

COMMITTEE ON PETITIONS

FOURTEENTH LOK SABHA

FORTY-THIRD REPORT

**MINISTRY OF DEFENCE
(DEPARTMENT OF DEFENCE)**



**LOK SABHA SECRETARIAT
NEW DELHI**

November, 2008/ Kartika 1930 (Saka)

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COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

MINISTRY OF DEFENCE
(DEPARTMENT OF DEFENCE)

(Presented to Speaker, Lok Sabha on 08.11.2008)
(Presented to Lok Sabha on 17.11.2008)



LOK SABHA SECRETARIAT
NEW DELHI

November, 2008/ Kartika, 1930 (Saka)

C.B.1 No. 335 Vol. XXXXIII

Price : Rs. 64.00

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Twelfth Edition) and Printed by the General Manager, Government of India Press, Minto Road, New Delhi- 110002.

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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Prabhunath Singh — *Chairman*

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2. Shri Shingada Damodar Barku
3. Shri Nandkumar Singh Chauhan
4. Shri N. S. V. Chitthan
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5. Smt. Jagriti Tewatia — *Committee Officer*

FORTY THIRD REPORT OF THE COMMITTEE ON PETITIONS

(FOURTEENTH LOK SABHA)

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this Forty-Third Report of the Committee to the Speaker, Lok Sabha, on the following representations :—

- (i) Representation signed by Shri Prabhudayal Patel regarding evictions of Farmers by the Military Administration from 177.66 acres of agricultural land in cantonment area, Sagar, MP
- (ii) Representation signed by Lt. S.S. Chauhan and forwarded by Captain Jai Narayan Prasad Nishad (the then MP, Rajya Sabha) regarding alleged injustice by the Army Headquarters and Ministry of Defence.
- (iii) Representation regarding alleged irregularities in procurement of Electronic Fuzes by the Ministry of Defence.

2. The Committee considered and adopted the draft Forty-Third Report at their sitting held on 6th November, 2008.

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

NEW DELHI;
6 November, 2008

15 Kartika, 1930 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

CHAPTER I

REPRESENTATION SIGNED BY SHRI PRABHUDAYAL PATEL REGARDING EVICTIONS OF FARMERS BY THE MILITARY ADMINISTRATION FROM 177.66 ACRES OF AGRICULTURAL LAND IN CANTONMENT AREA, SAGAR, M.P.

1.1 In his representation, the petitioner Shri Prabhudayal Patel, Ex-Councillor, President-Chhavni Krishak Sangh, Sagar submitted that 177.66 acres of agriculture land in Ward No. 6 (Patkui Chakra and Semrachakra area) of cantonment area, Sagar (M.P.) has been in possession of hundreds of farmer's families since generations dating back to British rule but now the present military administration proposes to get the above land evicted. According to the petitioner the Local Military Administration (LMA) has arbitrarily and wrongfully got converted the clarification of the fertile agriculture land from B-4, B-3 to A-1 category though the surplus vacant land was available with them. The District Collector, Sagar *vide* Memorandum No. Q.R.D. M. 63 dated 30.4.63 had allotted 213.35 acre of land of village Makronia, Rajakheri to Military Administration on rent. But so far, they have not paid any rent for the said land hired by them. The District Collector, Sagar had, therefore, suggested that 177.66 acre of land could be exchanged with 213.35 acre of hired land from the State Government. The District Administration had also suggested an alternative plot of land of area 51.52 hectare at Khasra no. 381/1 in Kurari village, PHN 42 RNM Sagar-2 which is adjacent to military area and adjacent plot of area 20.74 hectare at Khasra No. 16 PHN 43, RNM Sagar-2 (total area 72.25 hectare) of vacant revenue land. They had also offered cooperation and help in acquiring the plots. The District Administration at the directions of State Government of Madhya Pradesh *vide* Memo No. Nazul/2004/11445 dated 15.12.2004 had submitted a proposal before the Military administration to allot vacant land of Revenue Department in lieu of 177.66 acres of agriculture land under Defence control. However, the said proposal was rejected by the Military Administration. On the initiative taken by the Government of India and the State Government, a meeting of senior officers of District Administration and Local Military Authority was convened at Div. Head Quarter (Military area) on the issue on 04.07.2007 in the presence of Chief Secretary, Revenue, Government of Madhya Pradesh, Bhopal. However, the meeting was kept confidential and neither any public representative nor the aggrieved farmers were included in it. The decision taken in the meeting had also not been apprised of. The petitioner further stated that hundreds of farmers' families possessing the 177.66 acres of land have no other source of income except the earnings from agriculture. The petitioner alleged that the armed Forces are forcibly vacating the lands of the farmers and forcing them to starve.

Keeping in view the source of livelihood of farmers, the petitioner, therefore, requested that 213.35 acre of land may be accepted in lieu of 177.66 acre of agricultural land as suggested by the District Administration so that the farmers are not evicted

from the land being occupied by them for the past many years. He also requested that category of 177.66 acre of Agricultural land which was converted from B-4, B-3 to A-1 may also be restored in the public interest.

1.2 The Committee took up the matter for examination in accordance with Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the aforesaid representation was forwarded to the Ministry of Defence to furnish their comments on the points raised therein by the petitioner.

1.3 In their response, the Ministry of Defence submitted the brief in the matter as under:—

“The case relates to 177.66 acres of Defence land given on agricultural leases to the farmers of Sagar Cantonment around 1940-50 for cultivation purposes as the land was temporarily surplus then. Most of these leases expired in 1986 and have not been renewed due to Army’ request for taking back possession of Defence lands for construction of OTM (other than married) accommodation of Artillery Brigade. This land has been reclassified as A-1 defence land for the purpose of construction of OTM accommodation.

Eviction proceedings were initiated by the Army/DGDE. The State Government offered alternative sites for transfer to the Ministry of Defence in lieu of the Defence land under the occupation of the farmers. It was reported by the AHQ that the land offered was not suitable to Defence requirements due to presence of buildings, wells, labour huts and hills on the site. Land offered was not free from encumbrances and the sites were not contiguous to Cantonment/Army Units which could result in security hazard and practical difficulties in catering for essential amenities. The presence of rocky soil was not fit for construction purposes.

It was decided in February 2003 that eviction proceedings may not be done till a final decision in this case is taken.

In March 2004 the State Government of Madhya Pradesh was requested that the possibility of rehabilitation of the farmers on the land identified by the Collector or on some other piece of land selected by the State Government may be explored. The Government of Madhya Pradesh in November 2004 requested the Ministry of Defence to agree to Collector Sagar’s proposal of accepting alternative piece of land in lieu of Defence land in one of the three places adjoining Sagar Cantonment area. It was informed by AHQ that the three sites offered by the Collector, Sagar have been inspected by the Local Military Authority (LMA) and objectively analyzed for development of Key Location Plan of 36 Arty. Brigade. However, due to various reasons *viz.* unbuildability, lack of infrastructure, and distance from the Cantonment and security problems, none of them has been found suitable for locating the Key Location Plan (KLP) of the Formation. The AHQ have therefore requested that the State Govt. be asked to rehabilitate the farmers occupying the impugned defence land on any suitable State Govt. land and have also proposed to review/rescind the stay on eviction proceedings imposed earlier.

The site is urgently required for construction of OTM accommodation at the station and therefore, it may be vacated and State Government may rehabilitate farmers on suitable piece of State Government land. The matter was again taken up with State Government. Reply of the State Government is awaited. Ministry of Defence is of the view that the land at Sagar Cantonment is required for defence purposes. Hence, State Government may rehabilitate the farmers on suitable State Government land.”

1.4 The Committee also undertook on-the-spot study visit to Jabalpur on 10th February, 2008 and held discussion with the representatives of the Ministry of Defence on the issues/ points based in the representation under reference.

1.5 In their brief note the local representative from the Ministry of Defence submitted before the Committee as follows:—

- “1. 177.66 acres of vacant Defence land at Sagar Cantt. class as B-3/B-4 was given on short term leases to 36 civilians individually for cultivation, in order to earn revenue for the Government. Lease period of all the lessee expired between 1975 and 1988, however, the ex-lessee continued to illegally occupy the said land and have refused to vacate till date.
2. As per the approved Zonal plan for Sagar Stn., Key Location Plan (KLP) of 36 Arty Brigade that is a part of 36 Inf. Div., a key formation of the Indian Army has been planned on this land and accordingly the said land has been re-classified as A-1 Defence land by QMG, Army HQ in 1999.
3. The resumption of the above land under PPE Act 1971 was suspended due to restrictions imposed by the then Hon’ble Raksha Rajya Mantri (RRM) Prof. Chaman Lal Gupta *vide* GOI, MoD letter No. 156/MP/DO(V) dated 17th February 2003.
4. Civil Administration at Sagar had offered alternate land in lieu of 177.66 acres at various locations, which was inspected by the Local Military Authority (LMA) and analysed for development of KLP. However, these pockets were not found suitable due to reasons of non-contiguity with the Cantonment, and for security/administrative reasons.

