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COMMITTEE ON PETITIONS

(TENTH LOK SABHA)

SIXTH REPORT

[Presented to Lok Sabha on 4 May, 1993]

LOK SABHA SECRETARIAT
NEW DELHI

April, 1993/*Chaitra*, 1915 *(Saka)*
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SIXTH REPORT OF THE COMMITTEE ON PETITIONS

(TENTH LOK SABHA)

INTRODUCTION

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

(1) Petition No. 12 regarding repeal of Delhi Rent Control Act and certain suggestions to deal with the problems of house-owners.

(2) Petition No. 13 regarding resettlement of migrants in Delhi who migrated from the erstwhile East Pakistan during 1.1.1964 to 25.3.1971.

(3) Petition No. 16 regarding passenger halt and mini Railway Station at Shyamacharanpur, Dhenkanal, Orissa.

(4) Action taken by Government on the recommendations contained in their Eighth Report (Eighth Lok Sabha) of the Committee on Petitions on the representation regarding non-refund of fixed deposits by various companies.

2. The Committee considered the draft Report at their sitting held on 13 April, 1993 and adopted it.

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

NEW DELHI;
April 13, 1993
Chaitra 23, 1915 (Saka)

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

I

PETITION NO. 12 REGARDING REPEAL OF DELHI RENT CONTROL ACT AND CERTAIN SUGGESTIONS TO DEAL WITH THE PROBLEMS OF HOUSE-OWNERS

1.1. Shri Tara Chand Khandelwal, M.P., presented to Lok Sabha on 23 March, 1992, Petition No. 12 (*See* Appendix-I) signed by Shri R. C. Gupta, working President of Delhi Pradesh House Owners Association for repeal of the Delhi Rent Control Act and also made certain suggestions to deal with the problems of house-owners.

1.2. The petition was referred to the Ministry of Urban Development on 23 March, 1992 for furnishing their factual comments on the points raised in the petition for being placed before the Committee on Petitions for their consideration. The Ministry of Urban Development *vide* their O.M. dated 28 April, 1992, furnished their parawise comments.

1.3. The suggestions made by the petitioner and the comments thereon furnished by the Ministry of Urban Development are given below seriatim:—

Suggestions made by the petitioner	*Comments of the Ministry of Urban Development*
(1) The Delhi Rent Control Act should be repealed with immediate effect. Transfer of property Act is sufficient to deal with problems concerning the house-owners and the tenants.	(1) The existing act is proposed to be amended by the Ministry on the lines of the model Rent Control Bill so as to bring about a better balance of the interests of both the tenants and the landlords. The final decision on the matter is yet to be taken.
(2) Panchayat with 3 elected and 2 nominated Panchs for a locality of about 1000 families or 5000 persons should settle all the cases. An Appellate Panchayat may be set up in each district. Very rarely, cases of law point only may go to High Court and/or Supreme Court. Number of	(2) Various suggestions including setting up neighbourhood justice centres have been examined by this Ministry. It has been observed that such agencies do not have judicial powers almost all the cases will go to the Courts for final settlements. It is proposed to devise a two tier

High Courts may be increased in each state so that cases of appeal may be decided in a year at the most.

Any individual, himself or through attorney, should be allowed to take up his case and urge even if the other party or his counsel is unwilling to appear or is on strike.

(3) There must be time-limit for the judgement in every case, may, for every court process and strictly adhered to with unavoidable penalties for disobedience.

Judgement in most cases may be based on petition, written statement and replication. Evidence, if an unavoidable may be only of the plaintiff's and the respondent's and the number of questions and cross questions may be limited, say, 10 each. Only then the questions would be well-thought out and to the point. Questions, cross questions and their replies and the argument may be submitted in witing by a definite date. At the end of the time-limit, the case must be decided on the basis on whatever records are available. If not decided by the time-limit the prayer of the plaintiff may be taken as allowed and implementation must process on that basis.

Court order for payment or deposit in court of the interim relief (damages) every month by the last day of the month must be made within 15 days of the first hearing of the suit and must not be adjourned in any

judicial system for the final disposal of cases as expeditiously as possible.

(3) The Ministry is considering a proposal to amend to constitution empowering the State Govt. to set up Rent Tribunals so as to expedite the entire process of litigation. Individuals will be allowed to plead their own cases in the Tribunals.

In the newly proposed procedure of handling the rent litigation by the tribunals, a time limit of 6 months for finalising the cases has been proposed: The judgement will be based on petition, written statement and replication. It is not, however possible to restrict the number of questions as suggested in the petition as this will be a restriction of legal/statutory rights of the people. Strict penalties will be imposed for giving vexatious/ frivolous reason or for seeking adjournments thereby trying to delay the litigation procedure. There is proposed to be only one appeal to the Rent Tribunal which will finally decide the cases, with a provision only for special leave petition to the Supreme Court.

case. Strict action should be taken against those who do not make such order and continue adjourning, allowing trespasser to continue for years without any payment. Trespasser cannot pay the accumulated damages. Govt. must pay or make the concerned judge pay to the House owner.	
(4) Every tenancy should be for a period as stated in the Agreement note or in its absence, for 3 years. Three years after posting a registered notice with A.D. to quit, whether the case is in the court or not, tenancy must be extinguished and premises vacated.	(4) Model Bill provides for a limited tenancy upto 5 years by agreement between landlord and tenants. On the expiry of the tenancy, the tenant will be automatically liable for eviction.
(5) Jha Commission recommendation regarding increase in rent since independence on the basis of percentage increase in General Price Index must be accepted.	(5) Model Rent Control Law will provide for annual Rent increases in standard rent on the basis of Consumer Price Index.
(6) On the default in payment of rent, deterrent penalty at 1% on monthly rent for each day of default upto 30 days without any notice or suit, must be enforced. Instead of interest of 15% which has no time limit and no effect. After one months default, premises must be vacated.	(6) The Model Bill provides for stringent provisions for dealing with defaulting tenants, and for landlords to move rent controller for eviction.
(7) A Code of Conduct for judges and the lawyers must be framed and acted upon.	(7) The suggestion made by the petitioners for prescribing a code of Conduct for judges and lawyers does not come under the purview of this Ministry.

1.4. While furnishing their comments, the Ministry of Urban Development stated on 28 April, 1992 that the Govt. have recognised at the Rent Control Legislation in many States has resulted in a freeze on old rents, low returns in investments and difficulty for landlords in resuming possession even in genuine cases of hardship and has adversely affected investment in rental housing and caused deterioration in the rental housing stock. A number of expert bodies such as the Economic Administrative Reforms Commission and National Commission on Urbanisation have recommended reform of the rent legislations in such a way that it balances the interest of the landlords and the tenants and also stimulates further construction.

1.5 The Ministry have added that during the year 1988, the Delhi Rent Control Act, 1958 was amended and the main features of the amendments are as under:—

(i) Residential as well as non-residential premises carrying monthly rent exceeding Rs. 3,500/- have been exempted from the purview of the Act. Thus the protection under the Act is not available to higher income groups.

(ii) Premises which are constructed on or after the commencement of the amending Act are exempted from the purview of the Act for a period of 10 years. It is hoped that this will promote housing construction.

(iii) A tenant is not liable to eviction for ten years on the ground that he has built a house of his own. This should also promote housing activity.

(iv) The Standard rent is to be calculated on the basis of 10% per annum of the aggregate amount of the actual cost of construction of the premises on the date of the commencement of the construction of premises.

(v) The standard rent will be increased by 10% every three years to off-set inflation and to make periodical repairs affordable.

(vi) The following categories of persons will be entitled to secure vacant possession of one house for bonafide requirement through summary procedure:—

(a) released or retired persons from any Armed Forces;

(b) dependent of a member of any Armed Force who had been killed in action;

(c) a retired/retiring employee of the Central Government or of Delhi Aministration; and

(d) a widow.

(vii) The tenant is liable to pay interest at the rate of 15% per annum in case of delay in the payment of rent for the period of delay.

(viii) The tenant can remit the rent to his landlord by postal money orders.

(ix) Number of appeals has been reduced from two to one. Further an appeal can be filed only on a question of law and not on facts as was permissible under the Principal Act.

1.6 It has been added by the Ministry that these amendments of the Delhi Rent Control Act were challenged through various writs in the High court and the Supreme Court, but the courts upheld the validity/legality of most of these amendments.

1.7 The Ministry of Urban Development have further stated that with a view to stimulating the investment in rental housing, specifically for the lower and middle income group, the draft national Housing Policy envisaged suitable amendments to the Rent Control Law to be introduced by the State Govts. Rent Control is a State subject and as such the State Govts. have the exclusive jurisdiction to legislate on this subject. The Central Govt. has, however, taken up the preparation of a model legislation for adoption by the State with such suitable modification to suit local conditions, as may be necessary. Such a model legislation would ensure uniformity in the application of the rent laws throughout the country. The Ministry of Urban Development has accordingly, formulated a model rent control law. The draft legislation was discussed in a meeting of the Chief Ministers convened in Delhi in March, 1992. The draft model law has been suitably modified after incorporating the views of the State Governments.

1.8 The Ministry have added that as a parallel exercise amendments to the Delhi Rent Control Act has also been taken up by the Govts. on the lines of the features in the model rent control law.

1.9 The Committee on Petitions, at their sitting held on 8 September, 1992, considered the above matter. In this connection the Committee observed that in July 1992, a Model Rent Control Legislation containing a Policy Paper on amendments to the Rent Control Act had been laid on the Table of the House by the Government. The Committee, therefore, directed that the Ministry of Urban Development might be asked to furnish further information as to what extent the provisions made in the Model Legislation would affect the various points raised in the petition.

1.10 Accordingly, the Ministry of Urban Development were requested on 5 October, 1992 to furnish their revised comments on the various points raised in the petition.

1.11 The Ministry have furnished their further comments on 16 October, 1992 which are reproduced at *Appendix II*. While furnishing their comments, the Ministry of Urban Development have stated that subsequent to the laying of the Model Rent Control Legislation on the Table of Parliament on 16.7.92, the Ministry of Urban Development have undertaken the exercise of amending the Delhi Rent Control Act, on the lines of the provisions of the Model Rent Control Legislation.

1.12 Further on 11 February, 1992, the Ministry of Urban Development informed the Committee that the proposal for amending the Delhi Rent Control Act had been approved by the Cabinet in its meeting held on 8 December, 1992 and the Bill was being prepared by the Law Ministry which was likely to be introduced in the Parliament during the Budget Session.

OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1.13 The Committee have persued the comments furnished by the Ministry of Urban Development and note that the Government have recognised that the Rent Control Legislation in many States have resulted in a freeze on old rents, low returns in investments and difficulty for landlords in resuming possession even in genuine cases of hardship and has adversely affected investment in rental housing and caused deterioration in the rental housing stock. The Committee also note that a number of expert bodies such as the Economic Administrative Reforms Commission and National Commission on Urbanisation have also recommended reform of the rent legislation in a way that balances the interest of the landlords and the tenants and also stimulate further construction.

1.14 The Committee observe that the Ministry of Urban Development have already formulated a Model Rent Control Legislation for adoption by the States with such suitable modification to suit local condition as would provide uniformity in the application of the rent laws throughout the country and the said legislation containing a Policy Paper on amendments to the Rent Control Act has also been laid on the Table of the House by the Government.

1.15 The Committee further note that the proposal for amending the Delhi Rent Control Act on the lines of the provisions of the Model Rent Control Legislation has been approved by the Cabinet and an Amendment Bill in this regard is likely to be introduced in the Parliament during this Session.

1.16 The Committee hope that while preparing the proposal for amending the Delhi Rent Control Act, the Ministry will take into consideration the various suggestions made by the petitioners. The Committee trust that the Government will also adhere to their time schedule for introducing the said amending Bill to the Parliament.

1.17 The Committee hope that the Delhi Rent Control Law when amended should not only balance the interests of the landlords and the tenants, but also stimulate further construction so as to add to the housing stock in Delhi and to ease the housing problem in the Capital.

II

PETITION NO. 13 REGARDING RESETTLEMENT OF MIGRANTS IN DELHI WHO MIGRATED FROM THE ERSTWHILE EAST PAKISTAN DURING 1.1.1964 TO 25.3.1971.

2.1 Shri Manoranjan Bhakta, M.P., presented to Lok Sabha on 23 March, 1992, a petition [No. 13-*See* Appendix-III] signed by Dr. J. C. Roy, President, New Migrants Welfare Association, New Delhi, regarding resettlement of migrants in Delhi who migrated from the erstwhile East Pakistan during the period 1.1.1964 to 25.3.1971.

