the entire country and for the profession.”

2. Calcutta Weekly Notes wrote in June 1967 that the Advocates Act is so misconceived, so ill-drafted and so illogically enforced that no amendment but only the replacement of the Act, lock, stock and barrel shall improve things.

3. Government have, however, desired to amend the Act once again during the Session and the petitioner takes up the opportunity to submit that the House may persuade the Government to amend the Act, once for all so that none remains deprived of JUSTICE thereafter.

4. Your petitioner submits quite responsibly that complaints of Professional Misconduct have gone up nearly twenty times in Delhi alone during the last few years and the manner of their disposal by the elected members of the Bar is most shocking even to a tyro.

#### *Brief History of the Act*

5. Since the very establishment of Courts by the English in the 17th Century, the Hon'ble Judges of the High Courts had the exclusive power and jurisdiction over the persons desirous of practising 'Legal

Profession' and charters granted by the King, Letters patent of High Courts and the Legal Practitioners Act, 1879 contained the necessary provisions to the above effect.

6. The Indian Bar Committee appointed in 1923 submitted its report on 1st February, 1924 and as a result of the Committee's report, the power of enrolment, suspension and removal of advocates remained intact with the High Courts and the function of the State Bar Councils under the Indian Bar Councils Act, 1926 was only of advisory character.

7. In 1951, Ministry of Law, Government of India, appointed an All India Bar Committee under the Chairmanship of the Hon'ble Shri S. R. Das, Judge, Supreme Court of India for recommendations about the desirability and feasibility of a completely unified Bar for the whole of India and a few of the observations appearing in the Committee's report submitted in 1953 are reproduced below to show that the Committee had its own fears in regard to transfer of the disciplinary jurisdiction to the Bar Councils in the absence of the Hon'ble Judges:

- (a) In the opinion of the majority of the Committee the insistence on a certain number of years practice in a High Court to make an Advocate eligible for enrolment in the Supreme Court has not shown any satisfactory result.
- (b) Experience has shown that a mere standing of 10 years' is not by itself a correct test of the merit which a senior advocate is expected to possess.
- (c) Experience has shown that mere efflux of time by itself does not necessarily give maturity to the mind of the Advocate.
- (d) Each State Bar Council shall consist of two Judges of the High Court who have been advocates to be nominated by the Chief Justice, the Advocate-General and 15 elected members.
- (e) The All India Bar Council shall be composed of two Judges of the Supreme Court who have been Advocates, to be nominated by the Chief Justice of India, the Attorney-General and the Solicitor-General and delegates from the Bar Councils.
- (f) In view of this difference and in view of the possibility of local prejudices and jealousies and communal passion and hatred influencing the members elected to the Bar Councils, some witnesses appearing before the committee thought that the time has not yet come when those powers might be safely taken away from the High Courts and vested in the Bar Councils.

- (g) The risk of the Bar Councils being swayed by external influence of unworthy consideration is not, however, as a unprovided for as is apprehended. It has to be remembered the Bar Councils (All India or State) will be statutory bodies exercising quasi-judicial functions and as such will be subject to the jurisdiction of the High Courts under Article 226.

8. The Legal Practitioners Bill, 1959 prepared in accordance with the recommendations of the All India Bar Committee was, after recommendation of both Houses of the Parliament, referred a Joint Committee of both Houses for report on the Bill.

9. The Hon'ble Judges then decided and informed the Joint Committee of their decision to disassociate from the future Bar Councils and the Joint Committee, instead of then recommending that in the absence of the Hon'ble Judges, the disciplinary power could not be transferred to the Bar Councils, appears to have considered and actually recommended that in the absence of the Hon'ble Judges, an unfettered statutory appeal by right to the Supreme Court from the orders by the Disciplinary Committee of the Bar Council of India ought to be provided and the same was provided under Section 38 of the Advocates Act, 1961.

10. Unfortunately, it could not then be noticed that the term 'Legal Profession', the subject matter of the Act appeared at entry No. 26 of the Concurrent List of the Seventh Schedule to the Constitution and that according to entry No. 46 of the same list, the Legislature was competent to confer power and jurisdiction with respect to matters in that list on all courts except the Supreme Court.

11. It appears to have further missed the minds of those concerned with the matter at that time that a direct appeal to the Supreme Court, from the orders by the Disciplinary Committee of the Bar Council of India would not only affect the Supreme Court's jurisdiction over the same order under Article 136 of the Constitution but would also indirectly oust the jurisdiction of the High Courts under Article 226 of the Constitution for the simple reason that the High Courts would not admit writ petitions against the orders before the statutory remedy of appeal has been availed and after the same the Hon'ble Courts would again decline to give any relief because of the Supreme Court having been approached earlier.

12. Even otherwise to make the people of far off places like Kerala and Assam to file their appeals only in the Supreme Court and be deprived of their right to approach the High Courts is unjust, unfair and inequitable.

13. On 26th April, 1961, the then Deputy Minister for Law and assured the House about the appeal under Section 38 having been provided by Right and the Hon'ble Members of Lok Sabha, in spite of their fears expressed on that occasion, (*Vide* Volume LV of Lok Sabha Debates, 2nd Series) adopted the Act.

*Appeal by Right rendered Illusory*

14. An 'APPEAL' according to Oxford Dictionary, Volume I, page 398, is defined as "the transference of a case from an inferior to a higher court or tribunal, in the hope of reversing or modifying the decision of the former", and according to Wharton's Law Lexicon, 14th Edition p. 67 it means "The Judicial examination of the decision of an inferior court".

Law about appeals is settled for ages and even according to the various judgments by our Hon'ble Judges, an appeal is always creation of a Statute and a mere continuation or the original proceeding. The right of appeal is a vested right and incapable of being enlarged or curtailed by the appellate court. The appellate court has no discretion to not to admit an appeal if the same be provided by law and in fact the appellate court owes a duty to rehear the whole matter, review the evidence independently and then give its own FINDING OF FACT.

15. Article 145 of the Constitution empowers the Supreme Court to make its rules for regulating the practice and procedure of the court and the Hon'ble Court framed its rules (Rule 7 and 8 of Order V of Supreme Court Rules, 1966) in such a manner that the appeals under Section 38 of the Act; without the evidence and record of proceedings shall be placed for a preliminary hearing and the Hon'ble Judges may, in their discretion, decline to admit the appeal even prior to their summoning and having a look at the evidence in the case.

16. It may be that the rules were framed with the belief that the disciplinary committees of the Bar Councils would always give a true and complete picture of the evidence produced before them but assuming that they would really do so; they are after all human beings and likely to err and deprive illegally the persons of their most valuable right to practise the profession of law.

17. Even otherwise, to deprive a person from any hearing on merits and a Finding of Fact by a court of law appears to be most unjust and improper especially when the same may lead to the person losing his livelihood and reputation of character and integrity.

18. The Right was thus reduced to a mere opportunity and that too in the undefined and unrestricted discretion of the Hon'ble Judges and in fact the rules merely equate the appeal by right to a special leave petition.



under Article 136 which was there even without Section 38 of the Act. Section, in fact further worsens the position because in its absence the High Courts could give relief under their writ jurisdiction but do decline in the presence of Section 38.

19. Another grave error with the Act is that although under Section 29 of the Act there is to be only one single class of advocates yet as per the scheme of things to be seen in Sections 20 and 36 of the Act there are two entirely different classes of advocates, one of them being unable to approach the Hon'ble Supreme Court except by a 2nd appeal i.e. with more chances of dismissal of the appeal even prior to its admission.

20. Section 44 of the Act enables the Disciplinary Committees of the Bar Councils to review the orders after an appeal has been filed in the Supreme Court and the same appears to be directly in conflict with Article 137 whereunder the Court can itself review its orders and judgments,

and accordingly your petitioner prays that:

- (a) the appeal under Section 38 ought to lie to the High Courts whereafter the Supreme Court can be approached by a certificate from the High Court, or by a special leave from the Supreme Court. But if that is not possible for any reasons, then the following 2 minor amendments proposed to Sections 38 and 44 of the Advocates Act, 1961 shall, in the opinion of your petitioner, ensure Justice to all in and outside the profession of Law and also enhance the status of the Hon'ble Supreme Court:

*Section 38:* "Any person aggrieved by an order made by the Disciplinary Committee of the Bar Council of India under Section 36 or S. 37 may, within sixty days of the date on which the order is communicated to him prefer an appeal to the Supreme Court and the Supreme Court shall decide the same on merits on the basis of evidence on record.

*Section 44:* The Disciplinary Committee of a Bar Council may of its own motion or otherwise review any order passed by it under this Chapter.

Provided that no such order of the Disciplinary Committee of a State Bar Council shall have effect unless it has been approved by the Bar Council of India.

Provided further that if any order was made by the Supreme Court under Section 38 prior approval of the Court shall be essential to make the order in review effective," and

(b) Your petitioner may be given an opportunity to appear before the Committee of Petitions so that the submissions made in brief in this petition may be reinforced by him with evidence and arguments to show that the Advocates Act, 1961 is not only unconstitutional but is capable of depriving the Advocates and the litigating public of their rights and also of doing immense harm to the legal profession as a whole,

and your petitioner as in duty bound will ever pray.

Name of the petitioner	Full Address	Signature
Shri O. N. Mahindroo, Advocate	1774, Partap Street, Paharganj, New Delhi.	Sd./- O.N. Mahindroo

Countersigned by KANWAR LAL GUPTA, M.P.

## APPENDIX II

[See Para 21 of the Report]

PETITION No. 10

[Presented to Lok Sabha by Shri Samarendra Kundu, M.P., on the 20th December 1968]

To

LOK SABHA,  
NEW DELHI.

The humble petition of Shri H. K. Sahoo, Secretary, Railway Users' Committee Rourkela, and others respectfully.

**SHEWETH**

The authorities in the Ministry of Railways have made a detailed examination regarding the feasibility of (1) Construction of Bimlagarh-Talcher Rail Link and, (2) Provision of a direct train|coach service from Rourkela to Puri and basically on two reasons, doubts have been expressed on these projects, viz:

- (i) non-availability of funds so far as bridging the gap between Talcher and Bimlagarh by a railway line is concerned; and
- (ii) inadequate traffic between Rourkela and Puri justifying provision of direct train|coach to these destinations.

