

COMMITTEE ON PETITIONS

(EIGHTH LOK SABHA)

:

THIRTEENTH REPORT



(presented to Lok Sabha on

1989) 28 JUL 1989

LOK SABHA SECRETARIAT

NEW DELHI

July, 1989/Asadha, 1911 (Saka)

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Committee on Petitions (Eighth Lok Sabha)

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COMPOSITION OF THE COMMITTEE ON PETITIONS

(1989-90)

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**THIRTEENTH REPORT OF THE COMMITTEE ON
PETITIONS (EIGHTH 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 Thirteenth Report of the Committee to the House on the following matters:

- (i) Representation regarding Acquisition of Land in Delhi.
- (ii) Representation regarding Problems/Demands of Licensed Porters, Vendors and Bearers of Railways.

2. The Committee considered the above matters at their sittings held on 25 May, 28 and 29 December, 1988 and 7 February, 1989.

3. The Committee considered the draft Report at their sitting held on 31 May, 1989 and adopted it.

4. The Committee would like to express their thanks to the officials of the Ministries of Urban Development and Railways for furnishing information to the Committee.

NEW DELHI;
31 May, 1989

10 Jyāistha, 1911 (Saka)

BALASAHEB VIKHE PATIL,
Chairman,
Committee on Petitions.

REPRESENTATION REGARDING ACQUISITION OF LAND IN DELHI

1.1 Lt. Col. Mohinder Singh (Retd.) of New Delhi forwarded a representation dated 25 February, 1988 regarding large scale acquisition of agricultural land in the Union Territory of Delhi. The representation *inter alia* raised the following points:—

- (i) Between 1951 and 1980 the Delhi Administration and the DDA acquired over 484 million square yards of cultivated village land. Since then another 111 million square yards have been acquired or are in the process of being acquired. Over 287 million sq. yards are earmarked for acquisition in the inviolate Green Belt by the revised Master Plan (1981—2000). The so called 'socialisation' of land in Delhi has helped not peasants or other less privileged strata of society but the urban rich. It has reduced 150 villages to urban slums, and deprived over 200,000 villagers of both livelihood and dignity.
- (ii) Not only have the villages been systematically converted into urban slums, but their demographic balance has been completely altered by freezing the abadi limits to that fixed in 1968 by the 'Lal doras' drawn by the then administrators. Thus the land that has been acquired includes not only open agricultural land, but also land on which peasant families have been living for years.
- (iii) During this entire period of great land hunger no land has been acquired either in Delhi Cantonment (42.74 sq. km.) or in New Delhi (42.97 sq. km.) which even today have large tracts of open land perfectly suited for urbanisation, varying in size from 10,000 square yards to 35,000 square yards, attached to individual bungalows in which the more privileged and the influential continue to live in imperial indifference.
- (iv) Not only have the rich and influential Urban dwellers been spared from land acquisition in city, there is yet another instance of discrimination which is evident from the fact that recently authorities have started takings

steps to acquire agricultural land in 14 villages in Mehrauli Block of South Delhi, and have spared neighbouring villages in the same Block, for reasons best known to the authorities.

(v) Conversion of these villages into housing colonies results in:—

- (a) destruction of the national capital's Green Belt which is rightly regarded as the lungs of the city. This inevitably leads to very high level of pollution (as it is the degree of environmental pollution in Delhi is far in excess of permissible norms);
 - (b) excellent arable land which currently is an important source of agricultural produce including fresh vegetables, fruits for urban population and fodder for cattle, is lost for ever.
- (vi) For the acquired land the government paid an arbitrarily fixed price which averaged Rs. 2.28 per square yard. The compensation paid for over 20 million square yards of land was less than one rupee per yard. For many more millions square yards of village common land, the joint property of the villagers, even that was not paid.
- (vii) Even now the rates of compensation have changed little not withstanding the galloping inflation. As late as 23 September, 1986 the award announced for land belonging to Tikri Khurd villagers was as low as Rs. 2.20 per square yard, which works out to less than 25 paise per yard considering the erosion of the value of the rupee. A pucca cemented 70 ft. deep 38 ft. wide well in Village Saidulajaib was awarded only Rs. 1500/- (Even a truck load of bricks costs more).
- (viii) The record of the DDA in allotting alternative plots to the entitled villagers has been no less scandalous. Only 829 villagers have been allotted alternative plots so far, notwithstanding that over 3 lakhs villagers have been affected by the land acquisition.
- (ix) Even official plans reflect the systematic neglect of rural Delhi. For instance Delhi's first master plan, apart from declaring rural Delhi as Green Belt, had no plans for development of villages in Delhi to improve the living

standards of Rural Community. Even the revised master plan (1981—2000) devotes no more than two pages out of 155 pages for village development. Amongst other things it envisages relocating garbage dumps next to them. Para 46 of the 1st Master Plan of Delhi which had laid down that comprehensive Master Plans for villages (that form an integral part of the Green Belt) were to be made and implemented, remain only a paper exercise.

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- (x) The provision in Section 21(2) of Delhi Development Act, for offering adequate accommodation on the acquired lands, has been evaded by the device of calling the acquired land as "Nuzul" land and handing it over to the DDA for the so called development.

Farm Houses of the politically prominent people have been spared from acquisition which is a blatant violation of Article 14 of the Constitution which forbids discrimination. What is required is that entire Rural area be left as Green Belt to provide healthy environment for citizens of Delhi.

No serious effort has been made to assimilate the residential part of the villages of the 1908 "Lal Dora" vintage into the rural development schemes of the Master Plan.

- (xi) The Government has violated clause 23 of sub-section 1 of the land Acquisition Act by not fulfilling its moral and legal responsibility of resettling/rehabilitating the uprooted villagers, whose lands, their only means of livelihood, have been arbitrarily taken away from them.

1.2 The petitioners also suggested certain corrective measures and listed a number of demands. These were referred to the Ministry of Urban Development on 3 March, 1986 for their comments. Para-wise comments furnished by the Ministry are given below:—

Points raised

Reply of the Ministry

(i) It has been suggested that projected urban population of 12 million as per Master Plan for Delhi—Perspective 2001 could be accommodated within the existing urban limits (about 1.22 lakh acres of land) and, as such, further acquisition of land is not necessary.

Detailed studies in this respect were conducted by the Perspective Planning Wing of Delhi Development Authority. In the urban limits as indicated in Perspective Development Plan for Delhi-2001 published for objections/suggestions, the total urban area as indicated in the plan has a holding capacity of 90 lakhs. Thus, the Perspective Development Plan for Delhi-2001 suggested additional Plan of the order of about 20,000 hectares (50,000 acres) land for urban development in the next two decades. The Perspective Development Plan for Delhi-2001 is still under consideration of Government and all aspects of the matter will be taken into account in finalising it.

(ii) It has been suggested that compensation for the land under acquisition must be negotiated directly between the Government and the land owners. Also payments for the land must be simultaneous process with the land and the money changing hands the same day. Further, while evaluating the potential value of land and rise in prices due to urbanisation and development in the vicinity as also the consequences of the loss of a place for living to peasantry etc. must be fully considered.

The question of payment of compensation by negotiation/arbitration had been raised in a separate petition to the R. J. S. Bha by Brig. Dalip Singh Solnki. The payment of compensation for acquired land through negotiation or arbitration was not considered suitable in Delhi. However, care is taken to ensure payment of adequate compensation for acquired land in accordance with the provisions of the Land Acquisition Act on the basis of the price indicated in the sale deeds registered with the

Registrar for the same village or nearby village, the price of the land already fixed for the same village earlier and the price determined by various courts.

In addition to the compensation, the land owners are also being paid solatiums at the rate of 30%, additional amount at the rate of 12% per annum and the interest at the rate of 9%/15% as per the amended provisions of the Land Acquisition Act. These amounts are payable from the date of payment. The Delhi Administration has intimated that, in this manner, a land owner is getting about six times over and above the actual cost of land on its acquisition. The compensation paid in recent acquisition of land in Delhi comes to about Rs. 1,10,400/ per acre on an average which is by no means inadequate.