Petitioners' grievances and demands

2.2 In their petition, the New Migrants Welfare Association, New Delhi which has a membership of about 425 families migrated from the erstwhile East Pakistan to India between 1.1.1964 to 25.3.1971 have raised the problem of their housing and requested to solve it by getting them residential plots/houses allotted in Delhi, the petitioners have *inter alia* stated as follows:—

> "The unprecedented heinous communal riots and Atrocities engulfing the entire East Pakistan from January, 1964 caused a heavy exodus of over 11 lakhs of Hindu minorities into India with empty hands only to save their lives and honour and also to settle down permanently in India. These persons displaced during the period from 1.1.1964 to 25.3.1971 have been termed by the Govt. as "New Migrants" and sheltered most of them in various Central Govt. Refugee camps opened in different States. The non-camp new migrants who secured jobs or other professional alternatives did not feel the necessity of taking shelter in such Refugees camps and thus did not create any burden on the Govt. of India Ex-chequer. But both the categories were equal sufferers having lost all their *moveable* and *immoveable* ancestral properties there and accordingly, both the groups must be treated at par so far as rehabilitation benefits are concerned.
>
> With the Shrinkage/abolition of the refugee camps from 1979-80 onwards, the new migrants employed in such camps were started to be transferred/redeployed in phases in Govt. offices in various stations including Delhi though the surplus cell of the Ministry of Home Affairs, till 1.10.1988. The non-camp new migrants (service holders & traders) also came to Delhi

from time to time. These migrants have not been given any housing rehabilitation anywhere in India."

The petitioners have further stated that as per the policy of rehabilitation of the migrants from the erstwhile East Pakistan as adopted by the Government of India, the Rehabilitation package of such migrants included rehabilitation in the form of Agriculture, Self-employment, Industries, Small Trades, Govt. Service in addition to residential Housing as common basic item to each category. According to the petitioners, it therefore, implies that the rehabilitation in any of the aforesaid forms is not complete unless residential housing is provided, and in tune with these principles, each of the rehabilitated new migrant families whether belonging to Agriculture, Small Traders or employments has been invariably provided with residential houses as a compulsory basic item. The petitioner have added that the pre-1964 migrants including service holders and traders from the erstwhile East Pakistan as well as the West Pakistan have been resettled in Delhi with service, business facilities and homestead plots/houses.

2.3 The petitioners have also informed the Committee that during the last 11 years, they have exhausted all the other avenues of the Government to settle this problem. It has been stated that they have represented their case to the Prime Minister number of times and other concerned authorities through various Members of Parliament but nothing has been achieved so far.

2.4 The petition was referred to the Ministry of Urban Development and the Ministry of Home Affairs on 27 March, 1992 and 18 May, 1992, respectively, for furnishing their comments on the points raised in the petition. The Ministry of Urban Development *vide* their communication dated 7 May, 1992, (See Appendix IV) have stated that most of the points regarding rehabilitation benefits to the so called 'New Migrants' concern the Rehabilitation Division of the Ministry of Home Affairs.

2.5 The Ministry of Home Affairs *vide* their communication dated 17 June, 1992 (See Appendix V) have furnished their comments stating *inter alia* that there was never any scheme for allotment of residential plots to the New Migrants in Delhi. In case any new scheme is sanctioned exclusively for the members of the Association, it would give rise to a spate of similar demands from lakhs of other new migrants for allotment of lands in Delhi. Wave after wave of employed new migrants posted at other places might come to settle down in Delhi and demand for allotment of residential space. It would be extremely difficult to

assess the quantum of land and funds required for sanctioning a new scheme which would cover all those new migrants who may come forward with such damands.

2.6 After considering the points raised by the petitioners and the comments furnished by the Ministry of Home Affairs thereon, the Committee at their sitting held on 8 September, 1992 decided to hear the views of Shri Manoranjan Bhakta, M.P. who had presented the petition to the House and also the representatives of the Association and if necessary, take oral evidence of the representatives of the Ministries of Urban Development and Home Affairs, before the final view was taken by the Committee in the matter.

2.7 The Committee (i) heard the views of Shri Manoranjan Bhakta, M.P.; and (ii) examined the representatives of the New Migrants Welfare Association, New Delhi, on 25 September, 1992.

The Committee also examined the representatives of the Ministries of Home Affairs and Urban Development on 10 February, 1993.

2.8 While giving his views before the Committee, Shri Manoranjan Bhakta, M.P. stated:

> "It is more or less a human problem from the humanitarian aspect rather than legal aspect. The basic question is, what is the definition of rehabilitation. It may vary from scheme to scheme. The Government have introduced many schemes. It must also have a scheme where dwelling units should be provided. Without that, the very purpose of rehabilitation gets defeated.
>
> In this case, the Government have never denied that they are not the migrants. All the time, the Home Ministry are saying in their replies that they agree that they are the migrants families but the only question that arises is that they have been given jobs. So, no further rehabilitation liability will be taken up by the Government. Take the example of a farming family. If you do not provide them land and other agricultural inputs, then what is the use. So, simultaneously, there should be a provision made for giving them dwelling units.....Government have done enough. If anybody says that, if this request is also acceded to, it will become floodgate, then that is wrong. It cannot become a floodgate. Can you tell me how many such organisations have approached this Committee? If you could call for their files, then you could see, for how long they are struggling with their grievances. Many other organisations are also struggling. It is not like that once you accede to this organisation request the other organisations may also come out with such requests. This is a very genuine demand and I would request the Hon. Chairman and the Hon. Members of the Committee to kindly have a sympathetic look and do the needful.

2.9 Explaining the reasons for exclusion of those 400 families, Shri Manoranjan Bhakta, M.P. stated that three categories of people had been covered—one was agricultural, then business, service and artisans. For two categories, houses had been given. Another category had been fighting except that the Government had given jobs to some of them and hence dwelling units had not been given.

In thier written reply, the Ministry of Home Affairs stated that according to the policy laid down, the New Migrants from the erstwhile East Pakistan who migrated during the period 1.1.1964 to 25.3.1971 and got employed were deemed to have been rehabilitated and were not entitled to allotment of plots and that too in Delhi.

Further, similar demands have been raised by other Associations as well as individuals, such as the All India Udbastu Association, New Delhi and that several hundred ex-employees of Dandakaranya Project which is practically wound up, are redeployed in Delhi. In the event of any housing scheme being sanctioned for the members of New Migrants Welfare Association, there is every possibility that these ex-employees of Dandakaranya Project would raise a similar demand.

2.10 Commenting upon the petitioners' contention that rehabilitation was not complete unless the residential houses were provided, the representatives of the Ministry of Home Affairs during the course of evidence stated:

> "The total scheme of assistance to be provided to these migrants who came after 1964 was aimed at providing immediate succour to allow them to stand on their own feet. They were taken to the camps, doles, etc. were provided to them and all the orders that we have seen for that period, indicate that attempt was to somehow try to settle them down either in agriculture or in employment or in self-employment, trades, etc."

In a post evidence reply, the Ministry of Home Affairs have further stated that the contention of the petitioners that their rehabilitation is not complete unless the residential housing is provided to them in Delhi, is not valid. Most of the members of the Association were regular employees of Mana Transit Camps, a Central Government Office, till it was finally closed on 1.10.1988. The employees of Mana Transit Camps, besides regular employment, were also provided with residential accommodation till they continued to be employed with the Mana Transit Camps. Those of the regular employees, who were inmates of the Camp were eligible for availing of housing loans in the initial period as displaced persons within the parameters of the policy framework. Those members of New Migrants Welfare Association who secured jobs or got settled in other professional alternatives and did not seek admission in the camps specifically set up for the New Migrants, were not at all entitled to any rehabilitation assistance as the very policy for the New Migrants laid down admission into the

camps as one of the essential conditions of eligibility for rehabilitation assistance. Whereas according to Government of India Order No. 12 (17)/ 75-RH 5 dated 16.2.1977 regarding grant of financial assistance to non-agricultural new migrants from former East Pakistan for housing in urban and rural areas, there is a provision for homestead plots or built up houses also. It has also been informed to the Committee by the petitioners that under the said Orders 44 families of new migrants were allotted plots in Chanderpur (MS).

2.11 During the course of evidence, the Committee enquired why different policy was adopted for the pre-1964 migrants and post 1964 migrants for erstwhile East Pakistan, the representative of the Ministry stated as under:

> "Prior to 1964, the whole migrants were those who were directly affected by the partition. In 1950 or so there was a decision which was taken that people who come thereafter will have to produce some migration certificate and some specific categories like children, orphans were allowed some exemption."

2.12 Regarding New Migrants, during evidence, the representative of the Ministry of Home Affairs stated:

> "After 1964, because of certain difficulties in East Pakistan and atrocities committed there, much influx started coming to India. It was decided that apart from these people other would also be allowed to come in and they would be given temporary relief and assistance and they would be brought in and kept in camps for as little a period as possible and efforts would be made to settle them in vocations."
>
> He added:
>
> "It was not a very well-enunciated policy as such. It was a Cabinet Note, on which Government approved it. It was on 6th February, 1964 when this note was considered by the Government in which some decisions were taken regarding relief and rehabilitation benefits to be extended to migrants on production of migration certificate to those who came before 1st January, 1964 and separate rules for those who came after 1st January, 1964 and about camps to be provided for their benefits etc."

2.13 Clarifying the position in their post evidence reply dated 19 March, 1993 the Ministry of Home Affairs further stated that soon after partition a very large number of people fled from the newly created East Pakistan. Most of these people came between 1947 to 1951. These people were compelled by the Partition to seek shelter in India because they considered Indian their homeland and also because of the unprecedented massacre that followed the Partition. These were Indian citizens who had been uprooted from their homeland because of a political event and were thus

turned into refugees in their own country. The National Government felt obliged to utilise all the resources available with it to resettle them, wherever possible. By 1952, the need was felt to take steps to regulate the entry of fresh migrants into India. The migration was allowed now on the basis of migration certificates. In 1956, the Government took further steps to regulate the influx by indicating the following priorities with due regard to which migration certificates were issued by the Indian Deputy High Commissioner in Dacca:

(i) Orphans with no guardians in East Pakistan;

(ii) Unattached women and widows with no means of livelihood in East Pakistan;

(iii) Grown-up girls coming to India for marriage; (The migration certificate in such cases were to be issued only to the girl concerned)

(iv) Wives joining husbands in India;

(v) Families living in isolated parts.

The introduction of first the migration certificates and then the priorities clearly indicates that from 1952 onwards the migration was viewed not as an immediate consequence of partition. Those who continued to stay on in East Pakistan even after 1952 were to be admitted only selectively. In fact in 1957 it was decided that no relief or rehabilitation benefits would be given to the persons migrating to India after 31.3.1958.

2.14 During the course of the evidence, the representative of the Ministry of Home Affairs submitted a copy of the extracts from Cabinet note dated 6.2.1964 which read, as follows:

> "In order to deal with the new situation that has arisen it will be necessary to strengthen the Department of Rehabilitation at New Delhi and also to set up an office in Calcutta depending upon the size of the problem.
>
> To set up, the approval of the Rehabilitation Committee of the Cabinet is requested to the following proposals:
>
> (1) Relief and rehabilitation benefits may be extended to (a) the migrants coming to India on migration certificates issued on or after the 1st January, 1964 and (b) the migrants who come to West Bengal without any travel documents provided that they are certified by the Government of West Bengal as *bona fide* migrant and that they come to India on or after the 1st January, 1964.
>
> (2) The new migrants may be taken direct to Dandakaranya where in the first instance they may be accommodated in transit centres and later moved to permanent rehabilitation sites. No camps should be opened in West Bengal.

(3) The Governments of Madhya Pradesh, Orissa, Maharashtra and Andhra Pradesh may be requested to make available sufficient lands immediately for the resettlement of the new migrants.

(4) A massive programme of medium and minor irrigation may be undertaken.

(5) Schemes of cottage and small scale industries may be organised on an extensive scale.

(6) The field organisations in Dandakaranya may be strengthened both in staff and by way of additional equipment.

(7) The Department of Rehabilitation at New Delhi may be strengthened to deal with the problems relating to the new migrants and an office may also be opened at Calcutta.

The details will be worked out and sanctions issued with the concurrence of the Ministry of Finance.

This note has been seen and approved by the Minister of Works, Housing and Rehabilitaton. In view of the shortage of time it has not been possible to secure concurrence of the Ministries of Home Affairs, External Affairs and Finance, but copies have been endorsed simultaneously to them."

2.15 As regards extending relief/assistance of new migrants the Ministry in a post evidence reply stated that the Government decided, on purely humanitarian grounds, to liberalise the conditions for the grants of migration certificates to the new migrants. They were also provided with relief assistance necessary to enable them to stand the immediate shock of migration and to stand on their own feet. However, 25.3.1971 was fixed as the cut-off date for the refugee status and those who entered India after 25.3.1971 were not treated as refugees and were not provided any relief or rehabiliation assistance.

2.16 When asked whether different policy was adopted for different category of migrants *i.e.* agriculture, business and service class, the representative of the Ministry informed during the course of evidence that:

"In all the three categories, one thread is common. That is, some assistance to be provided by the State so that these people are no longer a burden on the State. Therefore, in the case of agriculture, an attempt was made to provide them with an agriculture holding. the area so selected was a difficult place and the people would not have gone there. So, even the land levelling and other provisions were made. Similarly, in the case of self-employed, assistance was provided and also employees in service. Once a person was given a job and he took it up, the each dole ceases to exist after one month.

In all these categories, same attitude is reflected."

The representative further stated pro 1964 migrants were being given assistnace only on the 'need to help' basis.

2.17 When asked to state whether there are instances where new migrants have been provided both employment as well as residential plots in Delhi or outside Delhi, the Ministry of Home Affairs in their post evidence reply dated 19 March, informed the Committee that there are no instances where new migrants were provided with both employment and residential plots in Delhi. Outside Delhi, some employees of the Dandakaranya Project were provided houses as hardship cases because Dandakaranya was an agricultural project and some of the employees were forced to live and work in unfavourable conditions.