Giving the present status of the case, the Committee were informed in writing as follows:—

The land is still under illegal occupation and all efforts to amicably resolve the issue has failed. The possibility of allotting alternate land by State Government to the ex-lessees was explored, however, the same has not been agreed to by the State Government authorities.

Presently, no action can be taken by the LMA due to the Hon’ble RRM’s directions restraining the eviction process.”

1.6 In response to a question the Ministry *vide* their written reply dated 2.6.2008 submitted the latest position as under:—

“The decision to keeping in abeyance the eviction proceedings was initially taken by the then Raksha Rajya Mantri in 2003. Subsequently, the Raksha Mantri also issued similar directions in 2005 pending a comprehensive examination of the issues. Accordingly, all action to evict the ex-lessees was suspended. This position continues as on date.”

1.7 Explaining about the requirement of land by the Defence, the Ministry of Defence in their written submission stated as under:—

“177.66 acres of A-1 defence land under illegal occupation is located in the central part of Sagar Cantonment and is vital for the KLP of 36 Inf. Div./36 Arty Bde. Foregoing the land will entail compromising the KLP of the important field formation of the Indian Army. It has direct impact on the security of the Cantonment since it will tantamount to creating a civilian pocket with in the Cantonment precincts which will have long term ramifications.

The present land holding at Sagar Cantonment is inadequate and precludes creation of the envisaged KLP. The details are as under:—

(a) Requirement of Land for KLP as per the approved Zonal plan of Sagar Station is as under:—

(i) Total requirement for KLP	-	4342.229 Acres
(ii) A 1 Defence land held	-	2075.64 (Incl. 177.66 Acres of defence land encroached by ex-lessees)
(iii) Land earmarked for HoR in case of resumption of OGBs.	-	2.00 Acres
(iv) Deficit	-	2268.589 Acres

(b) The above deficiency needs to be made up as under:—

(i) Land Acquisition	-	852.710 Acres (Already in possession. Case for hiring/acqn. in progress with State Govt.)
(ii) Re-Classification cases Pending with MoD	-	267.870 Acres
(iii) B-3/B-4 land	-	1148.009 Acres (incl. resumption of 19 OGBs)

It is evident from the above, foregoing the land will impede the development of KLP in Sagar Cantonment.”

1.8 Explaining the reasons for proposing eviction of the ex-lessees, the Ministry of Defence submitted in their note as under:—

“Since the alternate sites were considered and not found suitable by the LMA, a case was taken up for rescinding RRM’s embargo as early as possible so that the land is taken over with encumbrances from DEO, Jabalpur and eviction process be progressed as:—

- (a) Legitimising the occupation of the defence land will set wrong precedence and may have adverse ramifications in military cantt. across the country in future.
- (b) Civil pockets within the KLP are undesirable, as these will persistently create security and administrative problems for the Army units/fmns.

The important issue of land under illegal occupation is being sidelined and efforts are being made to formalize the encroachments by rhetoric.

Since lease period has since expired the intended purpose for which the said land was given has become redundant, the logical course of this transaction is to return the land to the LMA to facilitate progress of the development of KLP. In majority of the case the ex-lessees are from affluent sections of society having landed property elsewhere also. The said land is being managed by subletting it or by proxies with the influence of organized land grabbing lobbies.”

1.9 In their note, the Ministry of Defence recommended as under:—

- “(a) Initiating eviction process to vacate the land by applying provisions of Public Premises Eviction Act 1971 as the ex-lessees have no locus standi over the said land.
- (b) It is recommended that the State Government to work out a proposal to re-locate the ex-lessees to alternative land if considered appropriate at any suitable location in the vicinity of Sagar town to amicably resolve the issue.”

The Ministry of Defence summed up their conclusion as follows:—

“It is evident from the above that dispensing the eviction process will set precedence and may have far reaching ramifications across all military cantt. in this country. The integrity and the security of military cantt. will be comprised if the land grabbing lobbies are placated.”

1.10 The Committee, thereafter, took oral evidence of the representatives of the Ministry of Defence on the subject on 15th April, 2008.

1.11 When the Committee pointed out that during the study visit of the Committee at Jabalpur while having discussion on the subject, the concerned Army officials and officials from the District Administration had assured the Committee that after

conducting a survey, a report will be submitted to the Committee within 15 days, the witness from the Ministry of Defence recommended as under:—

“Sir, during the last visit of the Committee a decision was taken that Local Officers of Army along with State Government officials will conduct a survey and send a report. As per the decision, a survey was conducted and we have received a report on 10th March. Mainly three-four actions were required to be taken. After the survey we have some data regarding the persons who have 177.66 acres land and we forwarded it to Ministry of Defence.”

1.12 When the Committee asked as to how the matter will be settled, the witness submitted as under:—

“This will be settled with the help of State Government. As per the report submitted by District Collector in consultation with local officers and Military officers, they have inspected the land and if they will vacate the land on which they are farming, the State Government will rehabilitate them and provide land for their houses. They have assured in this regard.”

The Ministry further submitted as follows:—

“The State at the Collector level has expressed its willingness to consider allotting land for residential purposes to the ex-lessees as conveyed in the joint survey report of March, 2008.”

1.13 In their written reply dated 02.06.2008, the Ministry of Defence explained the reasons for converting the 177.66 acres of land from B-4 and B-3 to A-1 as follows:—

“The defence lands in Cantonment are reserved for either current use or future use. Depending on the nature of the use, the lands in the Cantonments are categorized into various classes namely A-1, A-2, B-3, B-4 etc. The definitions of A-1, B-3 and B-4 lands are given below:—

Class A-1 land: The land under A-1 category is that which is actually used or occupied by the Military authorities for the purpose of fortifications, barracks, stores, Bungalows of Military officials, Parade Grounds, etc. The land under this category is kept under the management of the Services and in this case the Army.

As compared to this category, the defence land which is not so required or reserved but which is retained in the Cantonments for the effective discharge of the duties of the Central Government in respect of Military administration is designated as Class “B” land. This category of land is under the management of Defence Estates Officer. The Class “B” land is further categorized as follows as per Cantonment Land Administration Rules, 1937.

Class B-3 land: It is the defence land which is held by any private person under the provisions of the CLAR 1937, or which is held or may be presumed to be held under the provisions of the Cantonment Code of 1899 or 1912 or under any executive orders previously in force, subject to conditions under which the Central Government reserve, or have reserved, to themselves the proprietary rights in the soil.

Class B-4 land: It is the defence land which is not included in any other class.

Having explained the nature of different categories of defence land, it is submitted that the subject land of 177.66 acres in Sagar comprised of B-3 and B-4 sub-categories. The break up of B-3 and B-4 land is 65.47 acres and 112.19 acres respectively. This land being surplus to the then requirement of the Military was given for agricultural purposes. The LMA *vide* their letter No.114/17/Q/ Vol.II dated 25th April, 1986 requested DEO, MP Circle, Jabalpur to terminate the leases and not renew them further as the land was required for construction of OTM accommodation for Arty Brigade and Signal Company. Since the Army required this land measuring 177.66 acres, the Government decided in 1999 to classify the B-3 and B-4 lands are not under the management of the Army, they cannot utilize the land for military purposes unless classified at A-1.”

1.14 Furnishing the details of the lease agreement signed with the farmers and the period of its validity, the Ministry in their written reply submitted as follows:—

“There were a total of 36 leases in the subject 177.66 acres land.... Out of the 36 leases, 29 leases..... were given for the first time during the period 1981-1983 for a period of 5 years. Their annual lease rent was Rs.60 per acre. These leases expired in different years *i.e.* 1986(16), 1987(11) and 1988 (2). The remaining seven leases are old leases which commenced from 1929-31 and the same were renewed four times up to 1974-75. All the 36 leases were not renewed further.... The lease rents were revised at the time of the renewals.

Regarding the lease agreements, these were executed between the DEO and the individual lessees. The period of lease and the annual rent and the area leased is indicated in the lease documents. The lease provides for determining the tenancy of the lessees after giving 30 days notice in writing during the validity of the lease. Further it provides that the lessee shall surrender the land peacefully to the Government on expiry of the lease term or on determination of the lease. Since the land was required by the Army for construction of OTM accommodation, further renewals were not done.....”

1.15 The Ministry explained in writing the criteria followed in selecting the 36 civilians to whom the defence land was given on lease, as under:—

“The surplus defence land is given for cultivation purposes for short terms as per the policy guidelines and instructions issued by the Government from time to time. Initially, the lands were being leased to non-ex-servicemen. Subsequently, the Government decided to lease the land only to ex-servicemen. An upper limit on monthly income of the ex-servicemen was also fixed from time to time. Only if the ex-servicemen are not forthcoming to take the leases, the lands are offered to landless poor persons. It may be seen from the list that out of the 36 leases, one of the lessees is an ex-serviceman.