Points raised

Reply of the Ministry

The payment of compensation before taking over possession of the land is not considered feasible as difficulties may arise in obtaining physical possession after the compensation has been paid. The payment is made as per the provisions of the law.

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The quality, potentiality and the situation of land is taken into account in determining the compensation payable as per the provisions of the land Acquisition Act.

(iii) It has been suggested that Delhi, Administration and Delhi Development Authority have miserably failed to carry out their obligation of providing alternative plots and employment to the ex-propriated peasants.

The DDA has been allotting residential plots, as also shops to the farmers whose lands are acquired. In fact the reservation of shops built by the DDA for allotment to persons whose land was acquired, was increased from 10% to 15% in accordance with a decision taken by the L.G. last year. The residential plots are allotted by the DDA as per the scales laid down by the Lt. Governor of Delhi on the recommendations of Delhi Administration. In accordance to with the existing policy of the Government on the subject, no preference in the matter of employment is to be given in case of acquisition of land but the members of the family whose land is acquired can be given suitable education and training with a view to equip them for employment.

(iv) It has been suggested that the existing village sites must be redeveloped to provide facilities at par with the other adjacent developed colonies. Also the amount of money realised by the sale of village common lands (taken free) which runs into hundreds of crores of rupees must be re-invested in providing better living conditions to the population who have been deprived of their land.

The Government have already sanctioned a scheme for development of unbanished villages in Delhi under which regular water supply, sewerage, drainage, etc. are being provided. It is expected that, on completion of this scheme, the situation of these villages will improve considerably.

Points raised	Reply of the Ministry
(v) It has been suggested that the unjustified and excessive charges made from the persons allotted alternative plots must be reimbursed.	The alternative plot is allotted at pre-determined rates which are fixed on the basis of cost of acquisition and development and expenses connected with providing amenities to a particular village. This is quite reasonable.
(vi) It has been suggested that the population residing in 46 resettlement colonies should be moved to their permanent places nearer their place of work.	Resettlement colonies have been set up to benefit weaker sections of society previously living in jhuggies and Jhonpris. Between 10 to 15 lakh persons are presently living in these colonies all over Delhi. It is not possible to shift these colonies. The Government has sanctioned a scheme for provision of regular water supply, sewerage, drainage etc. in these colonies in order to fully integrate them in the urban complex.
(vii) It has been suggested that unauthorised colonies/constructions must be removed from all rural lands.	The suggestion regarding intensive use of available land within urban limit have been taken note of and redensification of the existing residential areas is being considered as a part of the perspective Development Plan for Delhi-2001.
	It is one of the objectives of the planned development of Delhi to avoid unauthorised colonisation, within or outside the urban limits. The following steps have been taken by the Government in this behalf:
	(a) A directive was issued in 1983 that encroachment on public property should be checked in the very beginning and not allowed to become permanent when it becomes difficult to remove them.
	(b) The Delhi Development Act, 1957, the Delhi Municipal Corporation Act, 1957, the Punjab Municipal Act, 1911 (as applicable to New Delhi Municipal Committee area) and the Public Premises (Eviction of unauthorised occupants) Act, 1971 were amended in May, 1984 to declare unauthorised construction and encroachment cognisable offences and also provide for Appellate Tribunals to hear appeals against the orders of demolition etc. in Delhi to the exclusion of the jurisdiction of the civil courts. The provisions relating to the declaration of these offences as cognisable offences had been enforced in 1985. The provisions relating to setting up of Appellate Tribunals which were not enforced earlier pending finalisation of details/rules by the Ministry of Home Affairs for the purpose have also since been enforced (w.e.f. 10-2-86 in respect of Delhi Municipal Corporation Act and 24-2-86 in respect of Delhi Development Act.)

Points raised

Reply of the Ministry

- (viii) It has been suggested that all sections of land owning society must be treated at par while ordering acquisition of land for Government requirements.
- (ix) It has been suggested that wherever building activity has taken place outside the Laldora because of the sheer necessity of accommodation for the facilities of villagers, it should be regularised.
- (x) It has been suggested that harassment of villagers who were forced to part with their land to others through 'Power of Attorneys' due to long delays in completion of acquisition proceedings must stop.
- (c) A meeting was taken by the Home Minister on 18-6-85 in which guidelines were laid down for prevention and checking of unauthorised construction and it was decided to fix responsibility for this purpose at fairly high level in the concerned organisations.
- The acquisition of land is done in accordance with the provisions of the law and no distinction is being made in this regard.
- The question of extension of Laldora is under consideration of the Delhi Administration.
- Such clandestine transfers of land cannot be allowed to continue. The Government is considering proposals to make adequate provisions in the law to check the same. Meanwhile considering the extent of unauthorised colonisation that had taken place in the past through such clandestine sale of land and the humanitarian problem involved therein, the Government had agreed to regularise unauthorised colonies covering residential and commercial structures constructed therein upto 30-6-77 and 16-2-77 respectively. As a result, 539 such colonies have already been regularised in Delhi."

1.3 The Committee considered the replies furnished by the Ministry of Urban Development at their sitting held on 25-5-1988. The Committee decided to take evidence of the petitioners first and thereafter of the representatives of the Ministry of Urban Development, Delhi Administration and the Delhi Development Authority. Accordingly, the Committee took evidence of the petitioners on 28-12-1988 and of the representatives of the Ministry of Urban Development, Delhi Administration and Delhi Development Authority on 29-12-1988.

Master Plan for Delhi

1.4 The first Master Plan for Delhi came into force on 1-9-1962 and lapsed in 1981 after 20 years. A new Master Plan for the period 1981—2001 was stated to be still under finalisation. Explaining the reasons for delay in the finalisation of the revised Master Plan, a representative of the Ministry of Urban Development stated during evidencer:

"The Master Plan currently in use was prepared for a period of 20 years which ended in 1981. Ideally, the Master Plan for the next 20 years should have been ready with the expiry of the previous Master Plan but it has taken us all these years, a number of conflicting issues had arisen and one wanted to be sure that the projection we make about 2001, the foundation on which we rest the future shape of Delhi is secure. All that has taken time, and there is certain delay. It is in the final stages. All the preparatory work is over."

1.5 The Committee enquired whether while formulating plan for development of Delhi care had been taken to ensure that a green belt was developed around Delhi. In this connection, the Additional Secretary, Ministry of Urban Development stated:

"Urbanisation by definition means a certain march into the nature. It will eat up green areas. In fact, the march of civilisation itself is eating into the nature, and it has caused a world wide concern on behalf of the environmentalists as to how to have the environment from the onward march of civilisation. In this background, urbanisation is inescapable and we have to live with it. We are conscious of the fact that DDA makes an earnest attempt on behalf of the city planners and the Government for an orderly extension of the urban limits of the capital of Delhi. Perhaps, we are one of the few cities in the world where this orderly development is sought to be achieved through large scale acquisition of land by a public body instead of leaving it to individuals and greedy builders and colonizers."

1.6 When the Committee pointed out that in the course of development of Delhi, the rural areas and agricultural population had been badly disturbed, the witness stated:

"Through the agency of various public bodies we have sought to make this process of extension of urban limits of the city orderly to the extent possible. But for this approach, the shape of urban limits of Delhi would have been different. It would have been chaotic if we could have left it to the individuals and builders and colonisers. We have tried to contain the urbanisation to the villages of Delhi by having a totally integrated look of what is required in

the coming years. I must say that the Government is equally concerned about the welfare of the farmers and the rural hinterland. We are certainly concerned that extension of Delhi limits to rural areas should be contained to the maximum possible extent. But the pressure of urbanisation of Delhi has been too much for the public bodies. The rate of migration to Delhi has been massive. It is not the growth of population of Delhi as such which accounts for present population level of Delhi, but the rate of migration of 1 to 2 lakhs per year which very few cities witnessed, that shows what the public authorities of Delhi have been containing over the years. Therefore, simultaneously with an orderly development of the existing and extended urban areas of Delhi, we have also been working on the preventive side, that if you develop smaller towns and medium towns around Delhi, they might arrest some of the migration and by the same logic if you improve the quality of life in rural areas, migration from rural areas is arrested and as a part of the total urban development strategy we have also been simultaneously making efforts to contain migration to big cities like Delhi."