2. The magnitude of the merits for constructing the railway line between Bimlagarh and Talcher have been abundantly focussed in different forums and it need not be exaggerated here that the people of Orissa at large, the press, the representatives of the people in the State Assembly and in the Parliament are all unanimous in appreciating the need of having this crucial scheme immediately launched. The Estimate Committee, the Deputy Prime Minister, the Planning Commission and the Railway Minister are amply satisfied on the merits of the case in view of the vital socio-economic significance the proposed project is fraught with. Since this project involves laying down of tracks of 120 kms. length at an estimated cost of 18 crores of rupees only, your petitioners pray that Lok Sabha might take up this case for plan allocation of funds as a priority scheme in the 4th plan.

And accordingly your petitioners pray that Lok Sabha might consider their request for construction of the Bimlagarh-Talcher Rail Link and also direct the South Eastern Railway authorities to introduce the much needed direct express train from Rourkela to Puri w.e.f. 1-1-1969 to meet the urgent and genuine demand of the people.

and your petitioners, as in duty bound, shall ever pray.

Name of first Petitioner	Full address	Signature
Shri H.K. Sahu, Secretary, Railway Users' Committee	Qr. No. D/113, Sector 18, Rourkela-3.	Sd/- H.K. Sahoo

Countersigned by  
Samarendra Kundu, M.P.  
Div. No. 391

### APPENDIX III

[See Para 26 of the Report]

PETITION No. 11

[Presented to Lok Sabha by Shri George Fernandes, M.P., on the 7th April 1969]

To

LOK SABHA,  
NEW DELHI.

The humble petition of Shri Hem Raj Vershi Haria, Shri Bhavanji Ramji Gala, Shri Rattanshi Shivji Shah & Shri Tokarshi Bhanji Savla on behalf of the Retail Grain Dealers' Federation, Shiv Mahal, 84-86, Dr. Maheshwari Road, Bombay-9,

SHEWETH

Your petitioners are owners of small shops selling provisions including grain, Pulses, grocery, kirana, Sugar, Gur, Ghee, edible oils etc.

2. Petitioners are the authorised representatives of the Retail Grain Dealers' Federation of Bombay having about 9000 members who are retailers trading in the above mentioned commodities which come under the purview of the Prevention of Food Adulteration Act, 1954 (Act No. 37 of 1954) amended upto date.

3. Your petitioners before submitting their petition, clarify that they really welcome the said Act which is absolutely necessary to prevent the Adulteration for the benefit of the Public, but find some difficulties by which the retailers (that is vendor as per the definition of the Act) are punished for no fault of their own.

4. The definition of the word *Adulterated* according to the dictionary is—"make impure by admixture, lower in quality by intermixing corrupted or debased by admixture of a less valuable substance" of all these phrases the meaning reveals that if there is a mixture which make a substance impure of lower in quality it is adulteration. However under the Prevention of Food Adulteration Act, the word adulteration is defined in such a way that though there is no admixture and though the food article is as it is when produced, yet it is considered to be adulterated.

5. Your petitioners humbly submit that:—

(1) Section 2(1) (a) of the Prevention of Food Adulteration Act states—“if the article sold by a vendor is not of the nature, substance or quality demanded by the purchaser and is to his prejudice, or is not of the nature, substance or quality which it purports or is represented to be”. This results in the following difficulty:—

The vendor generally does not know the standard fixed for any article which he sells and the standardisation being of a very technical nature, he has no knowledge about the same.

(2) Section 2(i) (b) of the Act is as follows:—

“if the article contains any other substance which affects, or if the article is so processed as to affect injuriously the nature, substance, of quality thereof”. This results in the following difficulty.

The Vendor is not responsible for any kind of process which is only being done at the manufacturer's level.

(3) Section 2(i) (e) of the Act States:—

“if the article had been prepared, packed or kept under insanitary conditions whereby it has become contaminated or injurious to health”.

To this our difficulty is—the vendor is not concerned with any kind of processing or packing which is done by the manufacturers only.

(4) Section 2(i) (j) of the Act reads:—

“if any colouring matter other than that prescribed in respect thereof and in amounts not within the prescribed limits of variability is present in the article”.

To this our grievances are—the vendor has no knowledge of any colouring material nor he knows about any permissible colours and the standard thereof.

(5) Section 2(i) of the Act reads—

“if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities which are in excess of the prescribed limits of variability”.

Our difficulty to this is that the standards prescribed under the Act are not suitable to the Indian condition. It should be revised region wise.

(6) Section 4(2) (b) reads as follows:—

“The procedure for the submission to the said laboratory of samples of articles of food for analysis or tests, the forms of the laboratories’ reports thereon and the fees payable in respect of such reports”.

To this our difficulty is that the report is not submitted in time from the laboratories and the vendor has to wait for a very long time.

(7) Section 7 of the Act states:—

“Prohibition of manufacture, sale, etc. of certain articles of Food.—  
No person shall himself or by any person on his behalf manufacture for sale, or store, sell or distribute—

- (i) any adulterated food;
- (ii) any misbranded food.”

Sir, our difficulty to this is that we, the vendors do not know the articles are adulterated or misbranded, as it cannot simply be judged by mere appearance.

(8) In the Rules made under the Prevention of Food Adulteration Act, 1954, Rule A.05.05.1 reads as follows:—

“Chillies (Lal Mirchi) Powder means the powder obtained by grinding clean dried chilly pods of capsium fruit seems L|Capsicum annum. The chilli powder shall be dry, free from dirt, mould growth, insect infestation, extraneous matter added colouring matter, oils and flavouring matters”.

To this our difficulty is this:—

This chilli powder cannot be kept without proper preservatives. If the chilli powder is to be kept in good condition, we have no other alternative but to apply salt and oil so that its originality is maintained while the rule forbids to apply the oil.

(9) Rule A. 18.04 states.—“Besan means the product obtained by grinding dehusked Bengal gram (cicer artietium) and shall not contain any added colouring matter or any other foreign ingredient”. To this our difficulty is that generally each and every kind of gram may it be

of Bengal variety or from any other state, when they are ground, it is called the Besan. While the rule defines only for Bengal gram. So it is rather difficult to ascertain the same.

6. Now, our humble suggestions are:

(1) Under section 2 (a) of the Prevention of Food Adulteration Act, 1954 the standard of the articles should be fixed regionwise for the various qualities.

(2) Under section 2 (i) (b) *ibid* for improper processing only manufacturers be held responsible.

(3) Under Section 2 (i) (c) *ibid* the article when prepared and packed should bear the stamps of its validity and time.

(4) Under section 2 (i) (j) *ibid* colouring should absolutely be prohibited.

(5) Under section 2 (I) *ibid* standard should be revised regionwise.

(6) Under Section 4 (2) (b) *ibid* the procedure for the submission to the said laboratory of samples of articles of food, analysis or tests should include the time limit for such submission of samples and of reports.

(7) Under section 7 *ibid* the vendor should not be held responsible if he proves that the selling has not been done knowingly.

(8) Under the rule A. 05.05.1 The preservatives like salt and oil should be allowed in case of chilli powder and the standard be fixed accordingly.

(9) Under the Rule A.18.04 of the rules formed under the Act, the besan should include all types of gram and not only Bengal gram.

(10) The vendor should also be allowed to lead his defence which is prohibited under the Act (Section 19) as really he is not in a position to know the correct standardisation prescribed in the rules which is of a very technical nature.



(11) As the vendor is not in a position to increase or decrease the standardisation of the whole articles like Biscuits, toffees, peppermint, sugar Gur, Cardamums, nutmegs etc., the vendor should not be held responsible for such samples which are found to be not upto the standard of the act. In fact the samples of the whole articles should always be taken from the manufacturers only.

Your petitioners, therefore, humbly submit that, as the Prevention of Food Adulteration Act is made out for preventing the Adulteration in food, so as to curb the adulteration from the root, the Government should make it compulsory to take the samples regularly from each lot of the articles which are prepared and packed from the manufacturers level and if each and every container should bear a clear stamp of "*Found to be of the standard*" it would be highly praise worthy and thus justice will be meted out to the vendor—the retailer who generally toils from morning till evening for his honest bread.

(12) All the food articles as far as possible should be made compulsorily "Agmark" graded from where the said articles are produced or manufactured.

(13) To curb adulteration your petitioners humbly make the following suggestions, which if accepted and implemented might help solve the problem:—

- (a) The Government should be more vigilant at the manufacturing stage and see that adulterated or Sub-Standard stuff does not reach the market. For this samples should be drawn from the manufacturer daily and from each lot. It may be noted that long dal is not allowed in the market.
- (b) Mills should be prohibited from colouring Dals (pulses).
- (c) If the articles sold are fit for human consumption, there should be no prosecution under this act.
- (d) If the packed stuff is found to be adulterated only manufacturer should be prosecuted.
- (e) If any preservative is used then there should be no prosecution as the use of preservative does not adulterate food stuff and render it unfit for human consumption.

- (f) For commodities sold in whole, no samples be taken from vendors.
- (g) The question of various grades of quality should be left out of the purview of the act.

If that is not possible the Government should prescribe different grades for various qualities and of various producing centres.