Certain criteria were followed in selecting the lessees in the instant case. Persons with monthly income not exceeding Rs. 200, landless, residents of Sagar Cantonment and unemployed were granted the leases. These persons also

submitted applications and affidavits requesting for allotment of the plots. Some of the applications had endorsement of Tehsildar that he has no objection if the land is allotted to the applicant.

1.16 As regards the total revenue earned by the Government by leasing out the land, the Ministry in their written reply submitted as follows:—

“As per the rental clause in the leases, the ex-lessees paid the lease rents as indicated in the respective lease documents. The total lease rent paid by the ex-lessees as per Defence Estates Officer’s records available from 1988 to 2002 is Rs.1,23,104.”

1.17 On the issue of 213.35 acres of land taken by the local Military Authority on rent, the Ministry in their written note stated as under:—

“It is true that the State Government land measuring 213.35 acres was taken by the Army on hiring for meeting the KLP requirement in 1963. This land is situated outside the Cantonment. A formal letter of sanction from the State Government is yet to be issued. Since there were encroachments on the said land, demarcation was again carried out in 1999 and the actual area occupied by the Army is only 209.37 acres. No rent has been paid for want of formal letter of allotment from the State Government.”

The Ministry further submitted as under:—

“The State Government in April, 2007 demanded Rs.7,28,031/- as dues towards rent for the past 44 years and interest of Rs.72,803/- @ 10 per cent. A proposal seeking sanction for hiring and payment of rental has been forwarded by the Local Military Authorities to Army Headquarters.”

1.18 Clarifying the purpose for which the land was taken or the reasons for non-utilisation of the said land for the purpose, the Ministry stated as follows:—

“It is clarified that the State Government’s land was hired and not acquired. The land is required for construction of KLP accommodation for Army units in Sangor. Presently, the land is being used for training purposes pending commencement of construction of KLP.”

1.19 When the Committee asked the justification to use agricultural land for construction purpose instead of using some alternate barren land, the Ministry replied in writing as under:—

“The land (177.66 acres) is within the Sagar Cantt. As such cultivation in the heart of the cantt. is not appropriate and needs to be discouraged from the point of view of town planning.”

1.20 Justifying the undesirability of civil pockets within the KLP, the Ministry explained their concern in writing as under:—

“Local Military Authorities concern for security is projected with regard to security of men, material and information in a scenario where civilian population is located within the heart of the Cantt. ‘No incidence in the past’ may not be

taken as criteria for overlooking this important aspect of Cantt. planning in the present day environment. It is further reiterated that the security concerns will be grave once KLP construction in the allotted zones commences in the station.”

1.21 The General Commanding Officer of 36 Infantry Division *vide* letter dated 16 March, 2008 enclosed a copy of the Joint declaration between the District Administration, Sagar (MP) and Local Military Authority, Sagar and requested for indulgence of the Committee to process the case with a view to arrive at its logical conclusion and help the Army land evicted. The details given in the Report are as follows:—

“As per the decision taken by the Members of Parliament and Service & Defence Estate Officers regarding 177.66 acres Defence Land on 10th February, 2008, physical verification of 36 old lease-holders was done by the representatives of Revenue Department, Cantonment Board and Local Headquarters. The details are as follows:—

(i) Total number of old lease holders	- 36
(ii) At present, the number of old lease holders who are cultivating the land themselves	- 22
(iii) Number of deceased old lease holders whose land is being cultivated by their heirs or some-one else	- 14
(iv) Number of old lease holders who were presently living below poverty line	- 13
(v) Number of lease holders who were residing in the leased area	- 35
(vi) Number of old lease holders who belong to	
SC/ST/OBC	- 02 SC
	- Nil ST
	- 30 OBC
	- 02 Minority
	01 General

Lease holder ex-servicemen Sepoy Late Munna Lal’s land on Khasra No.132 is lying vacant.

Rehabilitation Plan – After vacation of leased land by lease holders allotment of plot to them for their rehabilitation could be considered.”

Observations/Recommendations

1.22 The Committee note from the submission of the petitioner Shri Prabhudayal Patel, Ex-Councillor, President-Chhavni Krishak Sangh, Sagar submitted that 177.66 acres of defence land in Sagar Cantonment area District Sagar, Madhya Pradesh

was leased out to the farmers for cultivation purposes many years ago. According to the petitioner, this land is the source of livelihood of these farmers but the Local Military Administration (LMA) proposed to get this agricultural land vacated by converting the same from B-4 and B-3 to A-1 category. The District Collector, Sagar *vide* letter dated 20.12.2004 had suggested an alternate plot of land at various locations in exchange for 177.66 acres of fertile land to the Military Department. But the Local Military Authorities had rejected the said proposal. In this context, the District Collector, Sagar in his letter dated 09.10.2006 had mentioned that LMA had hired 213.35 acres of land at village Makronia, Rajakheri in 1963 but no rent has been paid by the Military Administration since then. He had, therefore, suggested that 177.66 acres of land which is fertile and employment oriented may be left for the farmers and in lieu thereof, 213.35 acres of land be accepted by the LMA. The petitioner, therefore, requested that the status of the 177.66 acres of land which was converted from B-3, and B-4 categories to A-1 category may be restored in public interest and 213.35 acres of land may be accepted by the LMA in exchange for 177.66 acres of land in Sagar Cantonment area.

1.23 The Committee note from the comments received from the Ministry of Defence that as per the policy guidelines and instructions issued by the Government from time to time, the surplus defence land is given for cultivation purposes for short terms. Initially the lands were being leased to non ex-servicemen as well as ex-servicemen. Subsequently, the Government decided to lease the land only to ex-servicemen. An upper limit on monthly income of the ex-servicemen was also fixed from time to time. If the ex-servicemen are not forthcoming to take the leases, the lands are offered to landless poor persons. Accordingly, 177.66 acres of surplus vacant defence land at Sagar Cantonment area was given on short term lease to 36 civilians individually for cultivation, in order to earn revenue for the Government. Out of the 36 leases, 29 leases were given for the first time during the period 1981-1983 for a period of 5 years. Their annual lease rent was Rs. 60/- per acre. These leases expired in different years i.e. 1986(16), 1987(11) and 1988 (2). The remaining seven (07) leases are old leases which commenced from 1929-31 and the same were renewed four times upto 1974-75. The lease rents were revised at the time of the renewals. The lease agreements were executed between the Defence Estate Officer and the individual lessees. The subject land of 177.66 acres in Sagar comprised of B-3 (65.47 acres) and B-4 (112.19 acres) sub-categories. Certain criteria were followed in selecting the leases in the instant case. Persons with monthly income not exceeding Rs. 250/-, landless, residents of Sagar Cantonment and unemployed were granted the leases. These persons also submitted applications and affidavits requesting for allotment of the plots. Some of the applications had endorsement of Tehsildar that he has no objection if the land is allotted to the applicant. The lease period of all the leases expired between 1975 and 1988. However, according to the Ministry, the ex-lessee continued to occupy the said land and have refused to vacate the same till date. The lease period was not renewed as the land was required for construction of OTM (other than married) accommodation for Artillery Brigade and Signal Company. Since the Army can not utilize the land for military purposes unless classified as A-1, the Government decided in 1999 to reclassify the said land

from B-3 and B-4 lands, which are not under the management of the Army, to A-1 defence land for the purpose of construction of OTM accommodation.

1.24 The Committee note that eviction proceedings under Public Premises Act (PPE), 1971 were initiated by the Army/ Director General of Defence Estates (DGDE). However, no action could be taken by the LMA for getting the land evacuated from the ex-lessees due to Raksha Rajya Mantri's (RRM) directions for restraining the eviction process in 2003. Subsequently, the Raksha Mantri had also issued similar directions in 2005 pending a comprehensive examination of the issues. Thus, all action to evict the ex-lessees was suspended and this position continues till-date.

1.25 The Committee further note that the State Government of Madhya Pradesh had offered alternative sites for transfer to the Ministry of Defence *in lieu of* the defence land under the occupation of the farmers. It was reported by the Army Headquarter (AHQ) that the land offered was not suitable to defence requirements due to presence of buildings, wells, labour huts and hills on the site. The land offered was not free from encumbrances and the sites were not contiguous to Cantonment/Army Units which could result in security hazard and practical difficulties in catering for essential amenities. The presence of rocky soil was not fit for construction purposes.