1.7 The Committee have been informed that a total area of land measuring 63,279.37 acres had been acquired by Delhi Administration from 1959 to 31 March, 1989 for the planned development of land. Out of this 56,985.71 acres of land has already been passed on to Delhi Development Authority and the break-up of its utilisation is as follows:—

1. Residential Scheme	17508.77 acres
2. Industrial scheme	2555.37 acres
3. For development scheme	36.99 acres
4. Horticultural Deptt.	7287.40 acres
5. Slum & JJ Scheme	5785.14 acres
6. Commercial Institutional Govt. and Semi-Govt., private agencies.	9758.51 acres
7. Co-operative Societies	4805.82 acres
8. Balance	9247.71 acres
	56,985.71 acres

1.8 The Committee enquired whether acquisition of more land from the agricultural green belt was envisaged. In a note the Ministry have stated:

“The draft Master Plan already provides for densification of the present urban limits and optimum use of the available land. To that extent, efforts have been made to contain the requirement of additional land to the extent possible. Acquisition of additional land proposed in the draft Master Plan will also meet the likely situation of agricultural land getting disposed of indiscriminately under pressure of population, which may benefit a few land owners immediately but will injure the prospects of orderly development of the national capital of the country.”

1.9 The petitioners were of the view that projected urban population of 12 million as per Master Plan for Delhi—Perspective 2001 could be accommodated within the existing urban limits and as such further acquisition of land was not necessary. The Ministry intimated the Committee on 28-4-1987 that according to perspective development plan for Delhi—2001 additional land of the order of about 50,000 acres was required as the land at present had a holding capacity of a population of 90 lakhs only.

Land Acquisition Act

1.10 Under the provisions of the Land Acquisition Act, 1894, the Government can acquire any land if it is required for a public purpose. For this, the procedure followed is that first of all a preliminary notification under Section 4 of the Land Acquisition Act is issued for acquisition of some land. Any person interested in the land notified under Section 4 can file objections under Section 5. After considering a report submitted under Section 5 a declaration can be made under Section 6 that the land is required for a public purpose. Thereafter the Collector is required to take order for the requisition of the land and also issue notice inviting claims for compensation. For determining the compensation the market value on the date of notification under Section 4 is taken into consideration. An award is then drawn up under Section 11, which provides for cash compensation.

1.11 The Committee have been informed by the petitioner that in Delhi in many cases notification under Section 4 of the Land Acquisition Act, 1894 were issued 20 years back but the actual acquisition

took place several years thereafter. In all these cases the market value was taken as on the date of notification under Section 4. In effect the notification under Section 4 amounted to freezing of the market price of land. An amendment in the Act was subsequently made, which provided that after a notification under Section 4, the notification under Section 6 for acquisition of land should be made within 3 years. There has been no improvement in the situation as after a notification under Section 6, authorities take much time in completing the legal formalities but do not acquire the land and pay the compensation amount immediately.

1.12 When asked about the time gap between acquisition notification and final payment of compensation to the land owners, the Ministry stated:

“The total period between the notification under Section 4 and drawing the award is about 3 years. The payment of compensation is started immediately, after the announcement of the award except in cases where there is stay or dispute. In latter cases, the amount of compensation is sent to the ADM who makes the payment to the rightful owners.”

1.13 Another point put forward by the petitioners was that the Collector while awarding compensation generally gives a very low figure and one has to appeal to the Tribunal or the High Court even to get the prevailing market price at the time of notification. It was, therefore, suggested that the High Court or Tribunal's findings in regard to the market value of land should be taken into account by the Collector for deciding other cases in the area as all the villagers could not go in appeal for want of financial resources and knowledge of law.

Compensation for acquired land

1.14 The petitioners complained that land had been acquired for less than one rupee a sq. yd. and had been later on sold by DDA for as much as Rs. 8,000/- to Rs. 10,000 per sq. yd. During evidence, the petitioners further informed the Committee that in Nehru Place land was acquired by DDA for 60 paise per sq. yard but it was sold at Rs. 50,000 per acre. In 13 villages like Tuglakabad, Tigri, Khanpur, Devali, Saidul-Ajaib, Neb Sarai, Haurani, Khirkee, Maidan garhi, Rajpur, Santhadhi, Sahoorpor and Chattarpur, the highest award for a compensation was @ Rs. 22 per sq. yard

whereas the market price in those areas could be as high as Rs. 50 lakhs per acre.

1.15 Commenting upon the suggestion made by the petitioners that compensation for the land under acquisition must be negotiated directly between the Government and the land owners, the Ministry had informed the Committee in a written note that such payment through negotiation or arbitration was not considered suitable. It was also stated that 'land owner is getting about 6 times over and above the actual cost of land on its acquisition'. Asked how it was ensured that fair and adequate compensation was paid to the land owners, the Ministry stated:

"The market value of the acquired land is assessed on the rates prevailing on the date of Notification u/s 4 of the Land Acquisition Act, 1894 and after considering the situation and quality of the land. In addition to the above 30 per cent as solatium and 12 per cent as an additional amount as per provisions of the law are being paid."

1.16 Further asked how this compensation compared with the auction rates of plots, the Ministry in a written communication stated that such a comparison was not justified for the following reasons:

- (a) A small percentage of the total acquired land is sold by auction as plots;
- (b) A large majority of residential plots are built upon by the DDA itself. In the pricing of the houses so built, the DDA takes into account only the pre-determined price of the land under each house;
- (c) The determination of pre-determined price as above takes into account the needs of subsidising the poorer sections of the society. The pricing of the houses for them contains a heavy element of cross subsidy;
- (d) Part of the land acquired by the DDA, after development, is allotted to various Government, semi-Government and private institutions engaged in public activities on prices which are either nominal, and, therefore, heavily subsidised or at best at 'no profit' 'no loss' basis;

- (e) The price of a plot through auction represents not only the price of the land included in the plot itself but the total cost of the development in the area, which includes not only the cost of provisions of infrastructure but also the land that is utilised for such infrastructure which include roads, streets, parks, drainage, sewerage, water supply, electricity and other common public facilities."

1.17 In addition to the cash compensation, DDA has been allotting on a preferential basis residential plots and shops/stalls to persons whose land was acquired. It was stated that no preference in the matter of employment could be given in case of persons whose land was acquired but the members of the family could be given suitable education and training with a view to equip them for employment.

1.18 The position with respect to the allotment of shops was stated to be as under:—

"At present, the persons who have a holding of more than 1 acre and whose land is acquired are eligible for allotment of shops/stalls built by the Delhi Development Authority. However, the total number of shops/stalls to be allotted to this category of persons is limited to 10 per cent of the number of shops/stalls built by the DDA in each zone. In case the number of eligible applicants is more than the number of shops/stalls available within the prescribed percentage in the zone, the allotment is made by draw of lots."

1.19 The Committee were also informed that during the last 2 years DDA allotted 175 shops/stalls by draw of lots and the number of applicants was 2000. With respect to further increasing the quota, it was stated that although no formal decision for increasing the quota for allotment of shops/stalls had been taken, during the last 3 years 20 per cent of the shops/stalls built by DDA had been allotted to those eligible persons whose land was acquired.

1.20 The position with respect to present scale of allotment of residential plots to persons whose land was acquired and the num-

ber of plots which had been allotted during the last 2 years was as under:

"All norms applicable to such persons are given as under:—

I. For awards announced before 3-4-86:—

- (i) Maximum size of plot is 400 sq. yds. for land acquired being more than 10 Bighas.
- (ii) 250 sq. yds. for the land acquired between 1 Bigha to 10 Bighas.
- (iii) 40 sq. yds. in Rohini for the land acquired less than 1 Bigha but more than 150 sq. yds.