- (h) At least one vendor's representative should be appointed on the Central Committee.
- (i) When a sample of food for analysis is taken by food Inspector from the vendor, he must note down the name and address of the wholeseller or the manufacturer from where the vendor has made purchases and simultaneously the sample of the same article should be taken from the wholeseller or the manufacturer.
- (j) When a sample is taken from a vendor from the loose articles the Inspector should take the sample of the same article which is in packed condition as well and if the report is found to be unsatisfactory then the whole-seller should be held responsible.
- (k) Laboratories should be specified by the Central Government in each and every local area under the Act.

and accordingly your petitioners pray that,

- (i) as they are approaching the Lok Sabha with their above grievances, these might be redressed and those who are actually responsible for wilful adulteration should be prosecuted. However, at the same time Government should ensure that the honest and innocent vendors are not caused any harassment; and
- (ii) Lok Sabha might direct the Government of India to go into the whole matter to redress their grievances,

and, for this Act of kindness, your petitioners as in duty bound  
will ever pray,

Name of Signatory	Full Address	Signature
1. Shri Hemraj Vershi Haria	Anant Building, 217, Princess St., Bombay-2.	Sd/- Hemraj Vershi Haria
2. Shri Bhawanji Ramji Gala	122/30, Parel Road, Chinchpokli, Bombay-12.	Sd/- Bhawanji Ramji Gala
3. Shri Ratanshi Shivji Shah	Habib House, Nowroji Hill Road No. 2, Dongri, Bombay-9.	Sd/- Ratanshi Shivji Shah
4. Shri Tokershi Bhanji Savla	20, Oberai House, Station Road, Santa Cruz, Bombay-54.	Sd/- T.B. Savla

George Fernandes, M.P.

Countersigned by

13-12-1968

Div. No. 378

## APPENDIX IV

[See Para 11 of the Report]

No. F. 41 (2) |68-J

GOVERNMENT OF INDIA

MINISTRY OF LAW

(DEPARTMENT OF LEGAL AFFAIRS)

New Delhi, the 24th September, 1968.

### OFFICE MEMORANDUM

**SUBJECT:** *Petition No. 6 from Shri O. N. Mohindroo, New Delhi regarding amendment of sections 38 and 44 of the Advocates Act, 1961 presented to Lok Sabha by Shri Kanwar Lal Gupta, M.P.*

Will the Lok Sabha Secretariat please refer to their U.O. No. F. 21|GH|68, dated the 2nd August, 1968 and the subsequent reminder? As desired, the following factual comments are made on the petition of Shri O. N. Mohindroo.

2. At the outset, it may be stated that on a complaint made by a subordinate Judge of Delhi, Shri Mohindroo was found guilty of professional misconduct by the Disciplinary Committee of the Bar Council of Delhi and suspended from practice for one year. His appeal to the Bar Council of India and to the Supreme Court were dismissed, as also his review petition. Thereafter, Shri Mohindroo filed a writ petition before the Punjab High Court for quashing these orders but did not succeed in that court. His appeal to the Supreme Court from that order was also not successful. The judgment of the Supreme Court is reported in A.I.R. 1968, SC. (July Part) p. 888, *sub nom.* O. N. Mohindroo *vs.* Bar Council, Delhi.

3. As regards paragraph 1 of the petition, since the petition does not say when and by whom the statement quoted therein was made, it is not possible to make any comments thereon. It is true that the Calcutta Weekly notes has criticised the Act in the manner set out in paragraph 2. It may also be stated in so far as para 3 is concerned that a comprehensive Bill for the amendment of the Advocates Act was introduced during the last Session in the Rajya Sabha. With reference to paragraph 4, it may be stated that Government has no information on the point. Paragraphs 5 to 7 of the petition are historical and, as such, this Ministry has no comments. It may, however, be stated that the recommendations

of the All India Bar Committee were also examined and commented on by the Law Commission in its Fourteenth Report on the Reform of Judicial Administration.

4. With regard to paragraph 10 of the petition, it may be stated that according to the decision of the Supreme Court in the case referred to in paragraph 2 above, the Advocates Act in so far as persons entitled to practise in the High Courts and the Supreme Court are concerned is relatable not Entry 26 of the Concurrent List but to Entries 77 and 78 of the List 1.

5. With regard to paragraphs 11 to 14, they contain the reasons in support of the changes urged by the petitioner and do not contain any factual statement. As such, this Ministry has no comments to offer.

6. With regard to paragraph 15 of the petition, it may be stated that the Supreme Court has held the rules providing for a preliminary hearing of such appeals constitutionally valid. It was observed by the Court that "But the fact that under rule 7 an appeal, is placed for preliminary hearing is liable to be disposed at that stage does not mean that the content of the right of appeal under section 38 is in any way curtailed, as the party filing the appeal has to be heard on all points raised by him therein". (at p. 894). In view thereof it would not be correct to say (as has been suggested in paragraph 18 of the petition) that the appeal under section 38 has been equated by the Judges to a right to move a special leave petition under article 136.

7. With reference to paragraph 19 of the petition, it may be stated that there are certain advocates of the Supreme Court whose names are not on any State Roll. The disciplinary jurisdiction in respect of these advocates is exercised by the Bar Council of India from whose orders a first appeal lies to the Supreme Court. The Bill which has been introduced in the Rajya Sabha to amend the Advocates Act seeks to do away with this class of advocates of the Supreme Court whose names are not borne on any State Roll.

8. Paragraph 20 contains the appellant's prayers. It is for the Committee to come to a decision on the merits of the prayers made therein, taking into account the fact that a Bill for amending the Advocates Act has already been introduced.

Sd/- P. B. VENKATASUBRAMANIAN,  
*Additional Legal Adviser to the Government of India.*

To

Lok Sabha Secretariat, (Committee Br. II).

## APPENDIX V

[See Para 24 of the Report.]

GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

NEW DELHI-I, dated.....1968.

**SUBJECT:** *Petition No. 10 from Shri H. K. Sahoo, Rourkela and others regarding construction of railway line between Bimlagarh and Talcher etc.*

With the Lok Sabha Secretariat kindly refer to their U.O. No. F. 21|C-II|68, dated 30th December, 1968 on the noted subject.

2. The petitioners in their Petition No. 10 (copy furnished *vide* U.O. under reference) have requested to the Lok Sabha through Shri Samarendra Kundu, M.P., for consideration of the followings:—

- (i) Construction of the Bimlagarh-Talcher Rail Link and take up this case for plan allocation of funds as a priority scheme in the Fourth Five Year Plan; and
- (ii) Introduction of direct express train from Rourkela to Puri (w.e.f. 1st January, 1969) to meet the urgent and genuine demand of the people.

3. The factual comments on the above two points are as follows:—

*Re: (i)*—It has already been decided to carry out Preliminary Engineering and Traffic Surveys by the South Eastern Railway for the Bimlagarh-Talcher rail link and this survey is being included in 1969-70 Works Programme. It is too early to allocate the funds for its construction, as a decision in the matter can be taken only after the surveys are carried out by the South Eastern Railway and its reports are examined by the Railway Board.

*Re: (ii)*—The existing level of through traffic offering from stations on Puri-Bhadrak Section for Rourkela and *vice versa*

is meagre and does not even justify provision of a through-service coach, much less a direct train between Rourkela and Puri. Further, the distance by road between Rourkela and Cuttack/Puri being shorter, bus journey is quicker and cheaper; and the prospects of sufficient rail traffic, materialising in the event of the introduction of direct travel facility are rather remote.

Sd/- M. G. NAIR,  
*Joint Director (Works),*  
*Railway Board..*

**The Lok Sabha Secretariat (Committee Branch-I), New Delhi.**

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**Ministry of Railways (Railway Board) U.O. No. 68|W4|PQL|SE|25,  
Dated 23rd/27th January, 1969.**

## APPENDIX VI

[See Para 29 of the Report]

No. F. 2-1/69-PH

GOVERNMENT OF INDIA

### MINISTRY OF HEALTH, FAMILY PLANNING & URBAN DEVELOPMENT

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(DEPTT. OF HEALTH & U.D.)

New Delhi-11, dated the February, 1969.

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**OFFICE MEMORANDUM**

**SUBJECT:** *Petition from the Retail Grain Dealers' Federation Bombay, to the Lok Sabha regarding Prevention of Food Adulteration Act, 1954.*

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The undersigned is directed to invite a reference to U.O. No. F.51|C-1|69, dated the 21st January, 1969, from the Lok Sabha Secretariat, on the above subject and to forward herewith a Statement (Annexure I) showing the various points raised by the Retail Grains Dealers Federation, Bombay, and comments of this Ministry on each of them.

The Prevention of Food Adulteration Act, 1954, is applicable to the whole of India except Jammu and Kashmir and the provisions of the Act are implemented through the State Governments and local bodies. The aims and objects of the Act are two fold viz. (i) to provide a fair trade between the dealers and consumers and thus to protect the innocent consumers against cheating by dealers and (ii) to protect the consumers against health hazards that may arise as a result of adulteration whether wilful or not.

In order to achieve the above two aims, food articles falling short of certain standards as prescribed in the Prevention of Food Adulteration Rules are to be considered as adulterated for purposes of the Act.



35 copies of a Brief (Annexure II) on the Prevention of Food Adulteration are enclosed.

The representation from the Retail Grain Dealers Association is also sent herewith as desired.

Sd/- M. C. JAIN,

*Under Secretary to the Government of India.*

To

The Lok Sabha Secretariat,  
New Delhi.

Legal meaning need not always coincide with dictionary meaning.  
The legal definition in this case is clear and is meant to cover even sub-standard articles.

Wherever possible, standards have been laid down in general terms like limits of extraneous matter, so that a vendor is in a position to find the amount of the same. In some food products (e.g. ghee, oils, fats) there can be no simple test and the standards have to be fixed in technical terms.

Under Section 14 of the P.F.A. Act, 1954, every manufacturer, distributor or dealer is required to give a warranty to the vendor about the nature and quality of the articles and a person who contravenes these provisions is punishable with imprisonment for term extending to six months and with fine of not less than Rs. 500/- vide clause (IC) under section 16 of the Act. The vendor can, therefore, proceed legally against the manufacturer or the wholesaler if he does not give a warranty. It is appreciated that there may be a genuine difficulty in respect of agricultural produce. This is receiving consideration.

1. Adulteration is defined in such a way that though there is no admixture and though the food article is as it is when produced, yet it is considered to be adulterated.

2. The vendor is not in a position to find the quality and standards of the articles he is selling as the standards fixed are of technical nature.

3. The vendor is not aware of the process of manufacture, etc. which affects injuriously the nature, substance or quality thereof, and hence he should not be prosecuted.