1.26 As regards hiring of 213.35 acres of land by the Local Military Authority, the Committee were informed by the Ministry in writing that in 1963, the State Government land measuring 213.35 acres was taken by the Army on hiring for meeting the Key Location Plan (KLP) requirement. This land is situated outside the cantonment. Since there were encroachments on the said land, demarcation was again carried out in 1999 and the actual area occupied by the Army is only 209.37 acres. No rent was paid for want of formal letter of allotment from the State Government. However, the State Government in April, 2007 had demanded Rs.7,28,031/- as dues towards rent for the past 44 years alongwith interest of Rs.72,803/- @ 10 percent. A proposal seeking sanction for hiring and payment of rental has since been forwarded by the Local Military Authorities to Army Headquarters.

1.27 The Committee also took note of the Ministry's submission that forgoing of the land in question would entail compromising the KLP of the important field formation of the Indian Army and this will have a direct impact on the security of the Cantonment, as it will tantamount to creating a civilian pocket within the Cantonment precincts. According to the Ministry, legitimizing the occupation of the defence land will set wrong precedent and may have long term adverse ramifications in the Military Cantonments across the country in future. Civil pockets within the Key Location Plan (KLP) are undesirable as these will persistently create security and administrative problems for the Army Units/formations. According to the Ministry, the ex-lessees have no *locus standi* over the said land.

1.28 During the course of oral evidence of the Ministry, the Committee were informed that a survey was conducted by the local officers of the Army alongwith officials of the State Government. As conveyed in the Joint Survey report of

March, 2008, the State at the Collector level has expressed its willingness to rehabilitate the lease holders and provide land for their houses, if they vacate the land on which they are farming.

1.29 The Committee regret to note that a large number of farmers still continue to occupy the defence land even after a lapse of its lease period for more than 20—25 years ago. It appears that no sincere and coordinated efforts were made by all the concerned authorities to resolve the issue. As a result thereof, on the one hand the poor farmers have to undergo mental agony and harassment for the likely loss of the livelihood which entirely depends on the cultivation of the land, or the other hand the interest of the Army has also been adversely affected as they could not get back possession of their defence land which is vitally required by them for construction of OTM accommodation for Artillery Brigade and Signal Company. The Committee agree with the submission of the Ministry that foregoing the defence land will impede the development of KLP in Sagar Cantonment area and legitimize the occupation of the defence land by the farmers which will in turn set wrong precedent and may have adverse ramifications across all Army Cantonments in the country.

1.30 The Committee observe that the eviction proceedings against the farmers were initiated by the Army under PPE Act, 1971 as they failed to vacate the land after the expiry of its lease period. However, on the directions of the Minister of Defence, the eviction proceedings were suspended pending a comprehensive examination of the issues involved and since then, there is no change in the position. The Committee agree with the submission made by the Ministry, the farmers have no *locus standi* over the said land and as a logical course of action they should return the land to the LMA after the lease period was over. It also appears that the said land is being managed by subletting it or by proxies with the influence of organised land grabbing lobbies. The Committee are concerned to note the fact that most of the old lease holders belong to lower strata of the society and are very poor. Their livelihood entirely depend on the cultivation of the land and they should not be thrown out from the land which they are cultivating for their livelihood or employment for years together unless an alternate arrangement for their rehabilitation is made by the authorities concerned. The Committee, therefore, feel that their cases, need to be approached and resolved with humane consideration. During the study visit of the Committee to Jabalpur in February, 2008, the Central as well as the State Government authorities were impressed upon to resolve the issue amicably and expeditiously. The Committee are happy to note that their intervention prompted the authorities to settle/ resolve the issue with sincerity and commitment. During the course of evidence also the Committee were assured by the Ministry that the issue will be settled with the help of State Government which have expressed its willingness to rehabilitate the lease holders and to provide them land for their houses, if they vacate the land on which they are farming. The Committee, therefore, recommend that the Ministry of Defence being the nodal agency, should take up the matter with State Government on priority and get the land vacated to enable LMA to construct OTM accommodation for Artillery Brigade and Signal Company without further loss of time. The Committee also desire the Ministry to formulate in close coordination with State Government, a comprehensive rehabilitation plan for the

lease holders and implement the same forth with so that these people do not suffer. The Committee would like to be apprised of the conclusive action taken in this regard with a period of 3 months.

CHAPTER II

REPRESENTATION FROM LT. S.S. CHAUHAN REGARDING ALLEGED INJUSTICE BY THE ARMY HEADQUARTERS AND MINISTRY OF DEFENCE

2.1 Captain Jai Narayan Prasad Nishad (the then MP, Rajya Sabha) forwarded a representation signed by Lt. S.S. Chauhan R/o Kothi Sadar-A-Allah, Agra Road, Mainpuri. In his representation, the petitioner submitted as follows:—

- (i) that he is fighting for justice for the last seventeen years;
- (ii) that he had highlighted corruption of one of the senior officers, who had illegally taken 147 of biscuits in his possession which were found in a search operation under his command in Batmaloo, Srinagar on 11th April, 1990. Many did not like this and to shut his voice forever, there were several attacks on his life. He was even shot by one of the Jawans of 6 Rajput regiment in Srinagar while in custody of the army;
- (iii) that he had to face court martial despite being innocent. He was kept under illegal arrest for more than 800 days despite the release order of Army Chief;
- (iv) that he was declared unfit by medical board even then he was posted in high altitude, contradicting the orders;
- (v) that there are many illegalities in the case. As per the information sought under RTI Act it has come to their notice that the papers related to the inquiry constituted by the then Defence Minister, Shri George Fernandes from 1998-2002 have been destroyed. The Army had given an affidavit in the Allahabad High Court that justice would be given to him in 60 days and the Army would return back to the court on the same issue. However the court and the petitioner are still waiting for the reply for the past 9 years;
- (vi) that every paper and inquiry were manufactured and almost all inquiries were anti-dated;
- (vii) that the summary of the evidence proved him innocent. Despite this, the Army proceeded with the Court Martial. The Court Martial even did not mention his name;
- (viii) that the court of inquiry ordered by Shri Sharad Pawar, the then Defence Minister also proved that no untoward incident had happened involving the petitioner or 6 Rajput Regiment. The MoD had given an affidavit to this effect in Allahabad High Court;
- (ix) that he was prosecuted for blaming senior officers for illegal retention of Gold Biscuits and criminal assault. He won the case and the charges were

dropped but no action has been taken against people who had used the same gold in their individual capacity;

- (x) that he was shot on the left of his abdomen. Gunshot on his abdomen and the clothes in his possession prove the same. However the army has a completely different story. According to them, the petitioner shot himself and on the right of his abdomen. He was charged with attempt to suicide;
- (xi) that he won the case in the court. But no action was taken against the one who fired at him; and
- (xii) that he was prosecuted for desertion from war. The charges framed against him were punishable with death penalty. Here the civil council is mandatory by law. Even the natural justice was even disregarded. He was not provided with a public prosecutor.

2.2 The petitioner submitted that the above mentioned instances are just a few, which he had to face while struggling for justice for the last seventeen years and prayed that his dignity and honour be given back with full respect and with adequate compensation for the struggle that he had to go through for speaking the truth as under:—

- (i) reinstatement in the Indian Army with full honour and regard;
- (ii) salary with all relevant perks with the rank thereof and the due interest for the last seventeen years;
- (iii) compensation as per the Army Act for illegal arrest and confinement for 810 days;
- (iv) as per law he is entitled for 20% of the gold seized during the anti insurgency operation in Srinagar in 1990; and
- (v) due compensation for loss of honour and the loss of best years of his youth.

2.3 The Committee took up the representation for examination in accordance with Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the aforesaid representation was forwarded to the Ministry of Defence on 29th January, 2008 to furnish their comments in the matter.

2.4 In their response, the Ministry of Defence *vide* O.M dated 4th February, 2008 submitted as follows:—

“Ex-Lt. S.S. Chauhan was tried by a court martial in 1991 and was found guilty of three charges of theft including removing money from civilians and desertion from the duty. He was sentenced “to be cashiered” and “to suffer Rigorous Imprisonment for seven years”. The COAS on review thereafter remitted the unexpired portion of rigorous imprisonment on 7.7.1992. Lt. Chauhan submitted a Post Confirmation petition to Government against the sentence of Court Martial which was rejected by the Government on the merits of the case. The Ex-Officer has thus exhausted all the legal remedies available to him under the Army Act, 1950. He has filed a Writ Petition in Allahabad High Court against

the order of the Court Martial. Allahabad High Court dismissed the same in default and for lack of jurisdiction. It is learnt that he has filed a Restoration Application in the Allahabad High Court which is pending.

The allegation of recovery of gold biscuits leveled by him was found to be baseless by investigations by a Court of Inquiry and this aspect which was raised by the individual in his earlier representations was duly considered before the Government rejected his petitions under Army Act Section 164(2) and 179. At this stage, when he has already exhausted the statutory remedies available to him, Government is not in a position to interfere with the legality of the trial by which the Ex-officer was convicted and related issues raised by him.”