2.18 In their post evidence reply dated 19 March, 1993, the Ministry of Home Affairs have also informed the committee that it is not possible for the Government to consider any proposal for allotment of plots/dwelling units to the members of New Migrants Welfare Association in Delhi or in any other area of the National Capital Region as they are not eligible for any housing assitance within the parameters of the existing policy of the Govenment.Those who were rehabilitated on a job were the most securely rehabilitated refugees as they were not subject to the vagaries of agricultural seasons nor to the uncertainities faced by a self employed in his/her career. Having put in long years of service, the members of the Association should consider themselves like normal employees and should have availed themselves of various housing schemes offered by the Delhi Development Authority (DDA), NOIDA, Ghaziabad Development Authority (GDA), Haryana Development Authority (HUDA).

OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

2.19 The New Migrants Welfare Association, New Delhi having membership of about 425 families migrated from the erstwhile East Pakistan to India between 1.1.1964 to 25.3.1971 made a demand for providing residential plots/houses in Delhi. Most of the members of this Association were regular employees of Mana Transit Camp—A Central Government Office and some were non-camp new migrants who secured job or took up professional alternatives in their own. Consequent upon the gradual winding up of the Mana Transit Camp, the employees including the transit camp members of this Association, were declared surplus. They were transferred/ redeployed in phases in various stations including Delhi through the Surplus Cell of the Ministry of Home Affairs till 1.10.1988. These new migrants (camp as well as non-camp new migrants) were, however, not given any housing rehabilitation, even though Government accepted that all persons who migrated from erstwhile East Pakistan till 25.3.1971 were bonafide refugees.

2.20 According to the petitioner, rehabilitation was incomplete without providing of housing resettlement. As per the information furnished by the Ministry of Home Affairs (Rehabilitation Department) Government was under no obligation to provide housing accommodation to new migrants in Delhi or in national capital region. New Migrants who migrated to India

from erstwhile East Pakistan due to communal riots in January 1964 in East Pakistan to save their lives were entitled to receive assistance for their survival such as food, relief camp shelter and some sort of employment. Once they were provided with employment it was presumed that these migrants would be able to construct their own houses by approaching different housing organisation in Delhi or elsewhere for which housing loans were available to them.

2.21 The Ministry have further submitted that in case any new scheme is sanctioned exclusively for the members of this Association, it would give rise to a spate of similar demand from lakhs of other new migrants for allotment of land in Delhi which would be difficult for the Government to meet with.

2.22 As regard the reasons for providing rehabilitation assistance to the pre 1964 migrants and for not providing similar rehabilitation assistance to post 1964 migrants, the Committee were informed by the Ministry of Home Affairs that the circumstances and status of new migrants were not the same as that of the old migrants. Pre 1964 migrnats were those who were directly affected by the partition. According to the Ministry these people fled from newly created Pakistan and were compelled to seek shelter in these centres in India because they considered India their home land and also because of the unprecedented massacre that followed the partition. They were Indian citizens who had been uprooted from their homeland because of a political event and were thus turned into refugees in their own country. By 1952 the need was felt to take steps to regulate the entry of fresh migrants into India. The migration was allowed on the basis of migration certificates. In 1956, the Government took further steps to regulate the influx by indicating the certain priorities with regard to which migration certificates were issued by the Indian Deputy High Commissioner in Dacca. In 1957 it was decided that no relief or rehabilitation benefits would be given to the persons migrating to India after 31.3.1958.

After 1964 because of the communal riots and certain difficulties in East Pakistan and atrocities committed there fresh influx started coming to India. From the extracts of Cabinet note dated 6.2.1964 it is observed that the note contains the proposal for:

"(1) Relief and rehabilitation benefits may be extended to (a) the migrants coming to India on migration certificates issued on or after the 1st January, 1964 and (b) the migrants who come to West Bengal without any travel documents provided that they are certified by the Government of West Bengal as bonafide migrants and that they come to India on or after the 1st January, 1964."

2.23 The Committee also note that there were no instances where new migrants were provided both employment and residential polts in Delhi. some employees of Dandakaranya Project were provided houses as hardship cases, because Dandakarnya was an agricultural project and some of the employees were forced to live and work in unfavourable conditions.

2.24 The Committee appreciate the difficulties expressed by the Ministry in providing housing rehabilitation to new migrants who came to India following communal riots in January 1964. At the same time they also note that these new migrants were given refugees status. From the Cabinet note it is also evident that Government in 1964 intended to provide them resettlement benefits. Similarly the Cabinet note also does not draw any distinction between the camp and non-camp refugees for the purpose of giving housing resettlement.

The Committee fail to understand why these new migrants were not allotted homestead plots/built up houses where there is very much a provision of allotment of homestead plots/built up houses to the non-agricultural category new migrants as per Government of India Orders issued in 1977. The Committee also note that 44 families of new migrants (service category) were allotted plots in Chanderpur (Maharashtra) under the said orders.

In regard to the Department's apprehension to the effect that once the scheme for resettlement of the members of the Association in Delhi is sanctioned, lakhs of other new migrants from outside Delhi would rush to Delhi for resettlement, the Committee are of the view that a cut off date has already been fixed to avoid such a situation.

Only relevant factor is that there is an acute shortage of housing plots in Delhi and adjoining national capital region. But considering the nature of sufferings which these new migrants were forced to undergo due to communal riots in 1964 which was similar to pre-partition massacre and consequent uprooting from homeland, the Committee feel that the new migrants too deserve sympathetic consideration for rehabilitation. In the opinion of the Committee it should not be difficult for the Government to provide some sort of housing resettlement to new migrants in Delhi as they have done in the past in case of migrants from East and West Pakistan. They would like the Government to re-examine the matter afresh and find out ways and means to help the poor new migrants working in Delhi by providing them housing rehabilitation in Delhi or NCR areas.

III

PETITION NO. 16 REGARDING PASSENGER HALT AND MINI RAILWAY STATION AT SHYAMACHARANPUR, DHENKANAL, ORISSA

3.1 Shri K.P. Singh Deo, M.P. presented to Lok Sabha on 5 May, 1992 a petition (*See* Appendix) signed by Shri Prasanta Mishra Social Activist, Shri Binoy Mahapatra, Secretary, District Unit of CPI and Shri Nabin Ch. Narain Das, Ex-member ZRVCC, South Eastern Railway and Ex-Chairman, Dhenkanal Municipality, District Dhenkanal, Orissa and others regarding passenger halt and mini railway station at Shyamacharanpur, Dhenkanal, Orissa.

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

(1) Dhenkanal Railway Station is located at the fag end of Dhenkanal town, which is 6 kms. away from the locality. The people of the locality do not avail themselves of necessary Railway services out of such a remote Railway Station.

(2) Dhenkanal Government College which is a lead College for providing P.G. teaching facilities etc. is located in such a locality wherein more than three thousand students prosecute their study and more than three hundred officials have been employed. The students, and the professors from Cuttack and Bhubaneswar moving to and from Dhenkanal face immense trouble but for a cheap and fair railway communication.

(3) Hundreds of daily wagers, artisan, officials and ordinary pasengers are deprived of railway facilities and face immense trouble for want of a passenger halt or mini railway Station beside the railway level crossing at Shyamacharanpur.

3.3 The petitioners had prayed that a passenger halt/Railway Station might be set up at Shyamacharanpur in the name 'Saptasajya Road' so that the people of the locality were benefitted by the railway services.

3.4 The Ministry of Railways in their comments dated 29 June, 1992 on the points raised in the petition stated as under:—

".....earlier on receipt of request from Shri Adwait Prasad Singh, Minister for Cooperation, Government of Orissa, the proposal for opening of a passenger halt near Dhenkanal, Government College between Joranda Road and Dhenkanal stations has been examined. The site of the proposed halt is on 1 and 100

gradient which is unsafe for stoppage of trains and therefore, opening of the proposed halt is not feasible from the Engineering point of view. Besides, its opening will result in heavy recurring loss to the Railway. Moreover, adequate buses are available to cater the transport needs of the local people. In the circumstances explained, it is not considered desirable to agree to the proposal.

A reply explaining the position had gone from MOS(R) to Shri Adwait Prasad Singh, Minister for Co-operation, Government of Orissa, Bhubaneswar."

3.5 The above comments of the Ministry of Railways were considered by the Committee at their sitting held on 8 September, 1992. The Committee decided that an extract of the Ministry's comments on the petition might be sent to Shri K.P. Singh Deo, M.P., incharge of the petition and await his reaction, if any.

3.6 Accordingly, the comments of the Ministry of Railways were forwarded to Shri K.P. Singh Deo, M.P. He was again requested after about a period of one and a half months to send his comments, if any, in the matter. However, no reply was received from the member.

3.7 The Committee note the position stated by the Ministry of Railways on the points raised in the petition. The Committee feel that in view of the position stated by the Ministry of Railways, no further intervention by the Committee is called for in the matter.

IV

ACTION TAKEN BY GOVERNMENT OF THE RECOMMENDATIONS CONTAINED IN THEIR EIGHTH REPORT (EIGHTH LOK SABHA) OF COMMITTEE ON PETITIONS ON THE REPRESENTATIONS REGARDING NON-REFUND OF FIXED DEPOSITS BY VARIOUS COMPANIES.

4.1 The Committee on Petitions in their Eighth Report (Eighth Lok Sabha) presented to Lok Sabha on 2 May, 1989 dealt with six representations regarding non-refund of fixed deposits by various Companies.

4.2 Action taken Notes have been received from Government in respect of the recommendations contained in the Report. The recommendations made by the Committee and the replies furnished by the Government are given in *Appendix-I.*

4.3 The Ministry of Law, Justice & Company Affairs (Deptt. of Company Affairs) was requested *vide* Lok Sabha Secretariat O.M. dated 19.11.1991 to furnish certain additional information regarding non-refund of fixed deposits by certain companies. The Ministry of Law etc. accordingly furnished the additional information *vide* their OM No. 6/15/87-CL.X(Part) dated 19.11.1992, which is given in *Appendix-II.*

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

Recommendation (Paragraph No. 2.56)

4.4 The Committee had recommended that the existing arrangements for keeping a tab on the activities of the 'blade companies' (Investment Companies) might by comprehensively reviewed and a fool proof system for ensuring that the depositors of these Companies were not duped, might be evolved in consultation with the Reserve Bank of India. In considered necessary, these companies might also be brought within the purview of Section 58A of the Companies Act.

In reply to this the Committee have been informed that deposit acceptance activities of the un-incorporated bodies like individuals, firms, associations of individuals etc. are regulated under the provisions of Chapter III-C of the Reserve Bank of India Act, 1934. These provisions were introduced with effect from 15 February, 1984 and *inter alia* provided for the number of depositors from which such bodies etc., can accept deposits. These provisions also provide for penal action including fine and imprisonment for violation of these provisions. The State Government and the Reserve Bank have concurrent powers in enforcing these provisions

and several State Governments have already created necessary machinery for enforcing these provisions and the Reserve Bank of India is following up with the other State Governments. However, the constitutional validity of Chapter III-C of the Reserve Bank of India Act have been challenged by some of these un-incorporated bodies and the matter was pending in the Supreme Court and further refinement in the Act can be made only when the matter was finally decided by the Supreme Court. The Committee would like the Government to pursue the matter vigorously and to apprise them of the final outcome.

Recommendation (Paragraph No. 2.57)

4.5 The Committee desired the Government to protect the interests of the depositors against the three defaulting companies *i.e.* M/s. Amar-Dye Chemicals Ltd., M/s Bilaspur Spinning Mills and Industries Ltd. and M/s Vallabh Glass Works Ltd. by rendering all possible assistance.

In reply the Government have stated that the Ministry of Industry (Department of Company Affairs) were using their good offices to assist the depositors against non-payment of deposits by the three defaulting Companies. The Committee have also been informed that Company Law Board has been constituted *w.e.f.* 31 May, 1991 and it was expected that depositors would get quick relief in regard to their refund from defaulting companies.

4.6 The Committee trust that the Department of Company Affairs would continue their efforts in finalising the pending cases of non-refund of fixed deposits by the defaulting Companies to the full satisfaction of the depositors and the Committee apprised of the latest position.

NEW DELHI;
April 13, 1993
Chaitra 23, 1914 (Saka).

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

APPENDIX I

(*See* Para 1.1 of the Report)

LOK SABHA

PETITION NO. 12

[Presented to Lok Sabha on 23.3.1992]

To

LOK SABHA
NEW DELHI.

The humble petition of Shri R.C. Gupta, Working President, Delhi Pradesh House-owners Association, Delhi.

SHEWETH

The Delhi Pradesh House-owners Association demands time-bound justice and protection of life and property of the house-owners against several tenants, made hostile, non-paying, non-vacating due to delaying procedure of Indian Courts with no time-limit and no police action. Need of the hour is not so many laws but strict, timely enforcement of the laws with penalties for inaction or delay. Justice delayed is in most cases injustice, *e.g.*, when a trespasser is evicted after 10 years litigation, the losing trespasser has gained 10 years' free living worth lakhs of rupees and the winning decree holder has lost that amount and the cost of litigation. Delay is the cause of corruption, favouritism, and injustice. Delay is mainly for the financial gain of the defendant and the lawyer

Justice can be had only through elected and nominated representatives of the locality who know or can easily know the truth and can give decisions on the spot then and there.