## Point raised

## Comments

4. The standards prescribed under the Act are not suitable to Indian conditions and should be revised region-wise.
- The standards for various food articles have been laid down after taking into consideration the facts like climate, soil, etc. which affect the composition of a food-article. The standards of certain products like milk, ghee which vary in composition depending upon the region have been fixed on the region or State basis. Processed articles like fruit products, edible oils etc. can conform to one all India standard and it is therefore not necessary to prescribe regional standards for such articles. In case the Retail Grain Dealers' Federation feels that standard for any particular article is not attainable, they can submit their suggestions to the Director General of Health Services along with necessary data. The standards are not static but can always be reviewed and modified, if found necessary. In fact the standards of various articles of food under the P.F.A. Rules are amended as and when necessary.
5. The report from the Central Food Laboratory is not submitted in time and the vendor has to wait for a very long time.
- The reports from the Central Food Laboratory have to be submitted to the court within 30 days of the receipt of the sample in the Laboratory as provided under Section 13(2) of the Act.
6. The vendors are not in a position to judge by appearance of an article of food as to whether it is adulterated or misbranded.
- As explained under item 3 above, the warranty clause has been provided to safe-guard the interests of the vendor.
7. Chillies cannot be preserved with salt and oils.
- The matter is being considered an consultation with technical experts.
8. Besan has been defined as the product obtained from Bengal gram (*Cicer arietinum*).
- It is the botanical name that matters and not a regional name.

9. The articles should bear the date of its validity and time.  
This has been discussed a number of time in various meetings of the Central Committee for Food Standards but an acceptable procedure has not been found possible.
10. Colours should absolutely be prohibited.  
This has also been considered. Complete prohibition of colours is not possible as certain products like sweets, etc. have to meet the accepted standards even in the matter of colour, aesthetic sense of the general public. In all countries of the world certain colours have been permitted. Our list includes only 8 coal-tar-dyes which can be used only on certain food products like bakery, confectionery, fruit products, etc.
11. The vendor should be allowed to lead his defence which is prohibited under Section 19 of the Act.  
Section 19 states that it shall be no defence for a vendor to show his ignorance of the nature, substance or quality of the food sold by him. The same Section further provides that in case a vendor can produce a warranty, he shall not be deemed to have committed an offence. It has nowhere been laid down that vendor cannot lead his defence.
12. The samples of whole articles should only be taken from the manufacturer as the vendor cannot adulterate them.  
It cannot be said that whole articles like foodgrains, spices, etc. cannot be adulterated by vendor. Adulteration can take place at any stage and hence it is very difficult to exempt the vendors from the purview of the Act. The State Governments have already been requested to draw a large number of samples from the manufacturers, but this does not mean that the vendor can be absolved of his responsibility towards the consumers.
13. Government should draw samples regularly from the manufacturers and after analysis stamp them to be of standard.  
This will need a large machinery and laboratory services and it is not feasible to venture upon such a project at present. However, if the Federation or other Cooperative Societies establish the Laboratories jointly, the Government would be willing to provide them any technical guidance which they may need.

14. All the products should be compulsorily Agmarked. 'Agmark' deals with only the agricultural products and moreover it is voluntary scheme. The trade itself should show interest in getting their food articles Agmarked to a large extent and thus provide tested food articles to the consumer.
15. Mills should be prohibited from colouring Dals. Colouring of Dals is not permitted under the provision of the Act and the State Governments have already been intimated about the same.
16. If the articles are fit for human consumption there should be no prosecution. It is not a question of mere fitness for human consumption but of the maintenance of nutritional standards.
17. For packed food-stuffs only the manufacturers should be prosecuted. The provision of the Act provide that a manufacturer can be impleaded in the trial if the court is satisfied that he is also involved in the commitment of the offence. The prosecuting authorities have the discretion to decide whether the vendor or the manufacturer is to be prosecuted.
18. Use of preservative does not adulterate food article and render it unfit for human consumption. Hence there should be no prosecution. Preservatives beyond a certain limit are injurious to health
19. The grades of quality should be left out of the purview of the Act. P.F.A. Act lays down on the minimum Standard.
20. One vendors representative should be appointed on the Central Committee for Food Standards. The Central Committee for Food Standards is a technical statutory body to advise the Central and State Governments on matters arising out of the implementation of the P.F.A. Act. A representative

representative from each State, a representative each from most of the Ministries of Government of India, a representative of Indian Council of Medical Research, and a representative of Indian Standard Institution have been nominated on this committee. In addition, two representatives are also nominated to represent the interests of agriculture, commerce and industry. In case, the vendors want to put their points, it can be done through these two representatives. In case, they like to represent on any of the sub-committees their request could be considered if a list of such nominees with particular interests is sent to the Director General of Health Services.

This is not practicable as the manufacturer or the wholesaler may be residing at a different place and in a different State. The local food inspectors do not have a jurisdiction beyond their local areas which are mostly the municipal areas.

This will be done whenever possible.

21. A sample of food article from the wholesaler or manufacturer should be taken simultaneously while drawing a sample from the vendor.

22. An inspector should take a sample from a sealed container simultaneously when he is drawing a sample of the loose article.

23. Laboratories should be specified by the Central Government in each and every local area. The implementation of the provisions of the Act is done through State Governments and Local Bodies. Each State Government has set up at least one State Food Laboratory for the analysis of the Food articles. Some of the States like Rajasthan, Maharashtra and West Bengal have set up more than one laboratory in their States for the analysis of the food articles. In addition, some of the local bodies have also established their laboratories for the analysis of the food articles. A list of the same is enclosed. However, the Central Government have not set up any laboratory for the testing of the food articles at the first stage as the implementation of the Act is responsibility of State Governments.

## ANNEXURE II TO APPENDIX VI

[See also Petition No. 11, Appendix III]

### BRIEF

#### *Prevention of Food Adulteration*

It is no denying the fact that adulteration of food articles is quite rampant in the country. Figures of the last few years reveal that almost every third article of food drawn by the food inspectors is found to be adulterated. It is needless to emphasise that pure food is essential for the maintenance of the health and more so in this country where in-take of food is far less than that prescribed by nutrition experts. Effective steps have, therefore, to be taken to prevent food adulteration in the country.

The Prevention of Food Adulteration Act, 1954, is being implemented by the local bodies and State Governments. Due to financial difficulties, the local bodies have not been in a position to appoint whole-time food inspectors and the implementation of the Act is mostly being carried out by the Sanitary Inspectors in addition to their other normal duties. Because of the local pressures and influences on the food inspectors of local bodies and lack of finances the implementation of the Act so far has not been effective. The penalties prescribed under the Prevention of Food Adulteration Act, prior to its amendment in 1964, were not so deterrent as to counter-balance the gain obtained by selling adulterated goods.

With a view to plugging the loopholes and for the effective implementation of the Prevention of Food Adulteration Act, the Government of India on the recommendations of the Central Council of Health, the Sub-Committee of Planning Commission, the Council of Local Self Government and the Central Committee for Food Standards recommended certain amendments in the Prevention of Food Adulteration Act so as to make it more deterrent and to give concurrent powers to the Central Government to appoint Food Inspectors. The Act was accordingly amended *vide* the Prevention of Food Adulteration (Amendment) Act, 1964, which came into effect from the 1st March, 1965. The main features of the amendments are as follows:—

1. Concurrent powers have been given to the Central Government to appoint food inspectors and public analysts, thus enabling the Central Government for better and effective implementation of the Prevention of Food Adulteration Act.

2. Punishments have been made more deterrent. The minimum punishment now prescribed for cases of adulteration is imprisonment of not less than six months and a fine of not less than Rs. 1,000/- except that in cases of mis-branding or sub-standard, the discretion has been left to the courts.
3. The manufacturer, distributor or dealer of an article of food has to give a warranty compulsorily in writing about the nature and quality of the article to the vendor.
4. The court has been empowered to proceed against a manufacturer, distributor or dealer, if during the trial of any offence, the court is satisfied on the evidence adduced before it that such manufacturer, distributor or dealer is also concerned with that offence.
5. The presence of only one witness at the time of drawing of the sample has now been made essential instead of two witnesses as previously prescribed.
6. Provision has been made for an indemnity bond equivalent to the value of the article seized by the food inspector when the goods are kept in the custody of the vendor. A heavy penalty has been provided in case of infringement.

#### *Implementation of the Act*

The Act is implemented in the States and Union Territories mostly through local bodies. Most of the local bodies due to lack of funds and other difficulties, have appointed the sanitary inspectors to look after the implementation of the Prevention of Food Adulteration Act in addition to their normal duties. It has been noticed from the annual reports of the working of the P.F.A. Act for the last few years that the implementation of the Act has been sadly neglected. The annual reports indicate that the average incidence of adulteration in India is about 30 to 35 per cent. As the amended Act has come into force recently, its effects are being watched. It has, however, been noticed from the annual reports from the years 1965 and 1966, that the number of cases which have been imprisoned and total amount of fine realised is greater in 1966 than in 1965 which can be attributed to the amendment of the Act. The figures for 1965 and 1966 are given below:—

Year	No. of samples examined.	No. of samples found adulterated.	% of samples found adulterated.	No. of prosecutions launched.	No. of convictions.	No. of persons imprisoned.	Total fine realised. (Rs.)
1965	166992	51957	31.1	46246	30250	1610	36,24,187.50
1966	174158	44508	25.5	40438	23282	4716	37,33,404.00



This high incidence of adulteration with spiralling prices has attracted the attention of the Parliament, Press and public very often. Therefore, this subject has been discussed at length by the Central Council of Health as well as by the Central Council of Local Self Government and other high powered bodies. As a result of these discussions, the Council for Local Self Government formed a High Powered Committee under the Chairmanship of the Deputy Union Health Minister with the Ministers of Maharashtra, Uttar Pradesh, Andhra Pradesh, Madhya Pradesh, Rajasthan and Madras, to review the working of the P.F.A. Act. This Committee appointed a Two Men Team consisting of Dr. Y. K. Subrahmanyam, Asstt. Director-General of Health Services and Director, Central Food Laboratory to review the working of the P.F.A. in various States.