2.5 The Committee, thereafter, took oral evidence of the representatives of the Ministry of Defence on the representation of the petitioner on 5th February, 2008.

2.6 Giving in brief the facts of the case, the Special Secretary, Ministry of Defence submitted before the Committee as follows:—

“...There were some allegations against him in the Army. One was the case of theft and the other one was the case of desertion. He deserted the Army and that happened twice. Due to those allegations, a Court Martial was conducted. In that case, he was punished. He was sentenced to be cashiered in the sense that he was dismissed from service with disgrace. Apart from this, he was given a Rigorous Imprisonment for seven years. So, that was the punishment given to this particular person under the Army Act by the Court Martial. After that, he filed a Review Petition. After examining the Review Petition, the Chief of the Army Staff, who is the competent authority to look into the quantum of punishment, reduced the punishment. Originally, it happened in 1991. Then, he had filed the appeal. After that, the judgement was given on 7.7.1992. The Chief of the Staff said that Lt. Chauhan had undergone the punishment of imprisonment for about eight months; that was all right and the balance of six years four months, which he was to undergo, was waived off. So, he remained dismissed. As far as imprisonment is concerned, instead of seven years, it was reduced to eight or nine months or so. Then, he filed the appeal to the Ministry also. The Ministry examined this. After the examination by the Ministry, they held that what the COAS had given was the final judgement. That had been confirmed by the Ministry in this particular case. Finally, he approached the Allahabad High Court. In the Allahabad High Court, this case was dismissed. Basically, we understand that this was dismissed for want of jurisdiction or so. So, the case was dismissed. As on today, this is the issue. It went through the judicial process. As per the Army Act, it goes through the Court Martial, the Commander concerned, the Chief of the Army Staff and then one can come to the Ministry. He exhausted that. After that, he had gone to the High Court. He had exhausted that option also. This is a judicial process. In this process, he is making different types of representations to different persons. He had exhausted the options. That is the position as on today as far as this officer is concerned. Further, he had also made an allegation against one officer. Basically, there was

a raid somewhere in connection with a terrorism case. It was alleged that one of the officers had taken some 147 gold biscuits. He made an allegation against a Colonel. That inquiry was conducted. In that inquiry conducted in the Army, it was found that there was no truth in the allegation made by this person. So, that is also there. This is, in brief the position.”

2.7 When the Committee asked whether the Commanding Officer (CO) had submitted a Report before commencing the case of the petitioner in the Court of Inquiry, the witness from the Army could not give any satisfactory reply. However, the witness from the Ministry of Defence, the Special Secretary, explained as follows:—

“In civil, after the preliminary inquiry if there is any substantial issue and if any such case is framed, the regular disciplinary action is taken or it is brought to the Court. All these words are termed as Court of Inquiry. Court of Inquiry is basically a fact-finding inquiry. If any thing is proved against him, Court Martial is instituted. These are regular court proceedings.”

2.8 When the Committee specifically asked whether the report of the Commanding Officer on the charges levelled against the petitioner was taken, the witness from the Army stated as under:—

“Court of inquiry had been made in the case and in fact this had been done three times when he was absent without leave, it was done. He became deserter from the unit.”

The witness also stated as under:—

“Court of Inquiry was conducted in which his CO might have told. But the specific report which was received, has to be checked.”

2.9 On being enquired as to whether counter affidavit was filed by the Army before the High Court of Allahabad on the charges of theft and loss of property against the petitioner, the Secretary, Ministry of Defence responded as under:—

“We will give this information since the case was dismissed for default and lack of jurisdiction. So I understand that no counter affidavit may have been filed by the Ministry but we will inform the Committee after ascertaining.”

2.10 In their written reply dated 8.4.2008 the Ministry submitted the factual position with regard to the points raised by the Committee during the sitting held on 5th February, 2008 as follows:—

“Commanding Officer (CO) 6 Rajput did not submit any formal report initially after the unit Court of Inquiry. He informed Cdr 68 Mtn Bde verbally, and the Ex-officer was attached with 15 Corps Op Sig Regt for disciplinary action based on the verbal directions of the superior officer. Movement Order was handed over to the Ex-officer on 14th April, 1990 evening whereby he was released from 6 Rajput on 14th April, 1990 and directed to report at the attachment location immediately. The first and detailed report was submitted by 6 Rajput to HQ 68 Mtn Bde *vide* letter dated 14th April, 1990 (.....) wherein the specific involvement of the Ex-officer in lifting of money from various houses in the

course of house-to-house search, and the fact that the incident was verbally reported to Cdr 68 Mtn Bde has been mentioned.”

The CO 6 Rajput had ordered Unit Court of Inquiry on 13th April, 1990 to investigate the circumstances wherein No. 2980621M L/NK Anil Kumar attempted to lift a gold necklace during the house to house search in Lakshmanpura in Batmaloo area in Srinagar (J&K) at approximately 1300 hours on 11th April, 1990. The Court of Inquiry indicted the Ex-officer for:—

- “(i) resorting to indiscriminate beating up and manhandling of inmates, irrespective of sex wherever he carried out searches.
- (ii) lifting and extorting money and valuable from various individuals and houses along with L/NK Anil Kumar since both used to enter houses on most occasions keeping the remainder search party outside on guard duty.

The Court of Inquiry also threw up evidence that the Ex-officer had already planned to escape to avoid disciplinary action while moving on attachment.

CO, 6 Rajput issued two letters in respect of the petitioner on 15.4.1990. One of these letters was the Apprehension Roll to secure the presence of the petitioner at the attachment location. The other letter issued to him specifically stated that he is ‘leaving 15 Corps Op Sig Regt with forged dates in the leave certificate amounts to desertion’. It was stated in the said letter that after the incident on 11.4.1990 wherein, during the house to house search at Batmaloo, Srinagar, he was involved in a case of moral turpitude *i.e.* illegal lifting of cash from the house of civilian. He was personally informed in the presence of Lt. Col. M.S. Rawat and Capt. Salim Asif, Adjutant of the Battalion that his leave stood cancelled.

The first incident of desertion by the petitioner was on 15.4.1990 is on record *vide* 15 Corps Op sig Reg. letter dated 18th April, 1990. It is also brought out in the letter that the Ex-officer did not produce the movement order handed over to him at the attachment location.

The second incident of desertion on 9.6.1990 was brought out *vide* Command Hospital Northern Command letter dated 9th June, 1990 and 68 Mtn Bde letter/ telegram dated 11th June, 1990. The apprehension roll for the act of desertion on the second occasion was issued by his unit on 17.6.1990.

In this context, it may please be noted that Internal Security duties assigned to the parent unit of the petitioner amount to an operational scenario. Orders in the chain of command for committed units are generally verbal instructions, and may not always be issued in writing. Though the petitioner has persistently maintained that he was sanctioned leave with effect from 8th April, 1990, the evidence on record confirms that he was physically present at the Units Internal Security duty location till 14th April, 1990, evening, when the Movement Order directing him to move on attachment to 15 Corps Ops Sig Regt was handed over to him.”

2.11 With reference to the observation of the Committee that Pages 11, 12 and 17 of the Counter Affidavit filed before the High Court of Allahabad mentioned that ‘no such incidents has taken place’, the Ministry in their written reply dated 8.4.2008 clarified as under:—

“On examination of the contents of the Counter Affidavit filed in the Hon’ble High Court of Allahabad, it is found that Paragraphs 11 and 12 only speak of lack of territorial jurisdiction. Paragraph 17 negates the alleged recovery of gold biscuits. It is, however, emphasized that the Ex-officer was found “blameworthy of the alleged theft and for desertion on the two occasions.”

2.12 When the Committee showed the documents which indicated that the leave was duly sanctioned to him and rail warrant was also issued to him for the said period, the Ministry in their written note dated 08.04.2008 clarified as under:—

“It is an established practice for troops stationed in J&K and inaccessible areas that all leave commences and terminates from the date an officer/PBOR reports to the Transit Camp. Accordingly, the leave certificates, Railway Warrants and Indian Airlines Armed Forces Concession Forms were issued to the Ex-officer on 06 April, 1990 without dates since the dates were to be filed in at the Transit Camp. The Ex-officer was personally informed by CO 6 Rajput that his leave stood cancelled initially due to the unit’s deployment on Internal Security duties and subsequently due to his involvement in the disciplinary case which necessitated his attachment to 15 Corps Op Sig. Regt.

As already stated, CO 6 Rajput issued two letters in respect of the ex-officer on 15th April, 90. One of these letters was the Apprehension Roll to secure the presence of the Ex-officer at the attachment location. The other letter issued to the Ex-officer letter No. 42/48848/SSC, specifically states that “leaving 15 Corps Op Sig Regt. with forged dates in leave certificate amounts to desertion.....”