II. For awards announced on or after 3-4-86:—

- (i) Maximum size of plots 250 sq. yds. for the land acquired more than 10 bighas;
- (ii) The size of plot is 150 sq. yds. for the land acquired between 5 bighas to 10 bighas;
- (iii) The size of plot is 80 sq. yds. for the land acquired between 1 bigha to 5 bighas;
- (iv) No plot is admissible for the land acquired less than 1 bigha.

1.21 During the last two years, DDA allotted a total of 326 plots out of a total number of 310 plots disposed of by it. 493 plots were disposed of by auction.

1.22 The Committee were informed that during the period March 1975 to 1988-89, DDA had provided 5197 plots to the landowners whose land was acquired. During the same period DDA had in all disposed of 37,472 plots.

1.23 The petitioners during evidence before the Committee had pointed out that plots measuring 80 sq. yards to 250 sq. yards were being given to them. These were too small in size and posts of at least 500 sq. yards should be given as villagers were required to make provision for their cattle also.

1.24 According to present rate of compensation land was being acquired at the rate of Rs. 22 per sq. yard but for alternative

plots they were required to pay at the rate of Rs. 758 per sq. yard. It was stated that even after getting full compensation amount they were not in a position to pay for the plot of land offered to them. It was suggested that development charges should not be taken from the villagers and alternative plots should be given at the rate at which their land was acquired by the Government.

1.25 The Ministry in a written note explained that alternative plots were allotted at pre-determined rates fixed on the basis of cost of acquisition and development charges connected with providing of amenities.

1.26 Asked to indicate the cost of development of land acquired, the Chairman, DDA stated that the cost of development was roughly Rs. 400/- per sq. metre and that they had given plots to the Group Housing Societies at the rate of Rs. 490/- per sq. metre. In this context, he also pointed out that the Ghaziabad Development Authority sometime back had advertised land for Group Housing Societies at the rate of Rs. 2000/- per square metre.

1.27 Reacting to proposal that land holders should be involved in the process of land development, he stated:

“We have discussed it with the builders and they are in touch with them. I cannot say whether final decision has been taken or not.”

The Additional Secretary, Ministry of Urban Development, added:

“We will certainly consider any further means of compensating the farmers, if there is any need. But I must assure that there are no profits to be shared. We made it clear that DDA is not making any profit. Whatever money is made from selected few plots is ploughed back into building of houses, land for poor etc. It has been given at subsidised rates and the farmers themselves are given plots at no loss no profit basis. It carries much higher price in market. To that extent the farmer is participating. Any appreciation of the value of his land is conveniently forgotten by the farmers. When he is given not only the market price of his land but he is also given 30 per cent cost for compulsory acquisition of land. We are also giving him a land at a price which is much

lower than the market price. We are also giving him a shop which is much lower than the market price."

Observations/Recommendations of the Committee

1.28 The Committee note that as elsewhere in India, vast tracts of land have been acquired by the Government in and around Delhi under the Land acquisition Act, 1894 for an avowed public purpose namely planned development of the capital city of Delhi. The land so acquired mainly comprised of excellent arable land which was actually under cultivation or formed part of the green belt or was common land being used by the peasant families for years. The acquisition of land on large scale has not only deprived the poor and marginal farmers of their precious possession but has also forced them to give up their age old profession of agriculture and seek rehabilitation elsewhere in agriculture or in some other profession. The manner in which the Land Acquisition Act has been operated has only militated against the poorer land owners. A large number of cultivators have been deprived of their means of livelihood in order that people living in or coming to Delhi may be provided with residential and industrial plots avowedly in a planned manner. That the displaced persons whose land has been acquired are not only ruined for life and pauperised for generations does not enter into anyone's calculations. The Committee consider that this aspect of the matter calls for an in depth study so that due weightage could be given to it while assessing the quantum of compensation to the land owners.

1.29 The Committee have been informed that between the period from 1959 to 31-3-1989, land measuring more than 63,000 acres was acquired by the Delhi Administration. Additional land to the extent of about 50,000 acres was proposed to be acquired to meet the needs of the Perspective Development Plan for Delhi—2001. The Committee find that the first Master Plan for Delhi covering a period of 20 years expired in 1981. Although 8 years have since elapsed, the new Master Plan for the period 1981—2001 is still in the process of being finalised. It is no wonder that the inordinate delay in finalising the new Master Plan and the attendant uncertainty has led to large scale encroachment on public land and unauthorised construction thereon. The Committee cannot but emphasise that the new Master Plan should be finalised without any further loss of time. The Committee trust that all affected interests would have been consulted before finalising the plan and after its approval the same will be widely publicised for information of the public at large. The Committee desire that a comprehensive survey be carried out without any loss

of time with a view to identifying illegal encroachment on lands acquired by DDA and other public agencies in Delhi and necessary steps taken to get them vacated. Any failure to do so would vitiate the very concept of planned development and give a fillip to further encroachment.

1.30 The Committee need hardly emphasise that the process of extension of urban limits of Delhi should not only be orderly and well thoughtout, but it should also not result in imposing unreasonable burdens on some sections of the population. In no case the welfare and betterment of the farmers and land owners whose land has necessarily to be acquired in the larger public interest should be overlooked. It is indeed a matter of deep regret that following wholesale acquisition, about 150 villages have been converted into urban slums and more than 2,00,000 villagers have been deprived of their means of livelihood. Government are duty bound not only to provide adequate and decent means of subsistence to the displaced persons but have also to make sure that the ecology of the area is preserved.

1.31 The Committee regret to observe that the provisions of the Land Acquisition Act, under which large scale acquisition of land is possible, had been applied in a mechanical and arbitrary manner to the disadvantage of a large number of small landowners who have simply been uprooted from their hearths and homes with a pittance of so called compensation. It has been noticed that there is an inordinately long time gap between the acquisition of a piece of land and its actual utilisation by the authority for which it is acquired and that the land acquired is generally far in excess of the needs. The mode of assessment of price for payment of compensation is most iniquitous. Not only have the rich and influential urban dwellers been spared from land acquisition proceedings in the city, even the agricultural land in certain selected areas has been left out and saved from acquisition in a most arbitrary manner. The Committee desire that this aspect of the petitioner's complaint should be remitted to a high powered Committee presided over by a retired judge of the Supreme Court for detailed investigation and remedial action.

1.32 The Committee would further suggest that the actual implementation of the Land Acquisition Act in Delhi should be thoroughly reviewed and in particular attention be given to the following aspects:

- (i) The term "public purpose" must cover the welfare of all, including those to be displaced. Therefore, the preliminary

notification under Section 4 of the Land Acquisition Act must be a very detailed one. It should cover the following points: (1) A detailed description of the proposed development work, (2) A complete list of those to be displaced; (3) A preliminary estimate of the cost of the property being acquired; (4) Details of community assets being acquired; and (5) A draft plan for re-habilitation of the displaced people, providing them alternative land and occupations, restoring community assets, etc.

- (ii) Each of the above issues should be justiciable so that any affected person can go to court. In addition, the amount of compensation assessed on a preliminary basis should be deposited in court when making a notification under Section 4 so that when possession is taken over, at least interim compensation is simultaneously paid to the affected persons.
- (iii) The compensation payable in terms of the provisions of the Act should be defined so as to cover not only the market value of the land but should also cover compensation for the permanent loss of profession of agriculture which the acquisition of agricultural land inevitably involves.
- (iv) The acquisition proceedings should be completed within a time frame to be included in the Act itself. There should be a stipulation that in case the proceedings are not completed within this time, the notification would stand lapsed and fresh notification would be required to be issued for acquiring land for a public purpose.
- (v) No land should be acquired unless detailed plans have been prepared and funds are available to complete them within a time bound programme failing which such land should revert back to the original owner.
- (vi) Another point which has been agitating the minds of small land owners is that wherever the proceedings for acquisition have been challenged by the affected persons in higher courts of appeal, the result has been that higher compensation has been awarded. However, the awards of such courts are not made applicable to all other similar cases in the same village or area. As it is not possible for

poor peasants to seek redress through litigation, a provision may be made that the Collector while awarding compensation will take into consideration the award of higher courts, if any."