*Review of work by two man team on P. F. A.*

The Two Man Team after visiting a few States and getting information from others submitted a report reviewing the work of P.F.A. in the country. This report was considered by the Central Committee of Ministers on P.F.A. and subsequently by the Central Council of Local Self-Government.

The Team in its report has discussed the various handicaps encountered by the Local Bodies and State Governments in the proper implementation of the P.F.A. act and has made certain recommendations for the improvement in the enforcement of the Act. The main recommendations are summarised below:—

1. The State Laboratories should be equipped with staff and equipment so as to meet the needs of the public. More Laboratories may be opened wherever necessary.
2. The State Governments should constitute committees to review the existing administrative machinery and laboratory facilities for the enforcement of the Act in their States and send their recommendation to the Committee of Ministers.
3. The State Governments should establish separate cells in their Directorates for the implementation of the Act.
4. The State Governments should provide whole-time food inspectors at the District level to begin with and the Services of the food inspectors in their local bodies should be provincialised.
5. For every 50,000 population there should be one whole time food inspector in Urban areas to begin with and ultimately

there should be one food inspector for every 25,000 population. The work in the rural areas may be assigned to the health inspectors.

6. The delays occurring in the launching of prosecution should be avoided and the judiciary should be requested to expedite the cases on priority basis. Legal assistance should be given to the Health Departments in launching prosecutions.
7. The authorities empowered to sanction prosecutions under section 20 of the Act should accord this sanction at the earliest.
8. Due publicity be given to the evils of adulteration by holding seminar discussions, conferences or with the use of mass media measures.
9. Training courses should also be provided for analysts.

The Report was forwarded to the State Governments and local Health authorities for implementation of the various recommendations, but for want of funds, it has not been possible for the States/Local Bodies to make much headway on these recommendations.

A statement showing the laboratory facilities available in the country the work load and pay scales of chemists is enclosed.\* A statement showing the number of food inspectors in various States and Local Bodies is also enclosed\*. In some of the States the services of the food inspectors have been provincialised but in most of the States it has not been done for want of funds.

The Directorate General of Health Services has so far been acting as an Advisory body to the State Governments and local bodies for the implementation of the P.F.A. Act. In view of the conditions prevalent in the various States and local bodies and on the basis of the recommendations of the High Powered Bodies and in order to shoulder the obligations made by the amendment in the Act, a scheme for the P.F.A. has been proposed in the Fourth Five Year Plan involving estimated expenditure of 61.15 lakhs.

Initially it is proposed to set up a separate unit at the Centre for the administration of the P.F.A. Act and its Rules and to guide, co-ordinate and give leadership in the implementation of the programme to the States.

A provision of Rs. 60,000 only has been proposed in the Budget Estimates 1969-70 for the purpose subject to the clearance of the Scheme by the

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\*Not reproduced.

**Ministry of Finance.** With this provision of Rs. 60,000/- if finally cleared, it is proposed to appoint about 6 food inspectors in the Central Headquarters Cell. Their main activities will centre in Delhi and other cities where large food processing units are situated. They will also attend to the immediate cases of food adulteration when reported from any part of the country. This unit will get as nucleus for a pilot project and it is hoped that this will produce the necessary impact on the States and Local bodies.

The scheme also envisages the establishment of three zonal organisations. The regional units will be intimately concerned with the enforcement of the Act in the Zonal areas under their control and will advise and assist the State Governments falling in their zones in the proper implementation of the Act. It is also proposed to establish a Central Food Standardisation laboratory for testing the samples which are so vitally needed at this juncture.

Sl. No.	Name of Petitioner	Brief Subject	Facts perused by the Committee
1	2	3	4

*The Lok Sabha Cases*

[*Copy of Letter No. F/74/C&M/67, dt. 18-10-68 to petitioner*]

1 Shri Kanahya Lal Totaram, Brk.No. 2045, Tenament No. 1, Camp No. 5, Ulhasnagar—5. Payment of share of compensation due.

The Regional Settlement Commissioner, to whom the matter was referred, has reported that you were asked by the Regional Settlement Commissioner Bombay *vide* his letter No. RSCB/ASC (B) /LSS--126/PC/42710/14633--34/68 dated 18-4-68 to furnish affidavit regarding date and place of death of your father and grand father and also affidavit showing relationship and Regn. No. of cosharrers, if any for payment of compensation under rule 19. But you appeared on 25-7-68 in Regional office, Bombay and stated that your father and grand father expired in India after 14-8-67 &

as such you did not consider it necessary to furnish such affidavit. You also contended that you are claiming compensation under rule 19, because you were separate from your brother.

The claim is verified in your favour and your brother as members of Joint Hindu Family and you had also stated in your CAF that you were member of Joint Hindu Family. Hence the question of payment of compensation under rules 19 & 20 does not arise.

[Letter No. 3 (480)/C&M/65, dt. 20-8-68  
to petitioner]

- 2 Shri Assandas Nathirmal, Block No. 252/B, Sardarnagar, Ahmedabad. Representation re: Issue of Conveyance deed. The Regional Settlement Commissioner, Bombay whom the case was referred has reported that the various letters were issued by him to Nathirmal s/o Harpal-das to furnish the documents, but he failed to do so. Finally the case was fixed at Ahmedabad on 19-2-68 and Smt. Sital Bai Wd/o Shri Nathirmal was requested to appear in person or through authorised agent before the Managing Officer of Bombay at Ahmedabad on

19-2-68 alongwith the documents. But she did not turn up, and the case has been consigned to record as no further action is possible unless the documents are received from her.

[Letter No. G-1/5/(270)C&M/65—LSS,  
dt. 19-8-68 to petr.]

Regional Settlement Commissioner, Bombay to whom the case was referred has reported that a notice was issued by the Administrator Sardar Nagar to you on 19-7-67 to deposit an amount of Rs. 47.15 towards the balance cost of CBP, but you have not paid the requisite amount so far. You are therefore, advised in your own interest to deposit the short fall amount of Rs. 47.15 plus interest and receive the conveyance deed of the property from the Administrator, Sardar Nagar.

The Regional Settlement Commissioner, Bombay to whom the case was referred has reported that the case has since been finalised and a sum of Rs. 1782.50 paise has been paid to the applicant by way of adjustment towards the price of SAX-116—Adipur, Kurch. Hence the case stands finalised.

(Further facts to those appended in Appendix IV, Page 36, item 2 Third Report). Their letter No. FI (116)/C&M/67—LSS dt. 30-11-68 to petitioner,

3 Shri Dandimal Moolchand, Block No. 689/2, Ambawadi, P.O. Sindhi Colony, Sardar Nagar, Ahmedabad. Issue of conveyance deed in respect of rent No. 689/2, Ambawadi, Sardar Nagar.

4 Shri K. P. Bhambani, SAX 116, Adipur, Kurch. Payment of 1/6 share in the claim.

5 Shri Kotumal Anumal, Block No. 724/1, Ambawadi, Ahmedabad. Issue of conveyance deed in respect of property No. 724/1, Ambawadi Sardarnagar, Ahmedabad.

enclosing copy of letter No. RSCB/FTU  
MO(M)/Ten. No 724/I/S'nagar/49039—  
40/68 dt. 13-11-68 reproduced below:

“Please refer to this office letter of even  
number dt. 8-5-68 and your reply  
dt. 17-6-1968.

*Vide* this office letter indicated above you  
were called upon to pay the balance cost  
of the tenament Rs. 528·69 but the  
amount payable by you on account of  
balance cost of the property is Rs. 817/- as  
per account shown below:—

2

1. Cost

Rs. 2,706/-

(i) payments:—Adjusted in your own CAF  
Rs. 705·06

(ii) Adjusted in the CAF of your Associa-  
te Shri Shivandas Jiwatram  
Rs. 1079.

In addition to these 2 items an amount of  
Rs. 105·75 has been paid by you on  
account of rent arrears after the crucial  
date 309-55 and not Rs. 393·25 as  
intimated by you in your application  
dated 16-2-68 which was also accepted

provisionally *vide* our letter dt. 8-5-1968. Since the Administrator, Sardarnagar Township has confirmed that an amount of Rs. 105.75 has been paid by you as rent in excess after the crucial date 30 9-55, it is not possible to give you credit for Rs. 393.25.

In view of these circumstances, you are directed to pay the balance cost of Rs. 816.19 under the head of account—'P—Loans & Advances, adjustable with the Accountant General, Gujarat' and sent the receipted challan to the undersigned within 15 days of the receipt of this letter failing which it will be presumed that you are evading to make payment of the balance cost and in that course the property will be sold by public auction without any further notice to you and the payment made by you so far should be adjusted towards the rent of property.

*Fourth Lok Sabha Cases*

- 6 Smt. Kallawanti--Dwarkadas,  
Ahmedabad—21.
- Alleged short delivery of possession of plots purchased at Kuber-nagar in auction in Feb., 1961.
- The bids in respect of the three plots bearing No. 13,14 and 55 at Kubernagar were accepted and the sale Certificate was issued in favour of Smt. Kalawanti on 31-7-63 after adjustment of the sale price from the CAF of the auction purchaser. Possession had also been handed over to her on 10-7-67. She was, however, not



handed over the exact area of the plots announced at the time of auction but the lesser area had been given to her. Instructions have been issued to the Asstt. Settlement Commissioner I/C, Bombay that he should refund proportionate amount in respect of the short fall in the area of each plot, viz., 13, 14 and 55 and consummate the transaction quickly.

The bid of the husband of the applicant in respect of plot No. 66 was rejected and she was informed of the same. However, possession of this plot was handed over to her inadvertently. Instructions have therefore, been issued to the Asstt. Settlement Commissioner I/C, Bombay to resume possession of this plot from Smt. Kalawanti.

54

7 Smt. Pamibai Amulmal, Nagpur.

Payment of compensation.