The above position is further substantiated by the fact that he was involved in the operations of the unit on 11th April, 1990 which would not have been possible if his leave from 8th April, 1990 to 6th June, 1990 sanctioned earlier was not cancelled. Records also reveal that Movement Order directing him to move on attachment to 15 Corps Op Regt. was also handed over to him. It is, therefore, not possible for the Ex-officer to feign ignorance of the occurrence of the chain of events leading to and including his attachment to a different unit for progressing of disciplinary action.

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To sum up, the allegation of theft of money and gold and desertion on two counts have been proved.”

2.13 In his subsequent representation the petitioner submitted as follows:—

- (i) As per Section 106 of the Army Act a person could be declared as deserter on the basis of court of inquiry if the person is absent for continuously 30 days. But in his case he was declared deserter on 15th April, 1990.

- (ii) If he had committed any offence then why Capt. Amit Hajela of 6 Rajput Regt. issued Indian Airlines concession form on 14th April, 1990.

2.14 The Committee again took oral evidence of the representatives of the Ministry of Defence on the issue on 15th April, 2008.

2.15 The Committee pointed out that the Court of Inquiry was ordered on 13th April, 1990, and the first and detailed report was submitted by 6 Rajput to HQ 68 Mtn. Bde. *vide* letter dated 14th April, 1990 but no information about the action taken or proposed to be taken on 13th April, 1990 was reflected in the aforesaid letter dated 14th April, 1990. In their response, the witness from the Army submitted as under:—

“Sir, the order for Court of Inquiry was given on 13th April that was against L/NK Anil Kumar, when involvement of the officer came in, verbal information was given on 14th April. After that he was ordered to be attached to Signal Regiment.”

2.16 The Committee observe that the Section 106 of Army Act, 1950 stipulated as under:—

“106. Inquiry into absence without leave.—(1) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled, and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any, and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.”

2.17 The Committee, therefore, pointed out that in the context of the petitioner undue haste was shown and an inquiry was conducted against him before expiry of 30 days ignoring the provision of Section 106 of the Army Act. In their response, the witness from the Army submitted as under:—

“When a person is not traced after 30 days we conduct a court of inquiry. We hope that he will turn up or any of his relatives or any other person will bring him back during this period. In this case we came to know before hand and that is why a court of inquiry was conducted.”

2.18 On being asked if there is any such provision, the witness replied in the affirmative. But he did not produce relevant records in this regard.

2.19 When asked if the Commanding Officer had submitted any report to the HQ regarding this incident in 1990, the witness replied:—

“As per our records it is not there.”

2.20 On being asked about the summary of evidence, the witness replied:—

“There are three charges. First Act of Prejudicial to good order and military discipline, in that, he on 11th April, 1990, during cordon and search operation, without authority, removed Rs.8800/- from a civilian of Lakshmanpura, Srinagar, which is about extortion. Second allegation is about deserting service—he while on active service, on 15th April, 1990 deserted from service. He went without leave..... and third charge is also the same *i.e.* desertion of service—he while on active service on 9th June, 1990, deserted from service. These are the three charges in summary of evidence.”

2.21 The Committee then pointed out that the then Army Chief General had sent a signal that Shri S.S. Chauhan should not be regarded as a deserter but his leave will be regarded as absent. Responding to this, the Special Secretary, Ministry of Defence submitted before the Committee as under:—

“There is a final finding of COAS. He gave two decisions. Firstly, the imprisonment of seven years has perhaps been reduced to eight months. The imprisonment will be limited upto the period already undergone by him and he will not be considered as deserter as was being considered but he will be considered as ‘absent without leave’.”

2.22 The Committee then pointed out that by doing so the department has withdrawn the allegation of his being a deserter and now only the second allegation relating to taking money is left. The Secretary, Ministry of Defence responded by submitting as follows:—

“In all such cases when there is any allegation against anybody, the proper way to deal it is to conduct an inquiry and it should be conducted by an independent body. Earlier the court of inquiry at the unit level was held as preliminary inquiry, after that second inquiry was conducted and thereafter Court Martial inquiry was conducted. When the Court Martial inquiry was conducted, it consisted different people. After that you must have gone through the details, I would like to apprise you what transpired on those dates. Whenever, there is such allegation it is also sent to the Ministry. The allegation is that he is being harassed, there is no charge against him and he has done nothing. The Commanding Officer was against him and that is why all these things are taking place against him. It has also been looked into several times at Minister level. Before this a presentation was made by them in 1992-93, the matter was inquired once again. When Chief of Army Staff reduced the seven years imprisonment, and he should not be treated as deserter but on leave without permission. When it was carried out, appeal came to the Government against that and once again inquiry was conducted. After conducting the inquiry, the final punishment given by the COAS has been held proper even at the Minister level. How far it continued. In 1996, the Ministry of Defence called for a statement of chronological

events. The entire proceeding was observed at Minister level and examined. In 1997, a meeting was held in RM's Office where Shri George Fernandes, Member of Parliament, Additional Secretary, JS (E) and ADG were present. They were apprised of the factual situation. They also examined this. Then, the Ministry of Defence requested to furnish factual information. Finally, the case was further examined in 1998-99 when Shri George Fernandes was the RM.

When all these examinations had been done, some independent body had to look into this to find out whether it was right or wrong. So, he had gone to the High Court. Finally, the High Court dismissed his case."

2.23 When pointed out that the case was not dismissed on the basis of merit, the Special Secretary, Ministry of Defence responded as under:—

"Sir, there are two points. One was the ground of lack of jurisdiction. Perhaps, the Rajasthan High Court should have been the proper High Court. The second thing is the non-appearance of the petitioner despite repeated listings and notices."

The witness agreed that the case was not examined on merits.

2.24 As regards providing concession forms of air journey to the petitioner on 14.4.1990 in the event of his proceeding on leave without intimation, the witness from the Army submitted before the Committee as under:—

"This was provided to him much earlier."

2.25 When the Committee pointed out that it was issued on 14th and not much earlier, the witness submitted as under:—

"Since his leave was planned, the concession form was provided to him in advance and he has an attached order to report there. Only the last order is regarded as the final one."

The witness further clarified that:—

"When he was sanctioned leave initially, at that time the leave application was submitted in which exact date of leave is filled in by the Srinagar Transit Camp. But the same leave application had been cancelled later on. There is also an allegation that the dates etc. have been filled later through forgery."

2.26 When asked if the fact that dates had been forged by the petitioner, was intimated to the HQ, the witness replied that the following is written in the fourth para of page 2 of their last report:—

"CO, 6, Rajput issued two letters in respect of the petitioner on 15.4.1990. One of these letters was the 'Apprehension roll' to secure the presence of the petitioner at the attachment location. The other letter issued to him specifically stated that he is "leaving 15 Corps Op. Sig. Regt. with forged dates in the leave certificate amounts to desertion."

2.27 When asked to give a copy of the report, which proves that the dates were forged, the witness submitted as under:—

“The biggest problem that is coming is that the concerned documents are destroyed after 10 years. When the Court dismissed the case all the documents were destroyed after two-three months. It cannot be ensured if reference of everything is available or not.”

2.28 The Ministry *vide* their subsequent written reply dated 6.6.2008 submitted a factual note in the case as follows:—

“** ** * * * * *

5. Post Confirmation Petition (PCP) was submitted by the ex-officer, and COAS, on 7th July, 1992, while disposing of the PCP (Post Confirmation Petition) submitted by the ex-officer, had, in exercise of the powers conferred upon him, decided to mitigate the sentence by substituting the findings of the Court Martial with respect to the second charge and the third charge as ‘absenting himself without leave’ under Army Act Section 39 (a) in place of ‘Deserting from Service’ under Army Act Section 38 (1).

** * * * *

2.29 Giving the analysis of the facts and events, pertaining to the leave sanctioned/ leave certificate, the Ministry in their written reply submitted as follows:—

- “(a) On 6th April, 1990, ex-2/Lt. S.S. Chauhan was granted annual leave for two months. As per the practice in vogue in field area (J&K), the leave was to commence and terminate at 213 Transit Camp, Jammu. Accordingly, Capt. Salim Asif signed the leave certificate from April, 1990 to June, 1990, and left the dates blank since these were to be filled in at 213 Transit Camp. Three copies of the leave certificate, with railway warrants and Armed Forces Air Concession Form were handed over to the ex-officer. It must be emphasized that leave certificates do not constitute any authority for the move of officers/ pers till specific endorsement in the relevant columns is made by the unit/ transit camp.
- (b) 6 Rajput, located at Durgnulla, received orders on 6/7th April, 1990, night to be ready to move to Srinagar for Internal Security duty. The annual leave of ex-2/Lt S.S. Chauhan, even though sanctioned earlier, stood automatically deferred immediately on the Bn. being committed to the new role. The fact that the annual leave (ostensibly ‘sanctioned’ to commence from 6th April, 1990) was postponed was admitted by the ex-officer in his post confirmation petition. On 8/9th April, 1990, the Bn. moved to Srinagar with its HQ located in 216 Transit Camp.
- (c) On the occurrence of the incident of 11 April, 1990, and the initial investigation under the orders of CO 6 Rajput whereby the ex-officer was found *prima facie* blameworthy of unbecoming acts, ex-2/Lt S.S. Chauhan was attached to 15 Corps Op Sig Regt. for progressing disciplinary action. On issuance of

the orders for his move on attachment, any leave sanctioned earlier to ex-2/Lt S.S. Chauhan stood superseded/cancelled, and the leave certificate issued earlier were invalid and not good for transit in the changed circumstances.