1.33 Apart from the amendments/modifications to be incorporated in the Land Acquisition Act on the lines suggested above, the Committee desire that the following general principles should also be observed in the matter of acquisition of land, namely:

- (1) Only land declared surplus under the Urban Ceiling Act should be acquired for the purpose of building houses.
- (2) As far as possible agricultural land, which is actually under cultivation should not be acquired;
- (3) Land of marginal farmers engaged in agriculture, if it be less than 2 acres should in no case be acquired.
- (4) For future expansion of urban housing only rocky and unproductive land should be acquired;
- (5) The satellite towns around Delhi should be so developed as to take care of the migratory population thus saving Delhi from the continuous influx of people. In other words, the Master Plan for Delhi should be integrated with and be part of the overall development of the National Capital Region.
- (6) If at all some acquisition is absolutely necessary, the notice of acquisition as well as the acquisition should affect equally everyone in the area without any exception.

1.34 The Committee find that one major point of grievance with the farmers is that the quantum of compensation actually paid for the land acquired by the Administration is ridiculously low as compared to the prevailing market prices of the land. The compensation payable under the Land Acquisition Act is relatable to the date of notification under Section 4 but the time lag between the notification and actual payment is so wide that the compensation which a landowner actually gets appears to be only a fraction of the prevailing market prices. It has been stated on behalf of the Government that the cash compensation being paid to the landowners for the acquired land in some recent cases works out to about Rs. 1,10,400 per acre on an average. In absolute terms this figure may

appear to be quite high, but is pitifully small when considered against the prevailing market prices in any part of Delhi. The suggestion made by the petitioners, therefore, that compensation for the land under acquisition should be negotiated directly between the Government and the land owners needs to be reconsidered. But for the acquisition proceedings, the land owners would be in a position to get much more remunerative prices for their land. The provision of negotiations for determining the amount of compensation will provide a salutary check on the unbridled power of the State to acquire the land of marginal farmers and small landowners under the guise of development. The Committee, therefore, desire that the Ministry of Urban Development should review the matter with a view to evolving a mechanism which is practicable and ensures that the affected people do not feel deprived. If necessary, the village panchayats should be actively associated in such negotiations. To achieve this end the Land Acquisition Act may be suitably amended.

1.35 Apart from the cash compensation to which each landowner whose land is acquired, becomes entitled, the Administration is required to provide alternative plots as also some avenue for employment to the expropriated peasants. It has been stated that only a small number of plots have been allotted as alternative plots, whereas the number of farmers whose land was acquired was much larger. The sizes of the plots so allotted did not suit the farmers as such plots are used by them not only for residence but also for maintaining their cattle and pet animals. Again the prices charged for these plots were so high that in some cases even the total compensation received by the landowner for his land was not enough to pay for the plot allotted to him at predetermined prices. The Committee recommend that the alternative plots allotted to persons whose land is acquired should be of adequate size and in case of larger families more than one plot may be allotted free of cost keeping in view the requirement of each family. The Committee also suggest that the entire scheme should be reviewed with a view to redressing the genuine grievances of the farms and landowners.

1.36 Another complaint made by the petitioners relates to re-fixation of the limits of 'Lal Doras' which had been laid down several years earlier but have not been reviewed since then. With the natural growth of the population in the 'abadi' limits surrounded by 'Lal Doras' more land is needed for living. But as a result of acquisition of all land outside the 'Lal Dora', there is no scope for further

expansion of the villages. There has been a persistent demand for extension of 'Lal Dora' and all along the Administration has stated that the matter was under consideration. The Committee desire that appropriate decision in the matter of extension of 'Lok Dora' should be taken immediately. While doing so, the Committee desire that care may be taken to ensure that the interests of the population living within the limits of 'Lal Dora' are fully protected. Pending a decision regarding extension of 'Lal Dora', no built-up structure or building that may have come up beyond the 'Lal Dora' limits should be demolished. Further, the limits of 'Lal Dora' should be extended in such a manner that enough land becomes available for common use by the residents.

1.37 Allied to this is the demand for redevelopment of the existing villages with a view to providing essential amenities that have been made available in the adjacent developed colonies set up on the acquired land. Although the process of land acquisition started some twenty years back, Government have now sanctioned a scheme for the development of urbanised villages of Delhi. The negligence shown in the matter has resulted in converting the villages into large scale slum areas without any basic amenities of human living. The Committee strongly recommend that it may be considered whether it would not be desirable to have a separate autonomous body like a Village Development Board entrusted with the total responsibility for proper development of the villages. The Committee need hardly emphasise that this is a problem which has to be tackled on a priority basis.

1.38 The Committee would like to be apprised of the action taken or proposed to be taken on various suggestions/recommendations in the above paragraphs within three months.

II

REPRESENTATION REGARDING PROBLEMS/DEMANDS OF LICENSED PORTERS, VENDORS AND BEARERS OF RAILWAYS

2.1 Sarvashri Madan Pandey and Chandrasekhar Tripathi and Shrimati Usha Verma, M.Ps. forwarded a representation dated 7 May, 1987 from General Secretary and other office bearers of National Federation of Railway Porters, Vendors and Bearers (Regd.) regarding grievances of licensed vendors, porters and bearers of the Railways.

2.2 The petitioners *inter alia* stated as follows:—

“The licensed porters, vendors and bearers are the most neglected, suppressed and oppressed class of the railway labourers. The Railway Administration does not treat these poor labourers as their regular and permanent employees. The railway claims that there is no employer-employee relation between these licensed porters, vendors and bearers with the administration. The administration’s contention is that these labourers are given licence by the former and the relation between the two is that of licensor-licensee. It also claims that the responsibility of the Railway Administration does not stretch beyond giving them licence.... The administration does not give enough facilities to these toiling people and they are being exploited.

The licensed porters, commission vendors and bearers of the railway spend their whole lives in the service of the railway. These labourers are the link between the travelling public and the railway. They perform very useful duty to the railway. But the licensed porters and the commission vendors and bearers are not given regular salaries, dearness allowance, house rent, retirement benefit, provident fund facility, bonus, free passes, free treatment for self and families in the railway hospitals and dispensary, free uniforms etc.

* * * * *

The Government of India had formed a study group under the chairmanship of Shri T. V. Anandan, who was then Member of Parliament to go into the working and living conditions of the licensed porters and commission vendors and submitted recommendations for their improvement. Out of the 55 recommendations pertaining to the licensed porters 31 were accepted, 9 accepted with modifications, 12 rejected and three were in the nature of observations. As for vendors, 16 were accepted, 3 accepted with modifications, 13 rejected and 2 were in the nature of observations. But the implementation of the recommendations, that were accepted, had remained on papers only. The benefit has not actually reached the licensed porters and vendors, so much so that even the head offices of the Zonal Railways are not aware of the directives of the Railway Board with regard to the implementation of the recommendations.

* * *

The licensed porters should be granted 'do jure' status of permanent employees of class IV of the railway. This implies that the licensed porters will not be given regular salary and the mode of earning will remain the same as at present, i.e. they will earn by carrying passengers' luggage and getting remuneration from the latter for their labour. But other facilities that are available to the regular railway employees of class IV, viz. bonus, house rent, free of cost uniforms, free travelling passes, provident fund, retirement benefit, gratuity, medical treatment for self and families in railway hospitals and dispensaries, education to their children in railway schools and preference to their sons and daughters in railway services, etc. should kindly be made available to the licensed porters

* * *

The rate of portage allowed to the licensed porters should be raised to Rs. 3.00 per head load of 40 kg. per trip at all stations on all railways because the cost of living has gone up equally all over India. At the same time the rate of portage should be increased every two years as per the directive of the Railway Board.