It is better to have a little deficient or incomplete judgement than to have it after a decade or two when its improtance is completely lost and the loss incurred cannot be made up in any way. Deficiency, if any, can be rectified in appeal, which, in India, is a must, in almost all cases whether deserving or not. After all, Panchayat judgements are made in a day and are not less effective. Like all measures, Justice is also an approximation.

Indian courts, judges and lawyers is not the way to justice. There is need for research to find a way. Indian democracy is said to be anarchy, free-for-all, a system of no action.

Control on rents is Govt. legalised loot of the major portion of the value of the use of house-owners' premises, allowing nominal rent far below the actual market rate, just sufficient to keep them alive at subsitence level

that they may continue providing most essential commodity, *viz.*, the residence, at the decades old rates.

Rent Control Act has led to black marketing, pagri system, cut-throat litigation and unreality in the economy of the country. It has made house-owners', with no other source of income, paupers, dependent on the sweet will of the tenants and their buildings in ruins without repair. It has cerated a very wide gap between rents for old and new tenants.

If the Government wants, as it should, to help the old, retired, widows, orphans and other poor sections of the people, it should own the responsibility to provide them with cheap or free residence instead of forcing individuals to accept low rates while not supplying them building and repair materials at similar low rates. Govt. adventure in providing cheap residence to the poor, will also stabilise the market rent-rates as in Government Super Bazaars.

It is now realised all over the world that open market economy has an inner hidden strength which keeps everything right.

10% increase in rents after 3 years, irrespective of monthly rent being Rs. 1,000/— or Re. 1. since 1988 Rent Control Amendment Act, while prices have been rising every year 20 to 30%, in case of Old Delhi where more than 80% of the population of the capital resides the monthly rents of most premises range between Re. 1 and Rs. 10 is meaningless, ludicrous, preverse and unintelligible. No Old Delhi house-owner can afford to avial of this nominal increase amounting to 10 paise or a rupee after 3 years and that too is not automatic but after service of a registered notice costing about Rs. 250 and generally, after filing a suit in a court.

Most illogical; totally unjustified, is the section 14 (1) (hh) of the Delhi Rent Control (Amendment) Act, 1988 according to which a tenant who has built his own residence, will also keep possession of the tenanted premises for 10 years, thereafter, presumably to facilitate his wiping off his debt, if any.

A house-owner who built residence with borrowed money lives in his house and lets a part of it to pay off the debt; the same is done by a tenant who built his residence. There is no justification at all to allow him both the hosues while if a house-owner has another house also, he cannot get it vacated per law (14-A Proviso) of the D.R.C. Act.

15% interest allowed since 1988 amendment Act, on default in payment of rent, till he pays, with no time limit, has no effect on or disadvantage to the tenant as elsewhere he has to pay the same or even higher rate. No tenant has been reported to have paid any interest on default. To realise it the hosue-owner has to give notice and go to court. To be effective it must be deterrent, automatic and after a time-limit, say, 30 days, it must result in eviction.

Trespassers trespass into the buildings and continue to occupy them for years, even a decade, without paying anything. Courts do not make order, for payment or deposit in court of interim damages for years, not caring for section 9A, C.P.C. which does not allow adjournment in any case.

A Delhi High Court Judgement notes that even a trespasser cannot be evicted without due process of law. Trespasser take advantage of it and engaging a lawyer, file a suit, get stay till evidence, continue living without any payment for a decade, even more. It is just as, "Nobody is criminal unless proved", and proving in an Indian Court may take a life time. Judgement may come after he is dead.

And accordingly, yours petitioners pray that:

(1) The Delhi Rent Control Act should be repealed with immediate effect. Transfer of Property Act is sufficient to deal with problems concerning the hosue-owners and the tenants.

(2) Panchayat with 3 elected and 2 nominated Panchs for a locality of about 1000 families or 5000 persons should settle all the cases. An appellate Panchayat may be set up in each district. Very rarely, cases of law point only may go to high Court and/or Supreme Court. Number of High Courts may be increased in each state so that cases of appeal may be decided in a year at the most.

Any individual, himself or through attorney, should be allowed to take up his case and argue even if the other party or his counsel is unwilling to appear or is on strike.

(3) There must be time-limit for the judgement in every case, may, for every court process and strictly adhered to with unavoidable penalties for disobedience.

Judgement in most cases may be based on petition, written statement and replication. Evidence, if unavoidable, may be only of the plaintiff/s and the respondent/s and the number of questions and cross questions may be limited, say, 10 each. Only then the questions would be well-thought out and to the point. Questions, cross questions and their replies and the arguments may be submitted in writing by a definite date. At the end of the time-limit, the case must be decided on the basis of whatever records are available. If not decided by the time limit, the prayer of the plaintiff may be taken as allowed and implementation must proceed on that basis.

Court order for payment or deposit in court of the interim relief (damages) every month by the last day of the month must be made within 15 days of the first hearing of the suit and must not be adjourned in any case. Strict action should be taken against those who do not make such order and continue adjourning, allowing trespasser to continue for years without any payment. Trespasser cannot pay the accumulated damages. Govt. must pay or make the concerned judge pay to the house-owner.

(4) Every tenancy should be for a period as stated in the Agreement note or in its absence, for 3 years. Three years after posting a registered notice with A.D. to quit, whether the case is in the court or not, tenancy must be extinguished and premises vacated.

(5) Jha Commission recommendation regarding increase in rent since independence on the basis of percentage increase in General Price Index must be accepted.

(6) On the default in payment of rent, deterrent penalty at 1% of monthly rent for each day of default upto 30 days without any notice or suit, must be enforced, instead of interest of 15% which has no time limit and no effect. After one months default, premises must be vacated.

(7) A code of conduct for judges and the lawyers must be framed and acted upon.

And your petitioners, as in duty bound will ever pray.

Name of petitioner	Address	Signature or Thumb impression
Shri R.C. Gupta	Working President of Delhi Pradesh House-onwer's Associaton, 29/6, Shakti Nagar, Delhi 110 007.	Sd/—

Countersigned by Shri Tara Chand Khandelwal, M.P.
Division No. 400

APPENDIX II

(See Para 1.11 of the Report)

Further comments of the Ministry of Urban Development on the submissions made in the petition presented to the Petition's Committee of Lok Sabha by Shri R.C. Gupta Working President of Delhi Pradesh House Owners Association.

	Prayers	*Further Comments of the Ministry of Urban Development*
1.	The Delhi Rent Control Act should be repealed with immediate effect. Transfer of Property Act is sufficient to deal with problems concerning the house-owners and the tenants.	(1) Since large number of amendments have been proposed in the Delhi Rent Control Act, the Ministry of Urban Development is considering to repeal the existing Act and bring out a new piece of legislation to be christened as Delhi Rent Act as the concept of Control would no longer be relevant. Necessary piece of legislation is likely to be brought before Parliament during the ensuing Winter Session.
2.	Panchayat with 3 elected and 2 nominated Panchs for a locality of about 1000 families of 5000 persons should settle all the cases. An appellate Panchayat may be set up in each district. Very rarely, cases of law point only may go to High Court and/or Supreme Court. Number of High Courts may be increased in each state so that cases of appeal may be decided in a year at the most. Any individual, himself or through attorney, should be allowed to take up his case and argue even if the other party or his counsel is unwilling to appear or is on strike.	(2) No further comments.

3. There must be time-limit for the judgement in every case, may, for every court process and strictly adhered to with unavoidable penalties for disobedience.

Judgement in most cases may be based on petition, written statement and replication. Evidence, if unavoidable, may be only of the plantiff/s and the respondent/s and the number of questions and cross questions may be limited, say, 10 each. Only then the questions would be well-thought out and to the point. Questions, cross questions and their replies and the argument may be submitted in written by a definite date. At the end of the time-limit, the case must be decided on the basis of whatever records are available. If not decided by the time-limit, the prayer of the plaintiff may be taken as allowed and implementation must proceed on that basis.

Court order for payment or deposit in court of the interim relief (damages) every month by the last day of the month must be made within 15 days of the first hearing of the suit and must not be adjourned in any case. Strict action should be taken against those who do not make such order and continue adjourning, allowing trespasser to continue for years without any payment. Trespasser cannot pay the accumulated damages. Government must pay or make the concerned judge pay to the House-owner.

(3) Further to the earlier comments it is mentioned that the Constitution (Seventy Seventh) Amendment Bill, 1992 has already been introduced in the Lok Sabha on 14.7.1992 to provide for setting up of Rent Tribunals by the State Governments The provisions for setting up of such Tribunal for Delhi have also been incorporated in the Proposed Delhi Rent Act.

4. Every tenancy should be for a period as stated in the Agreement note or in its absence, for 3 years. Three years after posting a registered notice with A.D. to quit, whether the case is in the court or not, tenancy must be extinguished and premises vacated.	(4) The proposed Delhi Rent Act stipulates for short term limited period tenancy on the basis of renting for a limited period upto 5 years with liabilities of the tenant for immediate eviction after expiry of the period.
5. The Commission recommendation regarding increase in rent since independence on the basis of percentage increase in general price index must be accepted.	(5) The proposed Delhi Rent Act stipulates automatic increase of Standards Rent / agreed rent by a fixed percentage every year on account of inflation irrespective of actual price increase being higher.
6. On the default in payment of rent, deterrent penalty at 1% of monthly rent for each day of default upto 30 days without any notice of suit, must be enforced, instead of interest of 15% which has no time limit and no effect. After one months default, premises must be vacated.	(6) The proposed Delhi Rent Act provides for non-payment of rent or refusal to pay Standards Rent as a ground for eviction in case the premises is not vacated after limited period tenancy, the tenant would suffer stringent monetary penalty.
7. A code of conduct for judges and the lawyers must be framed and acted upon.	(7) No further comments.

APPENDIX III

(*See* Para 2.1 of the Report)

LOK SABHA

PETITION NO. 13

Presented to Lok Sabha on 23.3.1992

To

LOK SABHA
NEW DELHI.

The humble petition of Dr. J.C. Roy, President, New Migrants Welfare Association, New Delhi.

SHEWETH

The unprecedented heinous communal riots and atrocities engulfing the entire East Pakistan from January, 1964 casued a heavy exodus of over 11 lakhs of Hindu minorities into India with empty hands only to save their lives and honour and also to settle down permanently in India. These persons displaced during the period from 1.10.1964 to 25.3.1971 have been termed by the Govt. as "New Migrants" and sheltered most of them in various Central Government Regfugee Camps opened in different states. The non-camp new migrants who secured jobs or other professional alternatives did not feel the necessity of taking shelter in such Refugees camps and thus did not create any burden on the Government of India Exchequer. But both the categories were equal sufferers having lost all their movable and immovable ancestral properties there and accordingly, both the groups must be treated at par so far rehabilitation benefits are concerned.

By phase, the Government of India sucessfully resettled the camps inmate new migrants belonging to agriculturists and small traders and service holders in the following manners:

(a) The agriculturists were rehabilitated by allotting 5/6 acres of cultivable land, plough and bullocks, seeds, manures, loans and dwelling units in independent plots.

(b) Similarly, the small traders were resettled by built up dwelling houses, built up shops and business loans (subsequently waived).

(c) Out of the last category, *i.e.* service holders who secured jobs in Refugee camps and outside by virtue of their qualifications and also by proving their capabilities in recrutment test and interviews, many of them have been rehabilitated in various states by allotting homestead plots/houses.

With the shrinkage/abolition of the refugee camps from 1979-80 onwards, the new migrants employed in such camps were started to be transferred/redeployed in phases in Government Offices in various stations including Delhi through the surplus cell of the Ministry of Home Affairs, till 1.10.1988. The non camp new migrants (service holders & traders) also came to Delhi from time to time. These migrants have not been given any housing rehabilitation anywhere in India.

As per the policy of rehabilitation of the migrants from the erstwhile East Pakistan as adopted by the Government of India, the Rehabilitation package of such migrants include rehabilitation in the form of Agriculture, self-employment, Industries Small Trades, Government Service in addition to residential HOUSING as common basic item to each category. it, therefore, implies that the rehabilitation in any of the aforesaid forms is not complete unless residential housing is provided. In tune with this principles, each of the rehabilitated new migrant families whether belonging to Agriculture, Small Traders or employments has been invariably provided with residential house as a compulsory basic item. Accordingly, pre-1964 migrants including service holders & traders from the erstwhile East Pakistan as well as the West Pakistan have been resettled in Delhi with service, business facilities and homestead plots/houses. The pre-1964 migrants families from the erstwhile East Pakistan, numbering over 2,200 were rehabilitated in Chittaranjan park. Kalkaji in 1968-69 and their residual 712 families resettled there even in 1990. These families never stayed in any Government Refugee Camps and almost all of the them were service holders.

The first Prime Minister Late Pandit Jawaharlal Nehru in the first session of the Parliament of Independent India made the following announcement:

> "We think also of our brothers and sisters who have been cut off from us by political bounderies and who unhappily cannot share the freedom that has come. They are of us and will remain of us whatever may happen and we shall be shares in their good and ill fortune alike."
>
> He also categorically stated that "the minorities in East Bengal are certainly our concern and we will give them as much help as possible.
>
> This was again followed by various agreements and assurances from time to time, *viz*:—

(i) Indo-Pak Inter-Dominion Agreement VI dated 19.4.1948.