- (d) Notwithstanding the fact that any leave sanctioned prior to 14th April, 1990, was automatically superseded/cancelled on issuance of movement orders for attachment to 15 Corps Op Sig. Regt. on 14th April, 1990, it is also on record that CO 6 Rajput had personally told ex-2/Lt. S.S. Chauhan in the presence of Lt. Col M. S. Rawat, 2IC and Capt. Salim Asif, Adjutant of the Bn. that his leave stood cancelled after he had been found involved in a case of moral turpitude *i.e.* illegal lifting of cash from the house of civilians.....
- (e) It is necessary to emphasize the fact that Internal Security duties assigned to the parent unit of the ex-officer amount to an operational scenario. Orders in the chain of command for committed units are verbal instructions, and are not issued in writing.
- (f) One of the three copies of the ‘invalid leave certificate’ was given by ex-2/Lt. S.S. Chauhan to Sep. Brij Pal Singh at Officers’ Mess 15 Corps Op Sig. Regt. at around 1100 on 15th April, 1990 with leave period being mentioned as 14th April, 1990 to 12th June, 1990. No endorsement existed on this copy of leave certificate by 213 Transit Camp, Jammu because the ex-officer had taken Delhi bound flight from Srinagar. Even the journey of the ex-officer from Delhi to his native place beyond Kanpur was performed by him under his own arrangement, and without authority. The Railway warrants issued to him on 6th April, 1990 with leave certificates were not exchanged.
- (g) Yet another copy of the ‘invalid leave certificate’ was submitted by ex-2/Lt. S.S. Chauhan at 7 AF Hospital Kanpur showing the leave period differently *i.e.* from 8th April, 1990 to 6th June, 1990. No endorsement had been made on this copy of leave certificate by 213 Transit Camp because the ex-officer had not reported to the transit camp.
- (h) A photocopy of the later version of the leave certificate, as submitted by ex-2/Lt. S.S. Chauhan at 7 AF Hospital, was later attached by the ex-officer with his WP filed in the Hon’ble High Court of Allahabad.

** ** ** ** **

2.30 Giving the difference between ‘Desertion’ *vis-à-vis* ‘Absent without Leave’, the Ministry in their reply submitted as follows:—

- (1) “In the context of the charges for desertion, it is to be noted that desertion differs from absence without leave mainly in respect of the intention of an accused. If an accused intended to quit the service for good or avoid a particular military duty, the unauthorized absence in these circumstances would amount to desertion. In the instant case, ex-2/Lt. S.S. Chauhan, while on active duty in an operational scenario, was given a movement order for attachment to 15 Corps Op Sig. Regt. to consider progressing of disciplinary proceedings on 14th April, 1990 as he was well aware. The fact that he was

not found at the designated place on the evening of 15th April, 1990 lends itself to no other inference than as a stratagem to stall the progressing of the legal proceedings by avoiding military duty. In the second instances, when a movement order was given for Base Hospital at Srinagar, the ex-officer knew that he was required for important military duty to co-operate in the ongoing disciplinary proceedings against him. The charges of desertion on two different occasions stand substantiated by direct, credible and unimpeachable evidence on record.

- (2) The fact that COAS, on 7th July, 1992, while disposing of the PCP (Post Confirmation Petition) submitted by the ex-officer, had, in exercise of the powers conferred upon him, decided to mitigate the sentence by substituting the findings of the Court Martial with respect to the second charge and the third charge as 'absenting himself without leave' under Army Act Section 39 (a) in place of 'Deserting from Service' under Army Act Section 38 (1) does not in any way affect the offence as mentioned in the charge sheet or the conviction of the ex-officer by a duly constituted Court Martial".

2.31 Regarding lodging of FIR, the Ministry replied their submission in writing as under:—

“No FIR was filed by any of the civilians living in the houses covered by the cordon and search operation conducted by the platoon of 6 Rajput led by ex-2/ Lt. S.S. Chauhan on 11th April, 1990”.

Observations/Recommendations

2.32 The Committee note from the submissions made before them that ex-2/ Lt.S.S.Chauhan r/o Kothi Sadar-A-Allah, Agra Road, Mainpuri that despite being innocent he had to face Court Martial and was kept in the illegal arrest for more than 800 days, since he had highlighted corruption of one of the senior officers. He has further submitted that every paper and enquiry were manufactured and all were antedated. He was also prosecuted for desertion though he had got the leave sanctioned in advance before leaving. The petitioner has requested that his dignity and honour be given back with full respect and with adequate compensation.

2.33 The Committee note from the submissions of the Ministry of Defence/AHQ made in the preceding paras that the main charges against the petitioner viz. ex-2/ Lt. S.S. Chauhan were:—

- (i) charges of theft including removing money from civilians; and**
- (ii) desertion from duty twice.**

2.34 The Committee further note from the Ministry's submission that the allegation of recovery of gold biscuits by the petitioner during search operation, was found to be baseless in investigations by a Court of Inquiry and after due consideration the case was rejected under the Army Act Section 164 (2) & 179.

2.35 It has been further submitted by the Ministry that during the search operation on 11 April 1990, the petitioner was charged with lifting and extorting

money, *i.e.* Rs.8800/- and valuables from various individuals and houses along with L/NK Anil Kumar since both used to enter houses on most occasions keeping the remainder search party outside on guard duty. On 14 April 1990, Col. KRS Panwar, CO 6 Rajput verbally reported the incident involving the petitioner to the Brigade Commander and obtained verbal directions to attach him to 15 Corps Op Sig. Regt. with immediate effect for progressing disciplinary action.

2.36 The Committee are surprised to note that even the Commanding Officer (CO) 6 Rajput did not submit any formal report initially after the Unit Court of Inquiry was ordered on 13 April 1990 to investigate the circumstances wherein L/NK Anil Kumar attempted to lift a gold necklace during the house-to-house search operation. The first and detailed report was submitted by 6 Rajput to HQ 68 Mtn. Bde. *vide* Letter dated 14 April 1990, wherein the specific involvement of the petitioner in lifting money and the fact that the incident was verbally reported to Cdr. 68 Mtn. Bde. has been mentioned. The Committee express their anguish that while the Army proceeded for action against the petitioner levelling serious charges, no formal report was submitted by the concerned Commanding Officer to the Head Quarter. This fact was admitted by the Ministry during the course of evidence. This indeed is reflection on the improper procedure followed in the matter and gives credence to the submission of the petitioner of not being afforded the adequate opportunity to defend his case.

2.37 The Committee note with concern from the submissions made by the Ministry that the order for Court of Inquiry was given against L/NK Anil Kumar and not against the petitioner. It was L/NK Anil Kumar who mentioned the involvement of the petitioner during the Court of Inquiry on 13.4.1990. The Committee also note from the Ministry's submission that no FIR has been filed by any of the civilians living in the houses covered in search operation conducted by the platoon of 6 Rajput led by the petitioner on 11 April 1990.

2.38 The Committee are, therefore, of the view that the petitioner is not guilty of the charges of theft and extortion levelled by the Army and he should not have been penalized merely on the submissions made by other persons who were caught red handed because as per the evidence placed before the Committee, no complaint/FIR was lodged against the petitioner from the aggrieved parties.

2.39 As regards the charge of desertion from duty, the Committee note from the Ministry's submission that even though the petitioner was sanctioned leave *w.e.f.* 8 April 1990 earlier, but it stood automatically deferred immediately on issuance of movement orders for attachment to 15 corps Op Sig. Regt. on 14 April 1990. In their written submission dated 08 April 2008, the Ministry have stated that the movement order was handed over to the petitioner on 14 April 1990 evening whereby he was released from 6 Rajput on 14 April 1990 and directed to report at the attachment location immediately, whereas in the same written submission the Ministry have also stated that CO 6 Rajput issued two letters in respect of the petitioner on 15 April 1990. One of these letters was the apprehension roll to secure the presence of the petitioner at the attachment location. The Committee take serious note of the

contradictory version of the Ministry regarding the attachment of the petitioner which appears to be an attempt to cover the delay in issue of orders since the petitioner had proceeded on leave on 15 April 1990 itself.