* * *

Rest halls and rest rooms should be provided for exclusive use of the licensed porters at all stations where there are 20 or more licensed porters. Three model plans should be prepared by the Railway Board for the rest rooms/halls to be provided at various stations, one for the stations having 20 to 49 licensed porters, one for the stations having 50 to 199 licensed porters and one for the stations having 200 and more licensed porters.

* * *

Hand barrows (trolleys) for carrying passengers' luggage should invariably be supplied at railway's cost to the licensed porters at all stations at the rate of one hand barrow for every 10 licensed porters. Wheeled chairs, armed chairs and stretchers should also be provided at all stations for exclusive use of the licensed porters.

The system of supervision of the licensed porters through the moqaddams/mates/jamadars employed by the railway as permanent railway servants and collecting the salary paid to these railway servants from the licensed porters in the shape of license fee should be abolished. Instead the system of supervision of the licensed porters through their elected panchayats should be introduced at all stations compulsorily. A token license fee at the rate of Rs. one per porter per month should be collected from the licensed porters at all stations.

* * *

Free of cost uniforms—two sets of cotton uniforms, i.e. 2 shorts and 2 turbans and one set of woollen uniforms i.e. one coat and one pant should be given to the licensed porters by the railway every year.

The system of transfer of licences of the dead, old, infirm, incapacitated or otherwise unfit licensed porters to their near relatives which should include the sons, brothers-in-law, brother and nephews of the licensed porters leaving the licence, that was suddenly and arbitrarily stopped last year should be restored.

* * *

Atrocities of the R.P.F. and the G.R.P. on the licensed porters should be curbed with iron hand. At present, the R.P.F. and the G.R.P. are doing havoc. They insult, abuse, assault and implicate the licensed porters in false cases.

* * *

New recruitment of licensed porters, i.e. award of new licences to work as porters should be stopped at once because the existing number of licensed porters at all stations are unable to earn sufficiently.

* * *

Contracts of parcel handling and loading/unloading should invariably be awarded to the genuine labour contract cooperative societies and fake and fictitious cooperative societies' contract should be cancelled.

* * *

Unauthorised persons who forcibly and/or in connivance with the R.P.F. and G.R.P. work at stations and carry passengers' luggage should be removed from the station premises.

* * *

Licensed porters should not be forced to lift dead bodies. Wherever they voluntarily lift the dead bodies they should be given remuneration @Rs. 10,00 per porter per hours because carrying dead bodies to hospitals consumes the whole day and the licensed porters cannot earn on that day.

* * *

Compensation should be given to the licensed porters and/or their families in cases in which the licensed porters die or sustain injuries while working on duty as per the judgement of the Kerala High Court.

Insurance scheme should be introduced for the licensed porters and it should be profitable for the licensed porters.

* * *

Licensed porters should be given railway land on lease for housing purposes.

* * *

Punishments of long suspension and discharge from duties for smallest mistake should not be imposed on the licensed porters.

* * *

The rates of commission allowed to the commission vendors and commission bearers should be raised to 25 per cent on all items at all static and mobile units immediately as the cost of living has gone up equally all over India.

* * *

Arbitrary and unproportionate punishments on smallest faults should not be imposed. Commission vendors and commission bearers are frequently discharged for very minor offences of not being able to return change of even 25 paise to the customers due to shortage of small coins or for giving even 5 ml less tea than prescribed in rush hours.

* * *

Woollen and cotton uniforms free of cost should be supplied to the commission vendors and bearers free of cost every year without fail.

Trolleys, utensils, crockery and all things required for a salesman should be supplied by the railways.

All items of sale should be supplied to the vendors and bearers in full quantity by the railway.

Permanent vendors and bearers should not be asked or given duties to sell items on platforms where only commission vendors used to sell eatables and drinks.

Arrangements should be made by the railways for safe placing of trolleys and utensils of the vendors in the night time and when they are not on duty in day time also.

Bi-partite committees to go into the grievances of the vendors should be framed at all stations where there are departmental catering and vending arrangements.

Atrocities of the R.P.F. and the G.R.P. on vendors and bearers should be curbed with iron hand.

Cooperative societies of actual vendors should invariably be awarded vending contracts.

* * *

Unauthorised vending both by the urchins and outsiders as well by the unauthorisedly engaged vendors in excess of the number of vendors allowed to them as per the terms and conditions of their contracts should be curbed with iron hand.

* * *

Sale of pan has been stopped at a number of stations. This has resulted in increase of unauthorised vending of pan because only authorised vending has been stopped.

* * *

Contractorship in vending and catering should be abolished and individual vendors should be directly awarded vending contracts as is the practice in the cases of the licensed porters.

* * *

All the vendors and bearers, who are being rendered unemployed as a result of the termination of the vending contracts of M/s. K. B. & sons, vending contractors, N.E.R., Lucknow, should be absorbed in railway catering and vending department.

The facility of transfer of the vending licenses of monopoly vending contractors to their sons, widows, daughters and even adopted sons and daughters should be abolished."

2.3 In their recommendation dated 9 December, 1987, the Ministry of Railways furnished their factual comments as follows:—

"With a view to improve the living and working conditions of the licensed porters and vendors employed on commission basis, the Ministry of Labour (Department of Labour and Employment) in consultation with the Ministry of Railways constituted a committee headed by Shri

T. V. Anandan, the then M.P., known as the Anandan Committee in the year, 1967.

The Committee submitted its report in 1969. The report contained 55 recommendations in respect of licensed porters and 34 in respect of commission vendors. Out of 55 recommendations pertaining to the licensed porters, 31 were accepted, 9 accepted with modifications, 12 rejected and 3 were in the nature of observations. As for vendors, 16 were accepted, 3 accepted with modifications, 13 rejected and 2 were in the nature of observations.

All the accepted recommendations have since been fully implemented. Besides the above recommendations made by the Study Group and implemented by the Railways, the licensed porters and office bearers of different porters' union have often made representations for implementing the remaining recommendations of the Anandan Committee in respect of various problems, grievances and demands.

* * *

Porters are licensees only of the Railways and they earn their wages direct from the passengers for carrying their luggage. There is no proposal to employ them as regular employees of the railways. Hence the facility of bonus, house rent, free travelling passes, retirement benefit and gratuity also cannot be extended to them.

Porters can have their children admitted in railway schools subject to availability of seats.

The facility of employment in railway services has not been extended even to the wards of regular railway employees. Therefore, this facility cannot be made available to the licensed porters.

The portage charges are so fixed as to ensure that the wages of porters are by and large equal to those of the unskilled labourers of the area as fixed by the State Government. In view of this, it is not practicable to bring about uniformity in the portage charges all over India.

Rest shelters are provided for licensed porters at those stations where their number is 150 or more. At other stations, this facility is provided in a phased manner subject to availability of funds. However, at present where rest shelters are not provided, porters are allowed to make use of waiting halls, bathrooms/latrines, canteen etc. provided at the stations for the second class passengers.

Free use of railway hand barrows has been permitted at all stations for use of licensed porters for carrying passengers' luggage. As for provision of wheeled chairs, stretchers etc. these are available with SSS/SMs at the stations for the use of the porters/passengers.

Under Panchayat system, supervision over porters is exercised by an elected representative of the porters at the station as an honorary supervisor in addition to his own duty as a porter. Wherever the licensed porters have agreed to form their own Panchayat, the Railway Administration have allowed them to do so subject to the over all supervision to be exercised by the Station Supdt./Station Master.

For supply of uniforms to the railway licensed porters, a normal license fee is collected from them. This is intended to cover the cost of the uniforms and supervision at comparatively large stations. Presently, they are provided with two sets of uniforms every year. This is considered adequate for their requirements. However, there is no provision for supply of winter uniforms to them.

* * *

Restoration of facility of transfer of licence badges of licensed porters to other relatives in addition to their sons has been examined in detail many time in the past. Even the decision to restore this facility to sons of licensed porters was taken after considerable hesitation in view of rampant misuse and sale of licences for monetary considerations. In the circumstances, extension of this facility to other relatives is not possible.