The case has been examined in consultation with Asstt. Settlement Commissioner I/c., Bombay. As reported by him Smt. Pamibai filed duplicate claims which were subsequently cancelled by orders dated 2-7-66 of Settlement Commissioner. She has finally been allowed 22 Std. Acres, 5--51/64 units for agrl. land and

Rs. 35,469 for residential claims bearing Index No. S/SR2/2536. The compensation on both the claims works out to Rs. 16,428/- which has been paid to her as follows:

	Rs.
1. Paid in cash	8000/-
2. Adjusted towards the cost of GBP No. MII/50, Lajpat Nagar, New Delhi.	2,769·40
3. Adjusted towards the cost of GB No. 23/B, Jaripatka Colony, Nagpur.	3,056·20
4. Adjusted towards the cost of GB No. 23/A, Jaripatka Colony, Nagpur.	2,602·40
	<hr/>
	Rs. 16,428·00

No other claims are left for payment of any further compensation to her.

PART—II—Cases pertaining to Ministries/Department other than the Department of Rehabilitation

List of representations on which the Committee's intervention had procured speedy, partial or complete relief or elicited replies meeting adequately the petitioners' points.

Sl. No.	Name of petitioner	Brief Subject	Facts perused by the Committee
1	2	3	4

*Fourth Lok Sabha Cases*

[*Railways (Railway Board)*]

1 M/s. Kunverji Ramji & Co., Oil Mills, Claim for 160 bags groundnut seeds booked from Piler to Purli-Vaijnath-Inv No.8.RR No. 604234 dated 6-7-1967.

The consignment of 160 bags of groundnut seeds booked by M/s. Kunverji Ramji & Co. from Piler to Purli Vaijnath on 6-7-1967 was delayed in transit and was received at destination on 15-9-67 in damaged condition. After taking book delivery of the consignment on 16-9-67, the party left the entire consignment for assessment of damages, as a part of it had been damaged by wet. Later, however, 55 bags which were not affected and were in good condition were removed.

For the remaining 105 bags, the railway offered delivery on assessment of damages, but the consignee declined to accept it and put forward the following stipulations:—

- (i) The entire wharfage that had accrued on the consignment should be waived off.
- (ii) The railway should undertake to pay interest at 12% on the full value of the consignment till physical delivery was taken.
- (iii) Samples out of the damaged goods should be given to the Merchants Association for examination as to the extent of damage.

The party insisted upon these undertakings being given as a condition precedent to his taking delivery of the goods. The railway administration could not accede to this request of the consignee for the reasons that these matters had to be decided after fully examining the merits of the case and the legal responsibility of the railway. The position was, therefore, explained to the party and efforts made to persuade him to take delivery of the goods on assessment of damages, without prejudice to the legal rights of either party. It was at this stage that the party sent its representation to the Committee on Petitions.

Notwithstanding the unreasonable attitude of the party, the railway administration continued its efforts to settle the case.

Ultimately, it was possible, in March, 1968, to get the party to remove the goods on assessment of damages, made by a Gazetted Officer. The value of the damaged contents was worked out as Rs. 10,758.87P and this amount has been paid to the complainant by cheque on 3-5-1968. The amended claim put in by the party after taking delivery of the goods on assessment of damages, included an element of Central Sales Tax paid and interest on value of the goods.

These items are not payable and have not been allowed. Wharfage to the tune of Rs. 3,404.80 P. that had accrued on the consignment has been waived by the railway administration.

2 Shri Behari Singh, Agra

Non-Payment of Rs. 106-50 by  
L.I.C. Office Muzaffarpur, to-  
wards balance due on policy  
No. 72228751.

[Finance (Deptt. of Revenue and Insurance)]

The facts of the case have been obtained from the Life Insurance Corporation of India, Bombay. The maturity claim under the policy was paid on 1-9-66 after deducting from the claim an amount of Rs. 79.56 towards 3 unpaid quarterly premiums. All the four deposits amounting to Rs. 106

have been traced and refunded to Shri Behari Singh, the first instalment of Rs. 53 comprising two deposits on 11-7-68 and the second instalment of Rs. 53 comprising two deposits on 10-10-68. The difficulty in tracing these deposits arose out of the fact that Shri Behari Singh did not pay the premium in the LIC Office/Branch where his policy account was kept but in another Office/Branch.

3 Shri Lachman Mallah, Post Silliguri. Non-sanction of loan applied against his policy No. 60322 in connection with his daughter's marriage.

[Finance (Deptt. of Revenue and Insurance)].

The facts of the case have been obtained from the Life Insurance Corporation of India, Bombay. Shri Mallah's letter dated 29-12-67 was received by the LIC, Calcutta and Shri Mallah was furnished the information required by him. In this connection a copy each of letters No. 60322/LN dated 13-1-68 and No. Int. Compls/H. 7290 dated 27-3-68 from the LIC to Shri Mallah are enclosed. The loan bond stamp fee was received by the LIC on 22-4-68 and the loan bond was sent to Shri Mallah on 29-4-68. The loan amount was sent to him on 20-5-68.

4 Shri V. G. Menon

Grant of loan from Provident Fund Account and payment of Dearness Allowance, House Rent Allowance etc.

[*Labour, Employment & Rehabilitation (Department of Labour and Employment)*]

Under the Employees' Provident Funds Scheme, only a non-refundable advance is allowed for treatment in certain specified diseases like T.B., Leprosy, Paralysis, Cancer or Asthma. This is subject to the fulfilment of other conditions as laid down in Para 68J of the Scheme. Shri Menon had applied for a refundable advance, which is not provided for in the Scheme, on the ground that he is suffering from 'Chronic complaints and bodily pains'. As the conditions for advance were not fulfilled the request of Shri Menon was not acceded to by the Regional Provident Fund Commissioner and he was informed accordingly in July, 1967. The position was again explained in detail to Shri Menon and he was advised to apply afresh in the prescribed form if his case fell under any of the prescribed categories of diseases in December, 1967, by the Regional Provident Fund Commissioner, Delhi *vide* his letter No. DL-720 (4)/37702, dated the 8th/11th December, 1967. A copy of another letter sent to Shri Menon by the Regional Provident Fund Commissioner

6th the 22nd January 1968 is also enclosed. (See Annexure-1). It would appear from the representation of Shri Menon and the Regional Provident Fund Commissioner's letters referred to above that his case is not covered by the provisions of the Employees' Provident Funds Scheme and hence his request for advance cannot be accepted.

As regards the other issue raised by Shri Menon regarding grant of allowances, it is stated that the industrial relations under the Industrial Disputes Act, 1947 between the management of Messrs Shourie Dupli-cators (P) Limited, Bangalore and their workmen fall within the jurisdiction of the State Government and, therefore, no action is called for in the matter on the part of the Central Government.

NOTE.—The Committee recommends that the Petitioner might correspond in this regard with the State Govt. of Mysore.

Alleged harassment of payees of M.Os. remitted by petitioners by Bodu Bourugamu P.O., Berhampore Dt., Ganjam, Orissa.

5 Shri D. Ankaiya, Calcutta-20.

[ *Post and Telegraphs D.G., P&T* ]  
Enquiries made into the case from Post master-General, Cuttack, reveal that M.Os. up to Rs. 80/- are paid at the residence of the payee at Bodu Bourugamu P.O. by the E.D.A. while those for more than this amount are paid at the Post Office itself according to rules of the Department. The people at the village however were under the impression that this system



was innovated by the B.P.M. himself and hence the resentment. The people have now been apprised of the correct procedure.

As regards acceptance of illegal gratification, the charge could not be proved during enquiry. On the other hand, it has been noticed that some of the payees of M. Os. offered something to the B.P.M., which was refused by the latter.

[*Home Affairs(U.T.L. Section)* ]

Under the Pondicherry General Sales Tax Act, 1967, edible oil was exempted from the levy of sales tax as it was included as entry 12 in the Third Schedule (list of exempted articles) to the Act. A notification was issued by the Lieutenant Governor, Pondicherry on the 10th October, 1968 by virtue of which this entry was removed from the Third Schedule with effect from 16th October, 1968, and edible oil was made taxable at 2½ per cent multi-point. This levy was decided upon by the Government of Pondicherry because edible oil was being taxed at 3 per cent. multi-point

Shri S. Ponnurangam, Sri Lakshmi Oil Mills, Pondicherry and other Mill owners in Pondicherry. Levy of sales tax on edible oils in the Union territory of Pondicherry — Protest from edible oil merchants of Pondicherry.

in the adjoining areas of the State of Madras and there were reasons to believe that some mill owners in Madras State were utilising the exemption available in Pondicherry to transfer edible oils to their depots within Pondicherry and effect sales without payment of sales tax. Moreover, the Union territory was also to raise additional revenue for a larger Fourth Plan and, therefore, felt that levy of sales tax at 2½% multi-point on edible oil might achieve the double purpose of augmenting the revenue and preventing the evasion of sales tax by mill owners in the adjoining State.]

A number of representations were received by the Government of India against this and certain other levies imposed by the Pondicherry Government. The matter was gone into and it was considered that the Pondicherry Government should appropriately bring forward legislation to give effect to such taxation proposals as soon as the Legislative Assembly was convened. They were accordingly advised to rescind the notification imposing the levy of sales tax on edible oils. This was done on 4th December, 1968 [vide copy of Pondicherry Government's notification enclosed G.O.Ms. No. 339, dt. 4-12-68 put in Gazette Extraordinary, Pondicherry]—not reproduced.

7. Shri C. V. Varad, Bombay.

Use of Pictorial Representation of National Flag and Parliament House-Emblems and Names (Prevention of Improper Use) Act, 1950 by Y.M.C.A., New Delhi.

[*Commerce-Export Inspection Section*].

The use of the name and pictorial representation of Parliament House and National Flag is prohibited under the provisions of Emblems and Names (Prevention of Improper Use) Act, 1950 read with items No. 3 and No. 17 of the Schedule, for commercial purposes. It may be observed from Section 3 of the Act that it gives powers to the Central Government to allow the use of prohibited names and emblems for commercial purposes on being approached, under such conditions as it may prescribe. In the present case, the Y. M. C. A. Tourist Hostel, did not approach this Ministry for permission to the use of the two emblems on napkins. It is added in this connection that, even if the Government were approached, permission would not have been granted for commercial purposes in respect of these two emblems.