(ii) Indo-Pak Inter-Dominion Agreement XIV dated 15.12.1948.

(iii) Nehru-liaquate Pack dated 8.4.1950 wherein full security of life and property of minorities and equal rights in all sphares had been guaranteed and the minorities had been asked to stay in their

respective places in East Pakistan with the promise that in case members of the minority community were to flee to India due to political/communal pressures, they would be fully rehabilitated on Indian soil. Provisions contained in Item No. 27 of the concurrent list (List-III) of Schedule-7 ot Article 246 enshrined in the Constitution of India also authorised the Parliament to make laws in respect of "Relief and rehabilitation of persons displaced from their original places of residence by reason of the setting up of the dominions of India & Pakistan constitue a concurrent responsibilities of the central and the State Govts. Such migrants have been given special citizenship rights under Article 6 of the Constitution."

In view of all these commitments, agreements and assurances and also the department's policy in resetting the migrants as also the constitutional provisions, the unrehabilitated new migrants engaged in different professions like service in Govt/Public/Private Sectors and Small Trades etc. in Delhi organised themselves under the NEW MIGRANTS WELFARE ASSOTATION (REGD), New Delhi on 2.12.1979 and submitted their first Memorandum dated 8.5.1980 to the Rehabilitation Minister, Govt. of India, demanding "housing rehabilitation" which is the compulsory basic item included in the Department's "Rehabilitation Package" to each migrant family. The Department's reply dated 26.5.1980 was enough to conclue that had there been Plots available in Chittaranjan Park, the Association new migrant members could have been rehabilitated. Thereafter, our request dated 18.7.1987 to create a shceme for our resettlement in Delhi on the line of E.P.D.P. Resettlement Scheme in chittaranjan Park was not acceded to basically for want of land with the Department, as may be seen from Shri Chintamani Panigrahi, former State Minister (Home) D.O. letter No. 14(6)/85-RR dated 19.8.1987 communicating us that creation of scheme for settlement of new migrants like that sanctioned in 1968-69 in C.R. Park is not possible because all urban land available with the department stood transferred to DDA. Similar conclusion as stated above regarding Department's letter of 26.5.1980 *ibid* can clearly be drawn too in view of the Minister's reply dated 19.8.1987 *ibid.*

Earlier, in response to our representation dated 20.3.1985 to the then Prime Minister, Shri Rajiv Gandhi, the Department *vide* their letter No. 14(6)/85-RR dated 6.6.1985 CATEGORICALLY ADMITIED EXISTENCE OF THE SCHEME FOR RELIEF AND OR REHABILITATION ASSISTANCE TO THOSE NEW MIGRANTS WHO WILFULL CAME OUT OF WEST BENGAL AND TOOK SHELTER IN CENTRAL REFUGEE CAMPS OUTSIDE WEST BENGAL Above 98% members at that point to time fulfilled the said conditioncin toto. This fact duly supported with documentary evidence in support of the concerned member's having stayed in Camps was brought to the notice of the Department *vide.* our letter dated 25.6.1985 duly recommended by Shri Oscar Fernandes, former Parliamentary Secretary to the Prime Minister *vide* his D.O.

letter No. PS/MR-MOS/RR/745/85 dated 23.8.1985 but regrettably nothing happened towards rehabilitation of the said members.

In our pursuit, we met late Smt. Indira Gandhi, twice, Shri Rajiv Gandhi, four times and lastly Shri V.P. Singh on 20.6.1990. All these three former Prime Ministers were convinced about the justification of our legitimate demand for resettlement and gave us favourable assurances. Further, 21 MPs in 1987 and 31 MPs in 1989 also expressed distress for not acceeding to our demand and impressed upon the Prime Minister to solve this long outstanding rehabilitation problem sympathetically without further delay.

The Hon'ble Chairman and the Members of Estimates Committee (1988-89) in their 70th Report mounted a scathing attack on the Rehabilitation Division for its failure in providing any resettlement to many of the old and new migrants. The Committee thus viewed that the resettlement/ rehabilitation of migrants from the former East Pakistan cannot be deemed to be full and complete until and unless the Ministry of Home Affairs (Rehabilitation Division) categorically satisfy the Committee among other things that all old and new migrant families claimed to have been settled in various parts of the country have been actually allotted homestead plots. They have categorically disagreed with the Govt's contention that the old and new migrants have already been settled and merged with the mainstream and suggested to formulate measures to expeditiously clear the actual arrears of rehabilitation work in all the state/ areas where the migrants from East Bengal are stationed.

Despite the alround thrusts and forces pinpointed towards the speedy and complete solution to the rehabilitation problems as envisaged above, the former Minister of State, Shri Chintamani Panigrahi this time came up *vide* his D.O. letter No. 14(6)/85-RR dated 8.2.1988 with three objections in the way of our resettlement *viz*:

(a) Late submission of demand;

(b) Merged into national mainstream; and

(c) Non-availability of land with Rehabilitation Division.

All the above three objections were convincingly replied to *vide* our letter dated 11.8.1988 recommended by Shri Manoranjan Bhakta, M.P. *vide* his D.O. letter No. 7216 dated 12.8.1988 under direction of the then Prime Minister Shri Rajiv Gandhi who was kind enough to direct Shri Bhakta to take immediate proper action so that our grievances are remedied. Once again we would like to highlight our view points in respect of each of the three objections as under:—

(i) *Late submission of demand*

It was the obligation of the Government of India to provide housing resettlement to the new migrants whether sheltered in camps or outside. The demand for resettlement of the new migrant employees staying in

camps was deferred due to the temporary nature of camps scheduled to be closed down shortly. With the shrinkage/closure of such camps from 1979-80, the employees were transferred/redeployed in Government Offices stationed in various places including Delhi. Finding no scope for resettlement in EPDP resettlement scheme of C.R. Park, these new migrants accompanied with their non-camp counterparts already in employment in Delhi submitted under the banner of this Association for the first time to the Department of their demand *vide* Memorandum dated 8.5.1980. This was the earliest practicable opportunity for the purpose. Incidently, attention is drawn to the Estimate Committees 70th Report (1988-89) para 7 at page (VI & VII thereof) which recommended without reservation for immediate solution to the rehabilitation problem of old/new migrants at least by allotting homestead plots to each such family. The Government rehabilitated new migrants with homestead plots even during the period from 1980 to 1990 in different states including Delhi though our first Memorandum submitted on 8.5.1980. Accordingly, you will appreciate that there was absolutely no delay on our part. Rather, it was the Department's responsibility to resettle us much earlier with housing facility.

(ii) *Merged into national mainstream*

The new migrants engaged mostly in low paid jobs/petty business are hardly in a position to meet the basic needs of their family. They are practically hand to mouth and unable to make both ends meet. None of them can dream of purchasing even a yard of land in the capital not to speak of purchasing a house of his own without the homestead plot provided by the Government of India. These uprooted migrants can, under no circumstances, be considered to have merged in the nations mainstream unless they are provided with dwelling houses. It is apt to mention here that the Rehabilitation Division have resettled with homestead plot in the following cases the erstwhile. East Pakistan migrants employees including those belonging to new migrants categories because the Rehabilitation Division did not obviously treat them to have merged in the nation's mainstream.

(a) Employed New Migrants of Chandrapur (Maharashtra state have been given rehabilitation assistance as late as 1984 and many others of the same category in Dandakaranya Project areas);

(b) New migrant employees of Rudrapur Transit Camp were allotted 2 to 3 acres of land each in Rudrapur Town area (Nainital) as rehabilitation in 1976.

(c) Behala Tenaments (near Calcutta) were allotted to employed new migrants irrespective of their even being non-camp displaced persons or deserters from rehabilitation sites.

(d) At the instance of the former Prime Minister, unfortunately now late Shri Rajiv Gandhi, the Government of India issued orders in 1986 to give ownership rights to more than 63,000 East Pakistan

migrant families (including even deserters) in colonies numbering over 600 in East Bengal state.

(e) In addition to housing rehabilitation given in 1968-69 to approximately 2200 pre-1964 East Pakistan employed migrant families in Chittaranjan Park, Kalkaji, 712 residual families belonging to the same category have been rehabilitated by allotting 125/180 sq. yards size plots in the said Chittaranjan Park in 1990 itself.

(f) Out of the 60 acres of land acquired in Malviya Nagar exclusively for resettlement of migrants, the Rehabilitation Division allotted 45 acres to the Ministry of Rehabilitation Group Housing Society having even a number of non-migrant members. Therefore, it is out of question and rather discreminatory to consider the members of our Association as merged into the mainstream. Estimate Committee also disagreed to the Department's contention as to our merger into nation's mainstream as mentioned in para 9(i) above.

Our case for rehabilitation was also taken up by Shri Tarif Singh and Shri Samar Mukherjee both MPs with the then Prime Minister Shri V.P. Singh who committed during the meeting in his chamber on 20.6.1990 with our delegation led by Shri Samar Mukherjee, MP to do something positive to settle us as may be seen from Shri Mukherjee's D.O. letter No. SM/2293/F-1/90 dated 26.7.1990.

(iii) *Non-availability of land with Rehabilitation Division*

It may be possible that no urban land with Rehabilitation Division is available as stated time and again. But it is also a fact that the Department surrendered 1100 (eleven hundred) acres of its land in 1982 to Delhi Development Authority under a Transfer Agreement with a specific clause (No. 7) to the effect that whenever any land in Delhi is needed by the Department for the purpose of rehabilitating the migrants, the DDA would be bound to make such required area of land available to the Rehabilitation Department under that clause. According to this clause, 24 acres of land surrendered by Department of Rehabilitation to DDA was taken back and allotted to the 712 pre-1964 Bengalee migrants in CR Park as is evident from copy of the Answer to Rajya Sabha Question No. 1167 dated 1.8.1986 (enclosed). On the same analogy, the Department can very easily take back either remaining 15 acres out of 60 acres of rehabilitation land in Malviya Nagar or area of land required for resettlement of our 400 families in any residential area of Delhi, from DDA out of 1100 acres referred to above.

The Department remained silent and did not give us any reply to our above submission for almost 2 years. We were forced to meet former Prime Minister on 20.6.1990 and presented a representation which was, however, responded with steriotype negative reply *vide* the Department's letter No.4(4)/90-RR dated 30.7.1990 without giving any convincing reasoning. This virtually forced us to resort to 70

days non-violent agitation in front of Jaisalmer House, Mansingh Road, New Delhi in the form of "DHARNA/RELAY HUNGER STRIKE" w.e.f 20.8.1990 to 28.10.1990 which was suspended in view of the grave political crisis faced by the nation.

The honourable Member of Parliament Shri Madan Lal Khurana was so much moved at the plights of our migrant members that he took up *vide* his D.O. letter dated 8.5.1990 and 19.8.1990 with the then Prime Minister Shri Vishwanath Pratap Singh for solving our genuine demand for rehabilitation. Even during our 70 Days DHARNA/HUNGER STRIKE on Mansingh Road from 20.8.1990, he visited our agitation pandal on 3.9.1990 and extended full support towards our cause.

This prolonged agitation was given wide coverage by different News Papers. But no Government representative bothered to see the plight of the agitating migrants at their door steps. The Minister of State Shri Subodh Kant now replied *vide* his D.O. letter No. 4(4)90-RR dated 1.10.1990 in response to our representation dated 11.8.1988 submitted 2 years ago. This was repetition of their earlier versions. Providing with temporary shelter (Government accommodation) in camp as pointed out by the Department was not restricted to the new migrant camp employees only but it was equally extended to the non-migrant camp employees also. Therefore, it was not at all a special concession to the new migrant employees in particular. Similarly, Department's contention that service and rehabilitation cannot be sustained as they cannot ensure guarantee of jobs to the children of such migrant employees nor can they ensure continuity of Government quarters either, generation after generation.

From the details explained above, your honour would appreciate that we have exhausted during the last 11 years all the other avenues of the Government to get the genuine problem of the housing resettlement solved of our 400 new migrant members evicted from the erstwhile East Pakistan during 1.1.1964 to 25.3.1971 due to large scale communal riots.

We, therefore, appeal to the benign LOK SABHA to look into the decade-long problem of our housing resettlement in Delhi and kindly solve the same by allotment of residential plots/houses.

And your petitioners as in duty bound shall ever pray.