* * *

The strength of licensed porters at station is fixed only after detailed examination of work-load at the station and recruitment is made after following the prescribed procedure.

In accordance with the policy of the Ministry of Railways, to encourage cooperative methods in the execution of Railway works, handling contracts are awarded to available and willing genuine Labour Cooperative Societies of actual workers without calling of tenders irrespective of the value of the contract. The condition for renewal of a contract with a Labour Cooperative Society is that the Society should have accomplished the previous contract satisfactorily.

* * *

In order to apprehend and prosecute the unauthorised persons (urchins) who carry passengers' luggage, the Railway Administration conducts periodical drives at stations and in trains with the help of GRP and RFP. These drives are conducted at regular intervals and are continuous process.

Licensed porters are eligible for free medical treatment as outdoor patients for self only in railway hospitals/ dispensaries. They are also entitled for indoor treatment in railway hospitals in case they are injured while on duty.

Removal of dead bodies from the station premises is the responsibility of the GRP who engage their own labour for this purpose.

* * *

With a view to give financial relief to porters, the Ministry of Finance, in consultation with LIC of India, have floated an insurance scheme for the licensed porters. This Ministry has already advised the Secretary, National Federation of Railway Porters, Vendors and Bearers to pursue the matter with the LIC.

According to the present policy, no direct allotment of Railway land is permitted for private housing.

* * *

Licensed porters are removed from service only when they are proved guilty of serious offences and their continuance as porters is likely to prove detrimental to the interest of travelling passengers or the Railway Administration. However, before taking final decision adequate opportunity is provided to the offender to explain his position.

As regards commission bearers and vendors, the rate of commission is fixed by Zonal Railways after taking into account various relevant factors like profit margin on the items, its sale potential, profitability of the departmental units and other local conditions etc. As rate of commission is a percentage of the sale price, the rate of commission payable to the bearers/vendors goes up not only along with the increase in the price but also on the efforts put in by the commission bearers and vendors in increasing the sale of the items allotted to them. It is not possible to fix uniform rate for all the items at all units.

The commission bearers and vendors execute an agreement with the Railway and their working conditions are governed by the provisions of the agreement. Arbitrary punishments are not imposed on the commission bearers/vendors.

Uniforms are supplied free of cost to commission bearers and vendors.

The trolleys and crockery etc. required for sale of any item entrusted to commission vendor are supplied by the Railways.

Only those items are entrusted for sale to commission vendors which are required for sale at the platform to the passengers.

It is not possible to earmark any particular platform or station exclusively for commission vendors.

Unless the charge of trolleys and utensils is handed over by the commission vendors to the Catering Manager of the Departmental Units, the responsibility for the same cannot be taken over by the Departmental Units.

Grievances of the Commission vendors, whenever raised, are looked into by the concerned officers at various levels and wherever considered justified, suitable action is taken.

If a specific case of harassment or atrocity is brought to the notice, the same is looked into and appropriate action taken.

As per existing policy, due preference is given to cooperative Societies of Actual Workers and Vendors while allotting catering/vending contract. From time to time complaints received regarding non-award of contract to Cooperative Societies, are enquired into in detail and appropriate action taken. The complaints regarding Bareilly Jan., Bhopal, Manmad, Agra Cantt., Lucknow etc. have been examined number of times in the past and the allegations levied have not been substantiated.

The Cooperative Society at Nagpur had gone to Supreme Court against the revision in licence fee. However, the case has been mutually settled by the Railways and Cooperative Society.

Unauthorised hawking/vending is an offence under Indian Railways Act and frequent drives are conducted against them and action taken under law against unauthorised hawkers.

Sale of pan has been stopped at number of stations to improve cleanliness of the station premises. This ban on sale of pan has resulted in improved standard of cleanliness. It is not considered desirable to lift the ban.

As per existing policy, the holdings of individual contractors are to be reduced to two units at the time of the renewal of the contracts. This applied to partnership firms also.

Contracts are awarded after following the prescribed policy and procedure. If individual vendor applies in response to advertisement/notification, his application is also considered along with others on merits.

The contract of M/s. K. B. & Sons has not been terminated.

The policy of transfer of contract in the name of the legal heir has been framed to save the family of the bereaved contractor from hardship and it is not proposed to change the policy.

Change in platform for receiving trains/trains is done purely on operational considerations and not for any other reasons."

2.4 The Committee were given to understand that the question whether or not, the relationship of employer and employee exists between the licensed porters and the railway administration has been considered by the Courts also. In a judgement of 1979, the Kerala High Court in a case under Workmen's Compensation Act, 1923 *inter alia* observed:

"Where or not, the relationship of employer and employee exists in a given case is a question of fact. If it exists, the fact that payment is made at piece rate or by a third person under an arrangement with the employer will not effect the relationship.

In the instant case, there is the statutory obligation on the part of the railway to provide for the convenience of passengers and to regulate the carriage of their luggages. The system of licensing of porters is in discharge of that obligation. The licensed porters are to handle not only the luggage of the passengers but also the parcels and luggages in the custody of the railway. He is a worker under the overall supervision of officers of the Railway. He is to work according to the roster drawn by the Station authorities. He is to receive charges only at the rate stipulated by the railway authorities. He is being supplied by the railway administration, uniforms, badges and buckles, to be used during work. He is being given free out-door treatment in the railway hospital or dispensary. He is under the disciplinary control of the railway and is liable to suspension and his licence is liable for cancellation for misconduct, disobedience, inefficient working etc. There is, therefore, no room for doubt that there is the relationship of employer and employee between the railway administration and the

licensed porters. It is also made out that the employment is in connection with the service of a railway. That is sufficient to make the appellant in this case an employee of the railway."

2.5 The Committee took evidence of the representatives of the Ministry of Railways on 7-2-1989 on various points raised by the petitioners. During evidence, the representative of the Ministry of Railways gave the following information to the Committee in respect of implementation of the recommendations made by Anandan Committee:—

"They made 55 recommendations in respect of licensed porters and 34 in respect of commissioner vendors. Out of these 55, 31 recommendations have been accepted in toto, 9 accepted with modifications, 12 were not accepted and three were only in the nature of observations. All these accepted recommendations have been implemented.

These recommendations have been given to the various zonal railways who have to implement these things. They have all been implemented as far as licensed porters are concerned. All the railways are fully aware of the recommendations which have been accepted."

2.6 Giving an account of the recommendations of the Anandan Committee which were not accepted by Government the witness stated:

"One recommendation is that licence fee may be collected to meet the cost of uniforms only and the cost of supervision may be borne by the railways. It has not been fully accepted because of the financial implications.

Another recommendation was that woollen uniforms may be supplied to the licensed porters at stations where winter is severe, at railways cost. That was totally rejected because of the financial implications. At present, we are collecting licence fee varying from Re. 1 to Rs. 5 at different stations depending upon the importance of the stations. In fact, in some of the stations, no Licence fee is at all collected. We are supplying them two sets of uniform without charging them anything more. If we are to supply the winter uniform, we have to increase the licence fee which they oppose.

* * *

One was indoor medical treatment for the licenced porters in the railway hospital. At present, we are providing outdoor treatment in the railway hospitals at the same station. So far as indoor hospitalization is concerned, it is extended only if they are injured while carrying the luggage of the passengers, not otherwise. And it is restricted to the porters themselves only. They want to be treated at par with the railway employees."

2.7 Asked whether the recommendations of the Anandan Committee which were rejected by Government were ever discussed at Minister's level or in any meeting of the Railway Board and whether a new Committee could be appointed to examine various problems of vendors, bearers, etc., the representative of the Ministry stated:—

"In our opinion the necessity for appointing a new Committee does not arise because the problems have been gone into in full detail by Anandan Committee. It was appointed in 1967. It submitted its recommendations in 1969. All the problems have been covered. There is nothing new that will come up which was not being faced at that time.