In view of the above, penal action can be taken against Y.M.C.A. Tourist Hostel

under the provision of the Act. It is proposed to ask the Delhi Administration to take necessary action in the matter.

8. Shri C. V. Varad, Bombay.

Use of the pictorial representation of National Flag and Parliament House-Emblems and Names (Prevention of Improper Use) Act, 1950 by M/s. Ayurvedic Sevashram, Udaipur.

[Commerce-Export Inspection-Section]

The use of the name and pictorial representation of Parliament House and National Flag is prohibited under the provisions of Emblems and Names (Prevention of Improper Use) Act, 1950, read with item 3 and No. 17 of the Schedule for commercial purposes. It may be observed from Section 3 of the Act that it gives powers to the Central Government to allow the use of prohibited names and emblems for commercial purposes on being approached, under such conditions as it may prescribe. In the instant, M/s. Ayurved Sevashram Pvt. Ltd., Udaipur did not approach this Ministry for permission to the use of the aforesaid emblems in their business advertisements. It is added in this connection that, even if the Government were approached, permission would not have been granted for commercial purposes in respect of these two emblems.

In view of the above action can be taken against M/S. Ayurved Sevashram Pvt. Ltd., Udaipur under the provisions of the Act.

The fact, however, is that the pictorial representation of Parliament House appears very freely in many of the newspaper advertisements including the regular feature in 'Blitz' carrying the picture of Parliament. The offences under the Emblems and Names (Prevention of Improper Use) Act are non cognizable and as such unless any specific case is brought to the notice of the Government of India by a State Government, no action is taken by the Central Government against infringement under this Act. It will also be appreciated that it is wellnigh impracticable for the Central Government to keep a track or institute a machinery all over the Country about the infringement committed by various newspapers, publishers etc. Before however the Government of Rajasthan is asked to take action in the present case, views of Lok Sabha Secretariat, and that if the Department of Parliamentary Affairs will guide this Ministry in taking further action in the matter.

*Observation of the Committee.*—The Committee would suggest that Government might in consultation with the Ministry of Law, consider amending the Act, to make such

offences cognizable and to intimate the results of such consultation to the Committee in due course.

9. Shri Ratan Lal, M/s. Murlidhar  
Manohar Lal, Jullundur. Settlement of Old Claims

[Railways (Railway Board)].

On receipt of a complaint made by M/s. Murlidhar Manohar Lal of Jullundur City in July 1967 & addressed to the then Minister for Railways, the matter was enquired into in detail. In October 1967 the complainant made another complaint to the Minister for Railways. While some of the cases mentioned in the earlier complaint were repeated in the fresh complaint some fresh cases were also included. Enquiries were conducted in *re*: to these fresh cases also.

Before the enquiries could be completed the party made yet another complaint addressed to various Members of Parliament and a copy was received by the Minister for Railways also. All the cases represented by the party were examined in this Ministry in considerable detail and it was seen that most of them had been correctly dealt with, but in a few others there was room for re-consideration. In respect of cases of the later category the Railway was asked to reconsider. There were a few cases which could not be connected for want of full particulars and

the Railway was asked to obtain the required particulars from the party and to settle the claims if not already done.

10. Indian Statistical Institute Workers Organisation, Department of Statistics, Cabinet Secretariat, New Delhi. Service Grievances of the Employees.

[Cabinet Secretariat Department of Statistics]

Indian Statistical Institute Review Committee recommendation relating to re-organisation of NSS work is still under consideration. It involves many complex technical, administrative and organisational issues.

The workers of the Institute have, in their petition, reiterated the following demands, for a categorical assurance on :—

- (a) job securities of all the workers;
- (b) Stability of the present NSS unit in Delhi; and
- (c) the present service conditions of all the workers.

The representatives of the ISI Workers Organisation, accompanied by certain Hon'ble Members of Parliament, have met the Prime Minister twice on 26-6-67

and 18-3-68. During these discussions, and while answering Questions in the Parliament, Prime Minister observed that every effort would be made to safeguard the interests of the Workers.

The Committee note that earlier the Department had forwarded the following note *re:* action then being taken on the Indian Statistical Institute Review Committee's recommendations:—

The Indian Statistical Institute Review Committee has recommended drastic changes in the National Sample Survey work and set up both inside the Institute and outside it. Government have appointed a working Group under the Chairmanship of Shri V.G. Pendharkar, Economic Advisor, Reserve Bank of India, to look into the practical implications of these recommendations. The Report of the Working Group is expected to be received shortly. Thereafter, it is proposed to have discussion with the representatives of the Institute to find out the possibility of reaching agreed conclusions.

On the 26th June 1967, representatives of the ISI Workers' Organisation, Calcutta, accompanied by Shri Niren Ghosh and Shri S. M. Banerjee, Members of Parliament, met the Prime Minister, later they



met the Cabinet Secretary. The Prime Minister assured them that their views would be given due consideration while taking final decisions on the recommendations of the review Committee.

11 Shri C. Keshaviah Naidu, Chittor, Fixation of photographs of licences on their arms licences.  
Dt. Andhra Pradesh.

[Home Affairs IV Section]

In their Sixth Report, First L. S. and Seventh Report, 2nd Lok Sabha the Committee had recommended implementation of this suggestion of the petitioner contained in 2 of his Petitions presented to the House. In their Eighth Report, 2nd Lok Sabha, the Committee had acceded to the representation made by the Ministry of Home Affairs *re*: objections raised by State Governments and decided not to pursue the matter further for the present. After perusing this recommendation received during this Lok Sabha, the Committee had felt that the argument of likely strong opposition from persons observing purdah, had not much force in as much as any person with purdah if applying for a Passoport had to get a photograph. It was also felt that such cases might be very

very small or rather negligible and desired that the case be reopened.

The Committee are gratified to note the following reply of the Ministry, implementing, the Committee's recommendation and the petitioner's suggestion in the light of above observations :—

“The matter has been reconsidered by this Ministry in the light of the recommendations made by the Committee on Petitions of the Lok Sabha from time to time communicated to this Ministry in the Lok Sabha Secretariat u. o. No. F. 23 CII/68, dated the 8th April, 1968. It has been decided to accept the recommendations of the Committee to provide for in the Arms Rules for the affixation of the photographs of the licences in their arms possession licences. The Arms Rules 1962 have since been amended *vide* this Ministry's Notification No. F. 38/17/63-P.IV dated the 11th February, 1969 (See Annexure I).

12 Shri Asa Ram Sharma, Ghaziabad International non-payment of Provident Fund amount.

[Labour, Employment & Rehabilitation Department of Labour & Employment].

It has been reported by the Provident Fund Authorities that no claim in the prescribed form has been received in the Regional Office, Calcutta from the member till

September, 1968. The claimant was advised by the Regional Provident Fund Commissioner on 28th July, 1968 to prefer the claim in Form 19 for payment. The claim form was received from the member on 10 September, 1968 and it was authorised for payment on 23rd September, 1968. The claim of Shri Asa Ram Sharma has since been finally settled by remitting to him a sum of Rs. 256.85 which was received by him on the 30th October, 1968.

13 Shri Rameshwarlal Reiwās, M/s. Provision of a telephone.  
Maida Mill Machinery Co.,  
Faridabad.

[P&T Deptt. (DGP&T)].

A telephone connection No. BLB 33 has been provided for the party on 27-11-68. (Note: This is a case of quick redress within 4 months from receipt of the representation).

14 Shri L. B. Ajwani, President, All India Depositors Association of old N.W.R. Employees Co-operative Credit Society of Lahore, now at New Delhi.

Refund of deposits made in N.W.R. Employees' Co-operative Credit Society Ltd., Lahore in Pakistan.

[Railways (Railway Board)].

The following points have been raised :—  
(i) Only 51% of each member's deposit has been received and that too without interest.

(ii) The Northern Railway has not actively pursued the matter.

(iii) Debentures and securities of the society have not been realised.

The comments on each of the points mentioned above, according to the information available in the Ministry of Railways, are as under :—

(i) After Partition, the members of the N.W.R. Employees Cooperative Credit Society Ltd., Lahore, who opted for India, formed a counterpart society at Delhi under the Displaced Persons (Debt Adjustment) Act 1951. A Liquidator was appointed by the Registrar, Cooperative Societies, Delhi, who collected the available assets in India and out of the proceeds could pay only 51% of the verified claims of Depositors. The realisation of the assets and subsequent payment to the claimants was the function of the Liquidator under the guidance of the Registrar, Cooperative Societies, Delhi. The Railway Administration only assisted the Liquidator wherever possible. Since even the verified claims could not be met in full, the question of payment of interest does not arise.

(ii) Collection of assets and subsequent discharge of liabilities was done by the Liquidator under the orders vested in him by the Registrar of Cooperative Societies, Delhi, under the Cooperative Societies Act. The Northern Railway Administration had assisted the Liquidator wherever such assistance had been sought for by him.

(iii) It is understood that the Liquidator had moved the Ministries of External Affairs and Finance for the realisation of different securities, the scrips of which are not available. Chances of realisation of the securities in question appear remote as will be seen from the Ministry of External Affairs' O.M. No. PII/275/4/66. dated 6-6-1968 and its enclosure.

It is understood that Shri Ajwani had all along been associated in all matters by the Liquidator and, therefore, he is fully aware of the developments and the present position.

The Liquidator is directly working under the control of the Registrar, Cooperative

Societies, Delhi and the entire matter relating to the collection of assets, if any, and settlement of claims rest with him.

15 Shri Dhirubhai Mehta, Bombay

Raising the present Income-tax [Finance (Deptt. of Revenue & Insurance)] slab.

Shri Dhirubhai Mehta in his letter, dated 23-8-1968 addressed to the Deputy Prime Minister urged the raising of the exemption limit for charge of income-tax to at least Rs. 7,500, if not Rs. 10,000, on the ground that the value of rupee had fallen considerably. On 13-9-1968 he sent a letter to the Prime Minister enclosing a copy of his earlier letter addressed to the Deputy Prime Minister on 23-11-1968 he sent another letter addressed to the Deputy Prime Minister enclosing a copy of his letter addressed to the Prime Minister.