Name of the petitioner	Address	Signature or Thumb impression
Dr. J.C. Roy, President, New Migrants Welfare Association, New Delhi.	Regd. Office: 9-B/Pocket A-9 Kalkaji Extension, New Delhi.	Sd/-

Countersigned by Shri Manoranjan Bhakta, MP
Division No. 191

APPENDIX IV

(*See* Para 2.4 of the Report)

Comments Dated 7.5. 1992 Received from the Ministry of Urban Development on Petition No. 13

The undersigned is directed to refer to the Lok Sabha Secretariat U.O. No. 51/13/CI/92 dated 1-4-1992 on the above mentioned subject and to state that a perusal of the petition received from New Migrants Welfare Association, New Delhi reveals that most of the points regarding rehabilitation benefits to the so called "New Migrants" concern the Rehabilitation Division of the Ministry of Home Affairs. The matter has since been examined in consultation with the Rehabilitation Division who have reported that in accordance with the policy laid down, the displaced persons from former East Pakistan who arrived in India after 1-1-1964 but before 25-3-1971 with valid documents were eligible for relief and rehabilitation assistance subject to their seeking admission in their relief camps set up in various states outside West Bengal. Families not seeking admission in camps were treated as 'Non-camp' families and were not eligible for assistance. In so far as the families admitted in camps are concerned, they were initially kept in camps and provided with relief assistance like cash doles, subsidised ration etc. After rehabilitation schemes were formulated they were sent to the resettlement sites. The resettlement package was either settlement in agricultural scheme, small trade/business scheme or provision of regular employment to head of family or other eligible member in the family. Consequent on the grant of resettlement benefits to the families admitted in camps, all the camps set up by the Ministry of Home Affairs were closed long ago and their liability is now mainly confined to grant of rehabilitation assistance to a couple of hundred families staying in Permanent Liability (PL) Homes maintained by the State Governments. These P.L. families will be given rehabilitation assistance as and when a child in a family attains the age of 18 years. The purpose of rehabilitation assistance is to enable the D.P. families to sustain themselves economically and to join the mainstream.

2. As regards the present petition, the Rehabilitation Division, Ministry of Home Affairs have pointed out that families not seeking admission in camps were treated as 'Non-camp' families and were not eligible for assistance. That Ministry has further pointed out that Members of the Association have been holding regular employment for a long period of time now either in Central Government offices/Public Sector or in Private Sector. It is apparent that the members of this Association now cannot seek any special concession as displaced persons. Their comparison with

Chittranjan Colony scheme sanctioned for old migrants in 1960 is not valid now as different groups of migrants are covered under the policy frame devised for each group separately in keeping with the position obtaining at a given time. Moreover, this Association can form a cooperative society of its members and apply to the DDA for allotment of land for housing like any other cooperative society in Delhi. Ministry of Home Affairs has further stated that if any special scheme in respect of this particular set of 400 families (who are ineligible for any further rehabilitation scheme) is considered by the Rehabilitation Division, it will open the flood gates for similar demands by other migrants not only in Delhi but in other places as well. The request of the Association cannot be considered in isolation.

3. In view of the above mentioned reasons the proposal of the Association could not be considered by the Ministry of Home Affairs. Members of Parliament have also been addressing the Ministry of Home Affairs in this connection and that Ministry has intimated that replies have been sent to the Members of Parliament concerned.

4. As regards the status of land appoved for transfer to the DDA by the erstwhile Department of Rehabilitation *vide* their letter No. F(19)/78-SS. II (Vol. II) dated 2nd September, 1982, it may be stated that the sanction was for transfer of unutilised land (both developed and undeveloped) measuring approximately 1020 acres to the DDA on payment of Rs. 30 crores. The terms and conditions of the transfer included, *inter-alia*:

(i) Where the Department of Rehabilitation is required to allot/ transfer some land in pursuance of the existing or future judgements of the Courts, Arbitrators, Tribunals, etc. Such cases/ judgements will be fully honoured/implemented by the Delhi Development Authority.

(ii) If any case of commitment made by the Department of Rehabilitation comes to the notice later on, such cases will be examined on merits and decided in consultation with the Delhi Development Authority.

Out of the lands measuring 1020 acres proposed for transfer to the DDA, the Department of Rehabilitation has actually handed over only 690.88 acres of land as reported by the DDA. The remaining land covered by the package deal yet to be transferred. A time bound programme has since been drawn up by the DDA to identify the left out land with the help of the revenue staff of Deputy Commissioner, Delhi and also for DDA to take possession thereof in the presence of the Staff of the Rehabilitation Division of the Ministry of Home Afairs. However, as already clarified the proper Authority for granting Rehabilitation benefits, if any, by way of housing to the 400 odd new migrants out of the left over land yet to be transferred to the DDA, is the Ministry of Home Affairs, Rehabilitation Division. Therefore any further reference in the matter may please by made to that Ministry for necessary action.

This issue with the approval of the Additional Secretary in this Ministry.

APPENDIX V

(*See* Para 2.5 of the Report)

Comments Dated 17 June, 1992 of the Ministry of Home Affairs

The undersigned is directed to refer to the Lok Sabha Secretariat U.O. No. 51(13)/CI/92 dated the 18th May, 1992 on the subject mentioned above and to say that the factual comments of this Ministry on the points raised in Petition No. 13 signed by Dr. J.C. Ray, President, New Migrants Welfare Association, New Delhi and presented to the Lok Sabha on 23rd March, 1992 by Shri Manoranjan Bhakta, M.P. are as given below:

(1) The New Migrants Welfare Association, New Delhi, has got a membership of about 400 persons who migrated to India between 1.1.1964 and 25.3.1971. A majority of the members of the Association are the transferred/redeployed employees of the Mana transit Camps (a Central Govt. Office), who landed up in Delhi as a result of their transfer absorption in other Central Govt. offices located in Delhi, after the Mana Camps were wound up. According to the policy laid down, the New Migrants from former East Pakistan who migrated during the period 1.1.1964 to 25.3.1971 and got employment were deemed to have been rehabilitated and were not entitled to allotment of plots and that too in Delhi.

(2) The New Migrants Welfare Association, New Delhi has been submitting representations since 1980s for sanctioning a New housing scheme for their members who are now employed in Delhi. The Association had submitted a representation dated 8.5.1980 demanding allotment of residential plots to its members in East Pakistan Displaced Persons Colony (Chittaranjan Park). The the Department of Rehabilitation *Vide* its letter dated 26.5.1980 had informed the Association that there were no plots available for allotment in East Pakistan Displaced Persons Colony (Chittaranjan Park). The reply given by the Department contained a factual position as conveyed to the Association.

(3) The Association in their petition No. 13 has stated that the Estimates Committee (1988-89) in its 70th Report mounted a scathing attack on the Rehabilitation Division for its failure in providing any resettlement to many of the old and new migrants. In this connection it is submitted that the remarks of the Estimates Committee were in general terms and covered all the migrants from former East Pakistan whether old or new. The

Committee did not make any specific reference to the New Migrants Welfare Association or any particular group of migrants from former East Pakistan. Thus the mention of the remarks of the Estimates Committee by the Association is out of place.

(4) In their petition No. 13, the New Migrants Welfare Association has mainly invited attention to this Ministry's reply dated 8-2-1988 given by the then Minister of State for Home Affairs, Shri Chintamani Panigarhi and have stated that the stand taken by this Ministry on the following issues is not correct.

(i) **Late submission of demands;**
(ii) Merger into national mainstream; and
(iii) Non-availability of land with Rehabilitation Division.

As regards (i), it may be stated that this Ministry's letter dated 8.2.1988 did not mention about late submission of demand by the Association, but only referred to the consideration of the proposal by this Ministry at this late stage because after so many years of employment these new migrants were deemed to have merged with the national mainstream. At no point of time, the members of the Association were assured that they had submitted their demand early for allotment of plots in Delhi, their demand would have been accepted. The Association's contention that it was the obligation of the Government of India to provide houses to the New Migrants whether sheltered in camps or outside is not correct. According to the policy laid down in respect of New Migrants, only those of the new migrants who had sought admission to the relief camps set up in a few selected States other than West Bengal were eligible for rehabilitation assitance. There were, however, no scheme for rehabilitation of the new migrants in Delhi and as such as no camps were set up in Delhi. Bulk of the members of the Association were transferred/redeployed employees of the Mana Camps (a Central Government Office). When they landed up in Delhi as a result of their transfer/absorption in various Government Offices located in Delhi, nothing prevented them from availing of housing facilities available to them from Delhi Development Authority under its various schemes and asking for housing loans from their employing organisation. Delhi is not the only place where the surplus employees were absorbed. Many displaced persons absorbed as employees in Government offices were living at places other than Delhi also. They were deemed to have been rehabilitated right from the date they were inducted into a regular employment. The mere incidence of their redeployment in offices in Delhi did not make them eligible for allotment of plots in Delhi.

As regards (ii), it may be stated that since bulk of the members of the Association are regular employees, they were deemed to have been rehabilitated and merged with the national mainstream. They should consider themselves as normal citizens and like other normal citizens and employees in Delhi, they should resort to normal channels for allotment of

houses in Delhi *e.g.*, applying to the Delhi Development Authority under its various housing schemes etc. In regard to the undermentioned specific cases mentioned by the Association, our comments are given below:

(a) ***Employed new migrants of Chandrapur (Maharashtra) have been given rehabilitation assistance as late as 1984 and many others of the same category in Dandakaranya Project areas.***

A few service-holder families who were not entitled to housing loan from their employers, were given housing loans as an exceptional case.

(b) *New Migrant employees of Rudrapur Transit Camp were allotted 2 to 3 acres of land each in Rudrapur Town area in 1976.*

It is not a fact that new migrant employees of Rudrapur Transit Camp were allotted 2 to 3 acres of land each in Rudrapur town area in 1976.

(c) *Behala Tenements (Near Calcutta) were allotted to employed new migrants irrespective of their having been non-camp displaced persons or deserters from rehabilitation site.*

The Behala tenements were originally constructed in the year 1962 for the old migrants from former East Pakistan who were in unauthorised occupation of Government acquired properties and other private land and for non-agricultural families in camps who has found some means of livelihood in and around about Calcutta. As the displaced persons were unwilling to take over these tenements on rental basis, the tenements were put in general pool for allotment to displaced persons who were Government servants. In the year 1964, it was decided to transfer the same to the existing willing and eligible allottees and the eligible migrants from former East Pakistan. Thus, the allotment of tenements in Behala is not a new scheme but it is only in fulfilment of an earlier commitment to transfer the tenements to the existing occupants.

(d) *The Government of India issued orders in 1986 to give ownership rights to more 63,000 East Pakistan migrant families (including even deserters) in colonies numbering over 600 in West Bengal.*

The displaced persons in West Bengal had squattered upon whatever lands they had found vacant and they had been in physical possession of these lands since they occupied them. What the Government of India has now done in only to regularise their squatting. About 90% of the land of Squatters' Colonies belonged to Government of West Bengal for which Government of India did not sanction any funds. Only for acquisition of some private lands etc. the Government of India agreed to the reimbursement of expenditure to Government of West Bengal strictly speaking, this reimbursement did not constitute any new rehabilitation scheme. This is to be treated as social need rather than a rehabilitation measure.

(e) *In addition to housing rehabilitation given in 1968-69 to approximately 2200 pre-1984 East Pakistan employed migrant families in Chittaranjan Park, Kalkaji, 712 residual families belonging to the*

same category have been rehabilitated by allotting plots in the said Chittaranjan Park in 1990 itself.

The scheme for allotment of plots to old migrants in Chittaranjan Park was sanctioned in the year 1961. The recent allotment of 712 plots was made by the Ministry of Urban Development to those migrants who had applied for allotment of plots under the old scheme but could not get developed plots at that time. This allotment was, therefore, in fulfilment of an earlier commitment under the old Scheme.

(ī) *Rehabilitation Division allotted 45 acres of land to the Rehabilitation Ministry Employees Cooperative Society, having even a number of non-migrant members.*

The decision to allot land to this Society was taken in the year 1969 and as such this as not a recent decision.

As regards the point at (iii) raised by the Association, it may be stated that in accordance with a package deal concluded with the Delhi Development Authority on 2-9-1982, the Government transferred unutilised lands measuring approximately 1020 acres to the Delhi Development Authority. One of the conditions of the package deal was that where the Government is required to allot/transfer some land in pursuance of the existing or future judgements of the Court, Arbitrator, Tribunal etc., such judgements would be honoured/implemented by the Delhi Development Authority. There was no judgement of the Courts/Arbitrators Tribunal in favour of the New Migrants Welfare Association, New Delhi for implementation of which the Government was required to requisition some of the lands from the Delhi Development Authority. As regards 15 acres of land transferred by the Govt. to the Delhi Development Authority in Malviya Nagar, New Delhi, it is stated that the land was surplus to the requirements of Rehabilitation Division. Since the Government has not accepted the claim of the Association for allotment of plots in Delhi, the question of retaining unutilised lands with Rehabilitation Division did not arise.

In their Petition, the Association has complained that this Ministry did not send any reply to them for almost two years and they were forced to meet the former Prime Minister on 20.6.1990 and present a representation which was replied to *vide* this Ministry's letter dated 30.7.1990. This is not correct. Prior to this Ministry's reply dated 30.7.1990, the following replies were sent to the Association's representations received by this Ministry:—

	Association's representations	*Ministry of Home Affairs's reply sent on*
1.	Representation dated 20-3-1985 received directly	6-6-1985
2.	Representation dated 15-5-1986 received directly	4-6-1986

	1	2
3.	Received with Shri K.V. Panickar, M.P.'s letter dated 11-1-1986	3-4-1987
4.	Received with Shri H.K. Shastri, M.P.'s letter dated 26.11.1986	8-4-1987
5.	Received with Shri Manoranjan Bhakta, M.P.'s letter dated 3-8-1987	19-8-1987
6.	Received with Shri K.V. Panicker, M.P.'s letter dated 25-11-87	8-2-1988
7.	Received with Shri Tariff Singh, M.P.'s letter dated 10-4-1990	25-7-1990

While concluding, it may be submitted that it is not possible to accede to the demand of the New Migrants Welfare Association for allotment of land in Delhi. There was never any scheme for allotment of residential plots to the New Migrants in Delhi. In case any new scheme is sanctioned exclusively for the members of the Association, it would give rise to a spate of similar demands from lakhs of other new migrants for allotment of lands in Delhi. Wave after wave of employed new migrants posted at other places might come to settle down in Delhi and demand for allotment of residential space. It would be extremely difficult to assess the quantum of land and funs required for sanctioning a new scheme which would cover all those new migrants who may come forward with such demands.