In this connection, the witness further added:—

"The fact is that two decades ago this Committee had examined various problems and submitted a report. Thereafter, every year, we are getting representations from the Federation of Porters and also directly from the porters through the Members of Parliament and also through various other organisations. They are being examined. The Prime Minister himself had addressed their federation when the whole memorandum had been examined at the highest level. It is not that we are not aware of the problems. Some of the demands have not been met. Even if you appoint a committee, the same demands will be addressed by them. We have got no objection in appointing a committee, but the purpose will be served."

2.8 When asked whether the porters opposed the increase in licence fee, the representative of the Ministry stated:—

"There is no discussion because they are not like the organised labour of the railways. They represent their grievances. We examine them but there are no regular negotiations

or discussions as with our organised labour. They are not railway employees as such."

2.9 When further asked whether the railway porters had ever represented to the Government that they should be given winter uniforms, the representative of the Ministry stated:—

"They have represented. One of the recommendations of the Committee is that they should be given winter uniforms.

One pullover will cost a minimum of Rs. 100. Out of the total number of 40,000, even if you take 20—25 per cent of the, the winter uniform will cost lakhs of rupees. We are not supplying winter uniforms even to some categories of our own employees."

2.10 The representative of the Ministry of Railways stated that the nominal fee being charged from the porters for providing uniforms covered only a portion of the cost of uniform and it did not cover the full cost. In other words, the porters were given uniforms at very much subsidised rates. Asked why the railways could not subsidise the woollen uniforms also, the representative stated that the licensed porters were not doing any service for the railways and they were only serving the passengers.

Facilities provided to Porters, Vendors etc. by the Railways.

2.11 As regards the various facilities provided by the Railways to the Porters, Vendors etc. the Member, Traffic, Railway Board stated:—

"We have already introduced a lot of regulations. We have issued licences to the porters and we have insured that only authorised porters will enter the platform. Secondly, we are reviewing the licence fee every two years. Normally a licensed porter is able to earn Rs. 20 to 25 per day. Wherever there is a big station, we have also provided drinking facilities, rest facilities and first-aid facility. We are giving him most of the facilities which are enjoyed by the railway employees though they are not railway employees. Whatever suggestions we receive from them, we consider them sympathetically."

Cooperative Societies

2.12 The Member, Traffic, Railway Board informed the Committee that at present there were Cooperative Societies only at two railway stations—Vijayawada and Madras.

Education

2.13 The Committee suggested that the railways should give educational facilities to the children of railway Porters and Vendors etc. The Executive Director (Passenger Amenities) stated:

“We have got railway schools. We allow the children of licensed porters to get admission in these schools.”

Insurance Scheme

2.14 As regards the Group Insurance Scheme the representative of the Ministry of Railways informed the Committee that a new scheme had been introduced by the Ministry of Finance.

Award of Vending and Catering Contracts

2.15 The representative of the Ministry of Railways informed the Committee that Vending Contract, was given to one person only instead of giving it to 4.5 persons and the person to whom the original contract was given could employ other persons if he wished.

2.16 When asked which particular category of workers were selected by the railways for departmental catering service, the Executive Director (Passenger Amenities) stated:—

“There is no hard and fast rule about any particular category. But whenever we find that we can provide food by introducing departmental catering system, we are doing that.”

2.17 The Committee suggested that the vending and catering contract system should be abolished and individual vendors should be directly awarded vending contract. With a view to help the poorer sections of the society, the traditional system of catering and vending contracts should be done away with and new entrepreneurs, unemployed people, people from Scheduled Caste and Scheduled Tribes and weaker sections should be encouraged to take up this work instead of allowing the big contractors to operate in this business. The Executive Director (Passenger Amenities) stated that as a matter of policy the new stalls were given to the unemployed persons only.

2.18 The Committee further suggested that the Railways should as a matter of policy try to avoid the bigger contractors and encourage small entrepreneurs while awarding these contracts. The Executive Director (Passenger Amenities) stated:

“This is our policy for vending and catering contracts also. We have put a ceiling on this that nobody can have more than two units. Earlier there were families who were monopolising this contract work. We reviewed the entire policy. Now we have put a ceiling that not more than two units can be held by a contractor. No doubt he can try to have ‘benami’ contract. However, we try to keep an eye on them.”

Observations/Recommendations of the Committee

2.19 This is a representation from the National Federation of Railways licensed porters, vendors and bearers regarding the problems faced by them while in service. According to the petitioners the Railway Administration does not treat these poor labourers as railway employees at no-employer-employee relationship subsists between porters and vendors etc. and the railway administration. Therefore, even though the porters, vendors and bearers work in the railways and for the railway throughout their lives, they are denied all benefits and privileges which normally accrue to the railway employees.

2.20 The Committee note that as early as in 1979 the Kerala High Court had given a clear verdict that there was no room for doubt that there was indeed a relationship of employer and employee between the railway administration and the licensed porters. The Committee are therefore of the view that the demands of the porters for better facilities of work and emoluments should not be brushed aside by taking shelter under a specious plea that they are not the employees of the railways.

2.21 The Committee find that in 1967 a Committee headed by Shri T.V. Anandan, the then M.P., had been appointed by the then Ministry of Labour in consultation with the Ministry of Railways to look into the working conditions of the licensed porters and vendors. The Committee submitted its report in 1969. The report contained 55 recommendations in respect of the licensed porters and 34 in respect of commission vendors. The Committee have been informed that out of 55 recommendations pertaining to the licensed porters, 31 were accepted, 9 were accepted with modifications and 12 were rejected besides the 3 which were in the nature of observations only. Similarly out of 34 recommendations concerning vendors, 16 were accepted, 3 were accepted with modification and 13 were rejec-

ted. It has been stated by the Ministry of Railways that all the accepted recommendations have since been fully implemented.

2.22 The Committee feel that this assertion by the Ministry is not fully borne out by the information placed before them. In fact one of the main grievances of the licensed porters and vendors now sought to be ventilated through their representation submitted to the Committee was that the benefit of Anandan Committees' recommendations had not reached them. Even the head offices of the Zonal Railways were not aware of the directives of the Railway Board issued in implementation of the recommendations of the said Committee. This is corroborated by the fact that the grievances/complaints on which Anandan Committee had made recommendations and which were accepted by the Railway Board for implementation have again been repeated in extenso by the porters and vendors in their representation submitted to the Committee. This would clearly show that the actual implementation of the recommendations of the Anandan Committee leaves much to be desired.

2.23 The living and working conditions of the licensed porters etc. were reviewed more than twenty years back. Since then the working conditions as well as Railway operations have undergone considerable change. The Committee, therefore, desire that a Working Group should be immediately constituted by the Ministry of Railways with which representations of labour may also be associated, for a de novo review of the conditions of service of the licensed porters, vendors and bearers on the Railways. Besides recommending measures for improving the living and working conditions of the porters, etc. this Working Group may also be entrusted with the work of reviewing the implementation of the recommendations made by the Anandan Committee in present day circumstances.

2.24 The review should be completed within a period of 60 months and necessary follow up action taken without loss of time with a view to providing more and better facilities to these poor workers who are solely dependent on the Railways for their livelihood. While they should be assured minimum wages and facilities, the Railways should also ensure that they do not harass the travelling public as is quite often in the case.

2.25 The Committee also desire that the question of providing woollen uniforms to porters working at stations situated in the northern and North-eastern parts of the country where winter is particularly severe, should be considered immediately. The Committee

are strongly of the view that winter uniforms should be provided to the porters in these parts of the country.

2.26 The Committee also feel that there should be permanent machinery comprising representatives of the railway administration and the porters and vendors etc. through which their problems could be thrashed out for amicable solution. The Committee have no doubt that such an arrangement will go a long way in solving the genuine problems faced by the porters and vendors; so far as the latter are concerned, the Railways must take concerted steps to set up cooperative societies of vendors and severely curb the activities of unauthorised hawkers who sell substandard stuff and are a nuisance at the stations.

NEW DELHI:

May 31, 1989

Jyāishtha 10, 1911 (Śaika)

BALASAHEB VIKHE PATIL

Chairman,

Committee on Petitions