At the time of formulating Budget proposals for the year 1968, the recommendation of Shri S. Bhoothalingam in his Final Report on Rationalisation and Simplification of the tax structure, for raising the exemption limit for purposes of income-tax in the case of resident individuals from the existing level of Rs. 4,000 to Rs. 7,500 was carefully examined. However, this recommendation was not found to be acceptable to the Government.

The present exemption limit of Rs. 4,000 is about seven times the national *per capita* income of our country. The total number of income-tax payers is only about 1/2% of our population and if the exemption limit were to be raised, as suggested, the proportion would be reduced to 1/4% only. In Government's view, income-tax should be broad-based covering ultimately about 20%—30% of the population. As quite a substantial part of the incomes generated through the developmental programmes of the Government have arisen in the lower brackets it was not considered desirable to raise exemption limit.

16 Shri B. Jones, Asstt. Office Supdt.,  
FCI Gorakhpur Division.

Service grievances.

[Petroleum and Chemicals]

The subject matter of the petition under consideration deals with the day-to-day affairs of the FCI, Gorakhpur Division an autonomous public sector undertaking. Persons aggrieved at the decisions or action taken by the Company can seek redress under the rules and regulations of the Company.

17 M/s. United Biscuit Company, Calcutta. Non-release quota of maida allotted.

[Food and Agriculture (Department of Food) Flour Mills Section].

Prior to 16-7-1967 the requirements of maida of the Biscuit Factories in the States were met by the State Government concerned from 16-7-1967 the Government of India started making direct allocation of wheat to some of the roller Flour mills for production and supply of maida to some of the Biscuit Factories. Only the Factories that were members of the F.B.M.I. as well as those that were borne on the list of the Dte. General of Technical Development at the time of introduction of this scheme of central allocation of maida referred to above came under it. The United Biscuit Co., Calcutta was not in the list of factories then furnished by the DGTD nor was this factory a member of the Federation of Biscuit Manufacturers of India on that date. In their letter dated 7-3-1968 this factory stated for the first time that they have set up a Biscuit Factory which has already been registered with the D.G.T.D. and requested for supply of 1200 tonnes maida annually. Subsequently, the D.G.T.D. on 21-3-68 intimated to this Ministry that M/s. United Biscuit Co. has been registered with them for manufacture of Biscuits for a capacity of 100 tonnes p.m. and stated that their production will be nearly 50% of their capacity during first few months. The D.G.T.D. recommended a monthly quota of maida of 40 tonnes per month. At that stage the policy relating to Central allocation of wheat for maida for Biscuit Factories was under reexamination and the matter was, therefore, kept pending. The United Biscuit Co., Calcutta, was advised that the requirements of maida of Biscuit factories not covered by the Central allocation have to be met by the State Government and that the State Government should be approached in the matter. It, however, transpired from the subsequent correspondence with the United Biscuit Co., Calcutta, that the State Government on some ground or the other did not supply their maida requirements. The State



Government was then advised to take into account the requirements of M/s. United Biscuit Co., Calcutta, while distributing maida to biscuit factories in the State that were not covered by the Central Scheme. In their later communication dated 4th Dec., 1968, the Government of West Bengal informed this Department that the question of allotting flour to new units has not been decided and that Government's policy in this regard will be formulated and that Government's policy in this regard will be formulated on the basis of the advisory Committee set up for the purpose.

The Government of India have reviewed the policy relating to central allocation of wheat for supply of maida to Biscuit Factories and w.e.f. 1-4-1969 the Central allocation of wheat for Biscuit Factories covers requirements of maida of all factories of capacity of 25 tonnes per month or more as reported by the State Governments concerned. A copy of this Ministry's letter No. 7(6)/67-FM (Vol. II), Dated 3rd April, 1969 (See Annexure II) issued in this connection to the West Bengal Government is placed below. It will be observed from this letter that under the revised scheme enforced from 1-4-1969 the requirement of M/s. United Biscuit Co. Calcutta are also covered by Central allocation as in the case of other factories of a capacity of 25 tonnes per month or more.

ANNEXURE I TO APPENDIX VII, Pt. II

(See Item 11 Supra)

NO. F. 38/17/68-P. IV

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

NEW DELHI-1, the 11th February, 1969|22nd Magha, 1890

NOTIFICATION

In exercise of the powers conferred by section 41 of the Arms Act, 1959 (54 of 1959) the Central Government hereby makes the following rules further to amend the Arms Rules, 1962, namely:—

1. (1) These rules may be called the Arms (Second Amendment) Rules 1969.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Arms Rules, 1962,
  - (1) in rule 51, after clause (d), the following clause shall be inserted, namely:

“(e) where an application is for the grant of licence in Form II, Form III, Form III-A, Form IV, Form V or Form VI, from a person other than a *bona fide* tourist as defined in section 10(1) (b) of the Act, it shall be accompanied by two passport size copies of the latest photograph of the applicant”;
  - (2) in rule 52, for sub-rule (1), the following sub-rule shall be substituted, namely:

“(1) A licence in Form II, Form III, Form III-A, Form IV, Form V or Form VI, if granted for more than a year, to a person other than a *bona fide* tourist as defined in section 10(1) (b) of the Act, shall be in book-form and shall contain the latest photograph of the licensee.”

Sd/- D. D. JOSHI,  
Deputy Secretary to the Govt. of India.

ANNEXURE II TO APPENDIX VII PT. II

[See Item 17 (*Supra*)]

No. 7 (6) |67-FM (Vol. II)

GOVERNMENT OF INDIA

*Ministry of Food & Agriculture*

(DEPARTMENT OF FOOD)

NEW DELHI-1, the 3rd April, 1969.

To

The Secretary to the Govt. of West Bengal.

Food & Supplied Department,

11-A, Free School Street, CALCUTTA.

**SUBJECT:**—*Biscuit Factories—Allocation of wheat for supply of maida—Arrangement for.*

Sir,

I am directed to invite your attention to this Ministry's letter of even number dated the 27th February, 1969 on the subject noted above and to say that in supersession of instructions contained in this Ministry's letter No. 119|9|65-BP.III|FM, dated the 18th July, 1967 the Government of India has decided that w.e.f. 1st April, 1969 the supply of maida on Central Government account to Biscuit Factories will cover only such of them as have a capacity of 25 tonnes or more per month. On the basis of information received from you and that available in this Ministry, it has been noted that the following Biscuit Factories are eligible for receiving maida from the Central scheme.

The names of Roller Flour Mills from which the Biscuit Factories have expressed their desire to draw their requirements of maida have also been indicated against each factory.

Sl. No.	Name of Factory	Monthly requirement of maida (Tonnes)	Name of Roller Flour mill from which supplies are required
1	Britannia Biscuit Co., Calcutta . . . . .	1080	M/s. Bengal Flour Mills Co. Ltd., Calcutta /M/s. Hoogly Flour Mills Co., Ltd., Calcutta.
2	Lily Biscuit Co., Calcutta . . . . .	367	
3	Santosh Biscuit Co., Calcutta . . . . .	88	
4	Kamla Biscuit Co., Calcutta . . . . .	59	
5	Zinath Biscuit Factory, Calcutta . . . . .	71	
6	East Bengal Biscuit Factory, Calcutta . . . . .	29	
7	Aryana Bakery, Calcutta . . . . .	36	
8	Kolay Biscuit Co., Calcutta . . . . .	527	
9	Diamond Biscuit Co., Calcutta . . . . .	54	
10	Raj Kamla Biscuit Co., Calcutta . . . . .	44	
11	Chandan Bakery & Biscuit Co., Calcutta . . . . .	26	
		26	
12	Ram Krishna Biscuit Factory., Calcutta . . . . .	80	
13	Janta Bread & Biscuit Factory, Calcutta . . . . .	25	
14	Orient Biscuit Co., Calcutta . . . . .	35	
15	Hindu Bakery, Calcutta . . . . .	36	
16	Arya Bakery, Calcutta . . . . .	36	
17	United Biscuit Co., Calcutta . . . . .	100	
		2683	

2. Now that the State Governments are the controlling authorities of the roller flour mills, it will be their responsibility to ensure that each Biscuit Factory gets its due share of maida each month. In case of non-drawal of maida by any of the factory in any month the quantity of maida that becomes so available will be taken over by the State Government for utilization in their general distribution plan.

3. As stated above this scheme covers the requirements of maida of Biscuits Factories with a capacity of 25 tonnes or more per month and therefore the requirements of Biscuit Factories having a capacity of less than 25 tonnes per month will be met by the State Government in the same manner as heretofore.

4. It is needless to say that the availability of wheat with the Centre continues to be limited and it is not possible at present to guarantee supply in full of the requirement of maida of Biscuit Manufacturers of capacity of 25 tonnes per month or more. The extent to which requirement will be met in each months will depend on the availability of wheat with the Centre and the quantity of wheat that may be specifically allotted to meet the requirement of Biscuit Manufacturers each month. This wheat will be placed at the disposal of the State Government who will merge the special allocation in the normal quota of wheat that the State Government decide to allot to the mills and the total quantity distributed prorata among the Mills in the State. The Mills from which the supplies are to be drawn by the Biscuit Factories concerned, may be selected in consultation with the Biscuit factories concerned and the flour mills so selected may be asked to manufacture and supply maida to the Biscuit Factories concerned. The Government of India will allot extra wheat to the State Government for this purpose on the basis of 65 per cent extraction of maida.

5. The receipt of this letter may please be acknowledged and it may be confirmed that action is being taken accordingly.

Yours faithfully,  
Sd]- K. B. THIAGARAJAN  
Under Secretary to Govt. of India

Copy to:

1. The Regional Director (Food), Calcutta.
2. F.B.M.I., 17, Alipore Road, Delhi
3. D.G.T.D. (Paints & Food Dtc.), Udyog Bhavan, New Delhi.
4. Biscuit Factories concerned.
5. B.P. IV|BP. I
6. Guard file.

Sd]- U. S. PANDE  
for Under Secy. to Govt. of India.