APPENDIX VI

(Reference para No. 3.1 of the Report)

LOK SABHA

PETITION NO. 16

[Presented to Lok Sabha on 5.5.1992]

To

LOK SABHA
NEW DELHI

The humble petition of Shri Prasanta Mishra, Social Activist, Shri Binay Mahapatra, Secretary, District Unit of CPI, Shri Nabin Ch. Narain Das, Ex-Member, ZRVCC, S.E. Railway and Ex-Chairman, Dhenkanal Municipality, District Dhenkanal, Orissa and others.

SHEWETH

We, the inhabitants of Shyamacharanpur, Kathagada, Ichhadeipur, Borapada, Gahamkhunti, Mahisapat and Sadeibereni of Dhenkanal Town, have the honour to bring to your notice the following few points for your kind consideration and necessary action.

(1) Dhenkanal Railway Station is located at the fag end of Dhenkanal town, which is 6 K.Ms. away from this locality. The people of this locality do not avail themselves of necessary Railway services out of such a remote Railway Station.

(2) Dhenkanal Government College is situated in such a locality wherein more than three thousand students prosecute their study and more than three hundred officials have been employed. Since it is a lead College which provides P.G. teaching facilities in History, Commerce and Botany, married students from Cuttack and Bhubaneswar are moving to and fro Dhenkanal to attend classes by buses. The students, the professors and other officials face immense trouble and difficulty but for a cheap and fair Railway communication.

(3) More than 50 percent of Dhenkanal town are residing in this locality who are absolutely denied of Railway services and facilities even though trains, are plying on the rails in the heart of the locality. Hundreds of daily wagers, technical labourers Masons and artisans, common and ordinary passengers

passengers needy of Railway services are deprived of such facilities due to want of a Passenger Halt or Mini Railway Station beside the Railway level crossing at Shyamacharanpur.

(4) Hundreds of employees both in Government service and private undertakings use to go daily to the State Capital Bhubaneswar to report for duty and service for the interest of the public. They are found to move to and fro Bhubaneswar without finding residential Quarters in Bhubaneswar at a minimum rent. If a passenger Halt is set up at Shyamacharanpur in the name of a famous place of Pilgrim "Saptasajya" i.e. "Saptasajya Road" then they would be benefitted for round the year by purchasing monthly or seasonal Railway tickets from the proposed Railway Station.

(5) Such a legitimate demand is being placed before the Railway Authorities and Central Government by irrespective of students and the commoners for a decade or more. But the Railway Authorities have not paid any atention so far. Now we hope and believe that such a just and legitimate demand would be conceded by the Central Government or Departmental Authorities without dealy in view of the interest of the common and ordinary people, officials, students and professors of this locality.

Accordingly, your petitioners pray that necessary arrangements for setting up of a passenger halt/railway station at Shyamacharanpur, District Dhenkanal in the name "Septasajya Road" may be made.

And your petitioners as in duty bound shall ever pray.

Name of the petitioner	Address	Signature or Thumb impression
1. Shri Prasanta Mishra,	Social Activist, P.O./District Dhenkanal, Orissa	Sd/-
2. Shri Binay Mahapatra,	Secretary, District Unit of CPI, Dhenkanal, Orissa	Sd/-
3. Shri Nabin Ch. Narain Das	Ex-Member, ZRVCC, S.E. Railway, District Dhenkanal, Orissa	Sd/-
and others		

Countersigned by Shri K.P.Singh Deo, M.P. Division No. 202

APPENDIX VII

Parawise comments funished by the Ministry of Law, Justice & Company Affairs (Department of Company Affairs - Company Law Board) on the recommendations made by the Committee in paragraphs No. 2.48 to 2.50 of their Eighth Report (Eighth Lok Sabha).

In the Indian capital market there has of late been a scramble on the part of companies to attract deposits from investors. All sorts of inducements are offered to the potential depositors to select a particular company or a group of companies for making deposits. For the companies concerned, public depotis represent the cheapest source of finance. At the same time these company deposits have been particularly attractive to the lay man who finds the procedure for purchase of share or debentures too cumbersome. These lay people are mostly retired persons, widows or small savers who deposit their life's savings in good faith anticipating regular payment of interest and repayment of the amount when due. Unfortunately, however, serveral unscrupulous company managements have shattered the faith of a large number of depositors by dishonouring the commitment for regular payment of interest or repayment of deposit amount on maturity. When such a situation arises, the unwary depositors find to his utter dismay that the law does not offer him any protection as the only remedy available to him is to file a civil suit in the capacity of an unsecured creditor.

The Committee were shocked to learn from the reply given by the Ministry of Industry in the Lok Sabha on 25.8.1988 that the Company Act does not provide for any remedy against default in repayment of fixed deposits by a company after the date of maturity. The Minsiter had further informed the Lok Sabha that complaints against as many as 89 big companies regarding defaults in repayment of fixed deposits had been received by the Department of Company Affairs during the period. 1.1.1987 to 14.8.1987. In response to a number of representations against companies forwarded to the Ministry through the Committee, it has been stated that as per the existing provisions of the Law, Government has no power to legally bind companies to ensure effective payment of interest to depositors and that the failure by a company to repay deposits on maturity or pay interest thereon gives rise to only to a civil claim for which the appropriate remedy is to seek redress in a court of law. The Committee are of the view that it is very unbecoming of a welfare state to allow the innocent investors to be cheated by unscrupulous managements in this manner. Despite a plethora of statutory provisions and enactments, it is a pity that they ahve failed to provide basic protection to the small investors. What is still more baffling to the Committee is that the authorities

concerned have not found it fit to take a serious view of the situation and to devise an effective way out.

The Committee have been informed that earlier under the provisions of the Companies Act, Government had no powers to make the companies to repay the deposite to their depositors. But recently with the promulgation of the Companies (Amendment) Act, 1988 certain provisions have been introduced by which the Company Law Board will have some authority in the matter. Under the new provisions, where a new company fails to repay any deposit in accordance with the terms and conditions of such deposit, the Company Law Board is empowered to direct the company to make repayment and whoever fails to comply with such directions can be penalised. Thus for the first time non-payment of a deposit or a default in repayment by any company is sought to be made a penal offence and machinery has been created for dealing with the complaints regarding non-payment of deposits. The Committee are happy that even though belatedly, Government have at last realised the need for having such a legal frame work for safeguarding the interest of small investors.

Reply of Government

These are observations of the Committee and need no action.

Para No. 2.51

The Committee, however, not that Companies (Amendment) Act, 1988 which *inter alia* anvisages involvement of Company Law Board in matters relating to company deposits has not yet been notified. The Act passed by Parliament in May 1988 have yet to be Brought into force. The explanation given by the Department for delay in the non-implementation of the new provisions was that the constitution of the new Company Law Board was a time consuming process and the notification about new provisions was linked to the reconstitution of the Company Law Board. At the instance of the Committee, the Department of Company Affairs consulted the Ministry of Law, who have now advised that the Company Law Board in existence at the time of the commencement of the amended Act could exercise the powers available under the new provisions. The Committee desire that the necessary notification for the enforcement of the amended provisions may be issued without any further loss of time and the machinery sought to be created for protecting the interest of small depositors should be set in motion immediately.

Reply of Government

The Companies (Amendment) Bill, 1988 received the assent of the President on 24.5.1988 and thereafter, a number of provisions of the Amendment Act, 1988 have been brought into force on 15.6.1988, 15.7.1988, 1.12.1988, 1.4.1989 and 17.4.1989, respectively. As per recommendations of the Committee on Petitions, the Government have decided to issue notification for the enforcement of the amended provisions of

Section 58A of the Companies Act. 1956 *w.e.f.* 1 September, 1989 and the requisite Notification and Press Note have already been issued on 28 and 29 August, 1989 respectively.

Para Nos. 2.52 & 2.53

The Committee find that under the amended Section 58A (9), the Company Law Board can take cognizance of any case of non-payment of deposits on maturity on an application of a depositor or even take *suo moto* action. The Company Law Board has thus been nominated as a body charged with the duty of remedying the grievances of the depositors. The Committee feel that the Company Law Board as an institution may already be overburdened with work and hence it is necessary that within the Board a separate cell is carved out specifically for the purpose of following up the complaints regarding company deposits and taking remedial action. The Committee feel that the traditional set up may not be well equipped tc cope with the number and magnitude of the complaints and it is, therefore, desirable that these aspects are taken care of right from the beginning.

The Committee consider that the Company Law Board functioning in a few metropolitan cities may not be of much use for small depositors living in far off areas. The Committee, therefore, recommend that with a view to make the functioning of the Board more practical and within the reach of small depositors, its benches should be set up in major cities or at least in all State capitals. Further, to make justice easier, speedier and cheaper for the ordinary depositors, the procedures to be followed by the Company Law Board should be simplified. Its decisions could be made time-bound so as to ensure quick and timely justice. One essential procedure that suggests itself is that Company Law Board should entertain all complaints from depositors even those received by post. The Board should be armed with adequate powers to obviate unnecessary delays in obtaining the necessary information/replies from the Companies.

Reply of Government

As stated in the Action Taken Note, forwarded to Lok Sabha Secretariat, *vide* this Department's Office Memorandum of even number dated 21.8.1989, under the amended provisions of Section 10E of the Act, the independent Company Law Board shall have the powers to regulate its own procedure. The Board may from one or more Benches from amongst its Members and authorise each such Bench to exercise and discharge such of the Board's powers and functions, as may be specified in the order. It is open to the Board to hold its sittings in the State Capitals, depending upon the volume of work involved. It may further be added that as per existing set-up of the Board, the applications made by depositors against non-refund of their deposits under Section 58A (9) of the Act are being dealt with by Single-member Benches located at New Delhi, Calcutta, Bombay and Madras. A simplified procedure has been prescribed under the Company Law Board (Bench) Rules, 1975 and the depositor has to make

an application to the Company Law Board, along with an application fee of Rs. 50/-. The application need not be supported by an affidavit, as is the case of other applications filed before the Company Law Board. The Applications can either be filed personally or be sent by post. As per requirements of Section 58A (9) of the Act, a hearing is given by the Company Law Board to the Company and the despositor concerned, before an order is passed. There has not been any occasion, so far, for taking any penal action for non-compliance of the orders passed by the Board. The independent Company Law Board is in the formative stage and is likely to be set up around June, 1990.

It has been decided that the Company Law Board shall consist of a Chairman and six Members. Action has also been taken separately for getting accommodation for the Board at New Delhi and for providing additional staff and other infrastructural facilities, etc. Out of the two Bench Officers at New Delhi, one Bench Officer is exclusively attending to these applications, with a view to expediting disposal of such applications. There is not difficulty with the Board to obtain information/replies from the delinquent companies.

At the headquarters of the Department at New Delhi, there is a separate Section (CL.X Branch), dealing with the complaints made against non-refund of deposits (This does not include applications made to Company Law Board under Section 58A(9) of the Companies Act, 1956). On receipt of such complaints, the matter is taken up with the companies concerned, advising them to make payment forthwith, as also inviting their attention to the amended provisions of Section 58A(9) & (10) of the Act. Simultaneously, a copy of the letter is endorsed to the complainant-depositor, explaining the procedure for making application under Section 58A(9) of the Act to the Company Law Board Bench. Recently, the Department has also issued a fresh Press Note, dated 8.3.1990 for information and guidance of the general public.

Para No. 2.54

The Committee had sought clarification on the point whether the amended Act would be applicable to old cases of fixed deposits. The Law Ministry had informed them that even the deposits which had matured before the amended Act came into force but had not been repaid, would be covered by the amended provisions of the Companies Act. The Committee would like this aspect of the matter to be widely publicised by using all media like T.V., Radio, Press etc. Similarly, after the Company Law Board is in position and had decided about its procedure, general public should be apprised of the new set up through the press and other media. This will go a long way in educating the investing public about the machinery available to them for the redressal of their grievances in-so-far as company deposits are concerned.

Reply of Government

The Ministry of Industry (Department of Company Affairs — Company Law Board), have informed the Committee *vide* their communication dated 31 August, 1989 that the Government had decided to enforce the amended provisions of Section 58A of the Companies Act, 1956 *w.e.f.* 1st September, 1989. The Ministry has already issued a notification dated 28 August, 1989 and a Press Note dated 29 August, 1989 in this regard.

Para No. 2.55

The Committee find that according to the Deptt. of Company Affairs the interests of depositors will be safeguarded to a large extent by the amended provisions of the Companies Act. However, the Company Law Board has yet to be set up and geared for under-taking the stupendous task of attending to numerous complaints from the depositors. The actual working of the new procedure will have to be carefully watched and monitored. The Committee feel that other avenues for ensuring safety of the small deposits with the companies also need to be explored. One such method could be that small company deposits say deposits upto Rs. 5,000/- made by an individual depositor may be insured for repayment and for this purpose a Deposit Insurance Scheme on the lines of the insurance for bank deposits could be formulated by the Ministry of Finance and General Insurance Corporation. The proposal for such a scheme seems to have been rejected out of hand by the Department of Economic Affairs (Insurance Division). The Committee desire that the matter may be considered afresh. If the basic proposition is that the small depositors need protection is accepted, the Committee have no doubt that a suitable insurance scheme could be worked out in the larger interest of the depositors. Before the Companies are allowed to invite public deposits, it could be stipulated that companies will have to seek insurance cover for the deposits for which the premium will be paid by the companies.

Reply of Government

The matter has been re-examined in consultation with the Minsitry of Finance, Department of Economic Affairs (Insurance Division). It may be noted that several Committees in the past, including Raj Study Group (1974) and Expert Committee to review Deposit Insurance and Credit Guarantee Schemes (1987) have not favoured any insurance scheme for unsecured company deposits. Ministry of Finance have informed that it is not possible for General Insurance Corporation of India (GIC) to work out an Insurance Scheme to cover deposits upto Rs. 5,000/-, as suggested by the Committee, *inter-alia* on the following grounds:—

(i) It is felt that continuous monitoring of over a lakh of non-banking companies require a huge inspection machinery and administratively the same is not feasible without elaborate

infrastructure facilities. This is more so due to the varying operating methods adopted by such Companies which may not conform to any set pattern.

(ii) Sufficient safeguards have been provided by amendment of Section 58A, as amended by the Companies (Amendment) Act, 1988. It is felt that these measures should be given a fair trial.

(iii) Protection to company deposits would wean away resources otherwise available for bank deposits and various saving schemes of Central and State Governments.

(iv) The company deposits do not subserve any social objectives and are essentially motivated by higher rates of interest. The previous Committee have rightly felt no compelling reasons for affording protection to these deposits.

(v) Consequent upon nationalisation of General Insurance Industry, certain guidelines were issued by the Ministry of Finance by reason of which the issuance of insurance cover which were in the nature of financial guarantees were not permitted to be issued by the insurance companies. Subsequently, after the formation of General Insurance Corporation, the Board of the Corporation also took a policy decision that insurance companies should not consider proposal which involve issuance of financial guarantees. It may be added that providing insurance cover for such deposits will amount to nationalised institutions guaranteeing deposits accepted by private sector companies. Besides, financial guarantees of this nature not being regular business of the General insurance, it will be difficult to obtain reinsurance cover for the same.

Para Nos. 2.56 & 2.58

The Committee note that non-banking financial companies including investment companies are exempted from the provisions of Section 58A of the Companies Act. The deposits accepted by these companies are governed by the directions and rules issued by the Reserve Bank of India. These companies which are also known by the name "blade companies" are reported to be unincorporated bodies engaged in acceptance of deposits from the public and lending the same. Of late there have been numerous complaints against these 'blade companies' which have been attracting huge public deposits and have subsequently disappeared with the deposits. Acceptance of deposits by unincorporated bodies is regulated under the provisions of Chapter III-C of Reserve Bank of India Act, 1934. In the context of large number of complaints against these companies being received from different parts of the country, it can be inferred that the existing provisions of the Reserve Bank of India Act are inadequate to meet the situation. Furthermore, the constitutional validity of Chapter III-C of Reserve Bank of India Act, 1934 has been challenged and the matter is pending in the Supreme Court. The Committee desire that the existing

arrangements for keeping a tab on the activities of such 'blade companies' may be comprehensively reviewed and a fool proof system for ensuring that the depositors of these Companies are not duped, may be evolved in consultation with the Reserve Bank. If considered necessary, these companies may also be brought within the purview of Section 58A, of the Companies Act so that at least the machinery of Company Law Board will be available to the depositors of these companies. Further, if the need arises, the provisions of Chapter III-C of the Reserve Bank of India may be suitably modified and amended.

The Committee had examined the representatives of some of these companies to ascertain the reasons why repayment of deposits had not been made in time. It was brought to the Committee's notice that in the context of the present financial position of the Companies, they had been restrained by the Banks and Financial Institutions from repaying the company deposits and interest thereon in preference to other liabilities. Further when the rehabilitation programme for sick companies was drawn up it was not stipulated that all public deposits should get priority over other liabilities of the company. Even though the Ministry of Finance have stated that no such restrictions are stipulated in any instructions/orders issued by the Banking Division, the fact remains that the policies of financial institutions/Banks do not show any special favour to the small company depositors. The Committee desire that the Ministry should consider whether it is not feasible to provide that whenever a company faces financial stringency, small depositors as a class should get preference over the other creditors and for the purpose of repayment of fixed deposits should be placed at par with secured creditors.

Reply of Government

The observations made by the Committee were referred to Ministry of Finance, Department of Economic Affairs (Banking Division). In their reply, Ministry of Finance, Department of Economic Affairs (Banking Division) have stated as under:—

"In so far as the deposit acceptance activities of the unincorporated bodies like individuals, firms, associations of individuals etc., are concerned, their deposit acceptance activities are regulated under the provisions of Chapter III-C of Reserve Bank of India Act, 1934. These provisions were introduced with effect from 15th February, 1984, and *inter alia,* provided for the number of depositors from which such bodies etc., can accept deposits. These provisions also provide for penal action including fine and imprisonment for violation of these provisions. Several State Governments have already created necessary machineries for enforcing these provisions and Reserve Bank of India is following up with the other State Governments. On receipt of complaints about non-refund of deposits by these bodies, Reserve Bank of India had

recently of its own and also jointly with the State Governments in Kerala, Tamilnadu, Maharashtra raided the premises of some of the unincorporated bodies and had taken action against such bodies. Incidently, it may be mentioned that the constitutional validity of Chapter III-C of the Reserve Bank of India Act had been challenged by some of these unincorporated bodies and the matter is presently pending in the Supreme Court. Any further refinement in the Act can be made only when the matter is finally decided by the Supreme Court.

As regards directions issued by the Reserve Bank of India to non-banking financial companies, these directions *inter-alia*, provide for the rate of interest payable on deposits, the period upto which the deposits can be accepted, the manner in which advertisements etc., soliciting deposits are to be issued and the registers and returns etc. to be furnished to the Reserve Bank of India. The directions do not contain any provision enabling the Reserve Bank of India to force any company to repay the deposits. The Companies Act, 1956 was recently amended to provide for refund of deposits when claimed by the depositors in the non-financial companies. The question of introducing similar provisions in the directions of the Reserve Bank of India is receiving attention of the Reserve Bank of India.

The depositors are unsecured creditors of the concerned companies and in the ordinary course have to fall in line with other creditors for the matter of refund of deposits. According to priority status to the dues of depositors, by any sick company, would in effect, mean provision of non-existant insurance cover to such deposits. Further, such steps will add to the burden of the banks and financial institutions."

Para No. 2.57

The Committee received representation alleging defaults in repayment of deposits by five companies. On the matter being taken up by the Committee, the Ministry have informed that two companies namely M/s SLM Manekla1 Industries Ltd. and M/s Taxmaco Ltd. have since made repayments of the fixed deposits. However the cases of other three companies namely M/s Amar Dye Chemicals Ltd., M/s Bilaspur Spinning Mills & Industries Ltd. and M/s Vallabh Glass Works Ltd. were pending in courts or proceedings had been initiated. The Committee strongly feel that the interest of the depositors in these three companies need to be protected and the Ministry should render all possible assistance to ensure that the depositors get their money back together with interest.

Reply of Government

The three companies have explained their position before the Committee. This Department is using its good offices to assist the depositors against non-payment of deposits by these companies.

Para No. 2.59

The Committee desire that where small depositors are forced to go to courts of law for the recovery of their deposits, free legal aid for fighting the court case should be made available to these depositors. The Committee also feel and strongly recommend that for maintaining financial discipline and for keeping a check on the unscrupulous company management, non-payment of deposits when due may be made congnizable offence and the repayment of deposits and interest thereon may be treated as land revenue to be recovered by the competent authority. The Committee would also like that the machinery for the recovery of overdue deposits by the depositors should be strengthened, in the interest of the depositors in such a manner that no company may dare to cheat the public by taking advantage of the lacunae in the existing laws or rules on the subject.

Reply of Government

It is hoped that after the amended provisions of Section 58A are enforced, the small depositors will like to approach the Company Law Board rather than seeking remedy in a civil court. Since these deposits are unsecured and are in the nature of commercial transactions, no further amendment of the Companies Act, 1956 is considered necessary.

In their communication dated 16 August, 1991 the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have informed the Committee that the new Company Law Board has since been constituted *w.e.f.* 31.5.1991 and the requisite Notifications to this effect have already been published in the Gazette of India Extraordinary Part II dated 31 May, 1991.

APPENDIX VIII

Additional information furnished by the Ministry of Law, Justice and Company Affairs (Department of Company Affairs)

The undersigned is directed to refer to para 4 of Lok Sabha Secretariat OM No. 57/1/CI/89 dated 19th November, 1991 on the subject mentioned above and to say that deposits made for booking/purchase of scooter, car etc. are in the nature of advances to ensure release/sale of the vehicle on completion of manufacture and are adjustable in final invoice on purchase of vehicles. Such booking deposits are not for any specific period since the production/manufacture follow their own schedule. Such deposits are not within the purview of deposits falling within the scope of section 58-A of the Companies Act, 1956 and the Companies (Acceptance of Deposits) Rules, 1975 framed thereunder which govern totally repayable deposits (which includes loans from individuals) invited for specific terms. Advances received for supply of goods or properties are specifically exempted from the term 'deposits' under Rule 2(vi) of the above Rules. Should a person who has given deposit (advance) for booking scooter, car etc. at a later stage decide to cancel his booking, he is entitled to refund of his deposit by the company. Should a depositor, who has cancelled his booking, fail to get the refund (with interest), remedies open to him include applications to the Forums set up under the Consumer Protection Act or to the MRTP Commission under the MRTP Act, 1969. In fact, complaints about the non-refund of the amounts with interest thereon at the rate of 7% per annum from the date of deposit till the date of cancellation, thereafter at the rate of 11% per annum from the date of cancellation upto 1.1.1992 and subsequently interest at the rate of 12.5% per annum from 1.1.1992 till the date of actual payment. The scheme drawn up by the company came into operation with effect from 1.4.1992. The MRTP Commission also took note of this Scheme. A copy of the order dated 23.3.1992 made by the National Consumer Disputes Redressal Commission is enclosed for perusal.

2. As regards deposits accepted by financial companies, it is specifically laid down in sub-section 7(a) and (b) of Section 58-A of the Companies Act that nothing contained in section 58-A shall apply to any company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf and that except the provisions relating to advertisement, nothing in section 58-A shall apply to such classes of financial companies as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf. In the Companies (Acceptance of Deposits) Rules, 1975, framed in consultation with the

Reserve Bank of India, Rule 1 (3) lays down that these Rules shall apply to such companies as are not banking Companies and are not also financial companies. 'Financial Company' means—under Rule 2(c)—non-banking company which is a financial institution within the meaning of clause (c) of section 45-1 of the Reserve Bank of India Act, 1934. Deposits with financial companies, which do not fall within the purview of section 58-A of Companies Act, 1956, are governed by the Non-Banking Financial Companies (Reserve Bank) Directions, 1977, the miscellaneous Non-Banking (Reserve Bank) Directions, 1977 and Residuary Non-Banking Companies (Reserve Bank) Directions, 1987. Persons (depositors) aggrieved by defaults by Non-Banking Financial companies can take up their cases with Departments of Financial Companies (in different regions) of Reserve Bank of India.

Sd-/
(R. N. VASWANI)
Under Secretary to Govt. of India

To
Lok Sabha Secretariat,
(Committee Branch-I)

NEW DELHI

ORIGINAL PETITION NOS. 15 & 30 OF 1990

Mumbai Grahak Panchayat & Anr. — Complainants

Versus

M/s Lohia Machines Ltd. — Opposite Party

BEFORE:

HON'BLE MR. JUSTICE V. BALAKRISHNA ERADI	PRESIDENT
MRS. A. S. VIJAYAKAR	MEMBER
MR. Y. KRISHNAN	MEMBER
HON'BLE MR. JUSTICE B. S. YADAV	MEMBER

For the Complainant : Mr. Sirish Desh Pandey, Mr. Ashok Rawat & Mr. S.K. Punchi, Authorised Representatives.

For the Opposite Party : Mr. Ashok Desai, Sr. Advocate & Mrs. Indu Malhotra & Ms. Sirin Jain, Advocates with him.

ORDER

After elaborate discussions at the Bar, the complainant namely, Mumbai Grahak Panchayat, Bombay and the intervenor, Akhil Bhartiya Grahak Panchayat, Delhi and the Opposite Party M/s Lohia Machines Limited, Kanpur have submitted an agreed joint scheme for repayment by the company of all the outstanding amounts of scooter deposits to all the remaining customers who have cancelled their bookings of scooters. The scheme is hereby approved and it will form a part of this order.

Under the said scheme the company is to pay to all the remaining customers to whom deposit amounts are outstanding, the principal amount of Rs. 500/- with interest thereon at the rate of 7 per cent annum from the date of deposit till the date of cancellation, thereafter interest at the rate of 11 per cent per annum from the date of cancellation upto 1.1.1992 and subsequently interest at the rate of 12.5 per cent per annum from 1.1.1992 till the date of actual payment.