2.40 In the instant case, the Committee note from the Ministry's submission that the petitioner was attached with 15 Corps Op. Sig. Regt. for disciplinary action based on the verbal directions of the superior officer. As the petitioner was initially granted leave on 6 April 1990 for two months, he was given leave certificate from April 1990 to June 1990 by the adjutant of 6 Rajput and the dates were left blank since these were to be filled in at 213 Transit Camp. As per the practice in vogue in field area (J &K), the leave was to commence and terminate at 213 Transit Camp, Jammu. Three copies of the leave certificate, with a railway warrant and Armed Forces Air Concession Form were handed over to the petitioner. The petitioner filled in the dates of his leave as 14 April 1990 to 12 June 1990 in one of the copies of the leave certificate held by him and handed over to his Sahayak with the instructions that in case he did not turn up, he (Sahayak) should deposit the same with Unit Subedar Major. It was learnt subsequently, that the petitioner had boarded Indian Airlines Flight from Srinagar to Delhi on 15 April 1990 and on 18 April 1990 he got himself admitted in 7 AF Hospital at Kanpur. Thus, the first incident of desertion by the petitioner was on record *vide* 15 Corps Op. Sig. Reg. letter dated 18 April 1990.

2.41 The second incident of desertion, according to the Ministry was brought out on 9.6.1990 *vide* Command Hospital, Northern Command letter dated 9 June 1990 and 68 Mtn. Bde letter/telegram dated 11th June, 1990. The apprehension roll for the act of desertion on the second occasion was issued by his unit on 17.6.1990. The petitioner went missing second time at 261 Transit Camp while waiting for the officer's bus. The petitioner was under escort for transit from compound Hospital Udampur to 92 Base Hospital, Srinagar.

2.42 The Committee further note that CO Rajput issued two letters in respect of the petitioner. One of these letters issued to him specifically stated that he is leaving 15 Corps Op. Sig. Regt. with forged dates in the leave certificates which amounts to desertion. The Committee note with surprise from Ministry's submission that the relevant documents which could prove that the dates were forged have been destroyed within two-three months after the case filed by the petitioner was dismissed by the Court. The Committee while taking a serious view of the callous approach of the Army in dealing with the case and not keeping proper record of the relevant documents, are of the view that the concerned Army officials, have worked in haste in destroying the evidence, within 2-3 months, thereby violating the established practice of keeping the record for 10 years. The Committee are surprised to note that the Ministry/Army have not only disregarded the established procedure but also acted in violation of Army Act 1950, Section 106 wherein it has been provided that the proceedings for desertion could be initiated only after the officer has remained untraceable and absconding for a period of 30 days. Whereas in the instant case the petitioner was not only traceable but was also taking treatment in 7 AF Hospital, Kanpur from where he had submitted his 'leave certificate'.

2.43 The Committee further note that on the allegations of theft and desertion, the petitioner was tried by Court Martial in 1991 and he was sentenced to be cashiered,

i.e. he was dismissed from service with disgrace and to suffer rigorous imprisonment for seven years. Thereafter, the petitioner filed a Review petition while disposing of the Post Confirmation Petition (PCP) submitted by the petitioner, the Chief of Army Staff (COAS) on 7 July 1992 had in exercise of the powers conferred upon him, decided to mitigate the sentence by substituting the findings of the Court Martial with respect to the second charge and the third charge as 'absenting himself without leave' under Army Act Section 39 (a) in place of 'Deserting from service' under Army Act Section 38 (1).

2.44 The Committee are, therefore, convinced from the sequence of events and facts of the case brought before them that the charges of desertion from duty twice and theft of money from civilians during search operation have not been conclusively proved by the enquiries conducted in the matter by the Army as substantiated by the fact that the COAS on presentation of PCP by the petitioner had decided to mitigate the sentence as absenting himself without leave in place of deserting from service for which punishment includes rigorous imprisonment as well as dismissal from service. The charge of theft and extortion against the petitioner has even flimsier basis as no material evidence was brought out and no complaint and FIR was ever filed by the affected aggrieved persons. The Committee, therefore, conclude that in the absence of any concrete evidence and non-availability of records, the petitioner deserves sympathetic consideration as he was penalized for charges which could not be proved beyond doubt. The Committee, therefore, recommend that the petitioner should be reinstated in the Army with full honour on notional basis retrospectively from the date he was cashiered from service and be paid all consequential benefits with full pay and allowances which could have accrued to him in the normal course but for his dismissal from service. The Committee would like to be apprised of the conclusive action taken in this regard within a period of 3 months.

CHAPTER III

REPRESENTATION REGARDING IRREGULARITIES OBSERVED IN PROCUREMENT OF ELECTRONIC FUZES BY THE MINISTRY OF DEFENCE

3.1 Shri Manvendra Singh, MP and Prof. H.N. Sharma, sent representations wherein they submitted that some serious irregularities were observed in procurement of Electronic Fuzes of 155 mm, 130 mm and 105 mm shells by the Ministry of Defence. All procedures, CVC guidelines, Directions of the Ministry of Defence and undertakings given by reputed PSU *i.e.* ITI Ltd. Rai Bareilly were ignored to maintain a monopolistic situation of a South African Company *viz.* M/s Fuchs through ECIL, another non-Defence PSU. The following irregularities were pointed out to Hon'ble Defence Minister, Shri A.K. Antony who had assured to look into the matter:—

- (i) All the Government policies, DPM and procedures are ignored just to accommodate South African product under cover of a PSU *i.e.* ECIL.
- (ii) Some lobby is preventing ITI Limited, Rai Bareilly Plant for the last three years to get entry and supply Electronic fuzes on one or the other pretext to avoid competition and to ensure monopoly of M/s ECIL which is totally dependent upon South Africans.
- (iii) When MoD had decided to try and evaluate samples of Electronic fuzes for trials and even instructed AHQ on 8th August 2005 to take up trials and evaluation of fuzes Ex-M/s ITI so that firm gets the fair chance to participate in future tender enquiry and based on this decision 50% quantity as projected had been ordered to M/s ECIL Limited for Rs.25.85 Crores without any competition. The Government could have saved 40% Government Ex-chequer.
- (iv) It is well within the knowledge of the Ministry of Defence that few highly ranked officers had joined M/s Fuchs, South Africa/ECIL as an award of loyalty for maintaining monopoly of a single source even at the cost of scuttling indigenous efforts.
- (v) ITI Limited has time and again given an undertaking that in the event of getting work order it will submit required no. of Electronic fuzes for trial and evaluation at its risk and cost and bulk supply of the same will be commenced after approval of trials.
- (vi) Ministry has taken a decision in December 2006 to prevent monopolistic situation and directed AHQ to move the case of procurement only after the trial evaluation of fuzes Ex-M/s ITI, Rai Bareilly. AHQ also recommended to procure fuzes from two sources *i.e.* both the Non-defence PSUs only. This decision again was never implemented under pressure.

- (vii) It is understood that a Committee was formed with most of its members who are under transfer or on the verge of retirement and they decide to load ECIL with 80% of current requirement which comes to about five lakh fuzes on a single tender. The whole exercise was done to some how prevent ITI, Rai Bareilly to get work order for Electronic fuzes and for vested interest.
- (viii) All the decisions and deliberations taken by the Government to avoid monopolistic situation has been kept aside to accommodate 80% quantity of requirement of current requirement to the only source having monopoly for the last 30 years though ECIL may take about 3 to 4 years in execution of this quantity. Whereas, ITI is confident trials will not take more than 4/6 months after submission of samples. Pushing 80% quantity on a single vendor, in a great haste, the Committee has over stepped from its jurisdiction by creating monopolistic situation which may have far reaching implications, for the reasons best known to them. This is however beyond the guidelines and procedures of Ministry of Defence as well as CVC.

The petitioners, therefore, requested that single vendor situation cannot be permitted and this case of procurement of electronic fuzes be referred to CVC for investigation and the Procurement of Electronic Fuzes by the Ministry of Defence from single vendor should be deferred till then.

3.2 The Committee took up the matter for examination in accordance with Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the aforesaid representations were forwarded to the Ministry of Defence on 14th August, 2007 to furnish their comments in the matter.

3.3 In their response, the Ministry of Defence *vide* O.M dated 3rd September, 2007 furnished a factual note pertaining to procurement of electronic fuzes for artillery guns stating therein as follows:—

“M/s ITI Ltd, a Public Sector Undertaking (PSU) under the Department of Telecommunications, have approached the Ministry of Defence (MoD) intimating their ability to supply electronic fuzes for Artillery Guns. Till now, the electronic fuzes have been procured on single tender basis from M/s ECIL, a PSU under the Department of Atomic Energy. For the supply of these fuzes, ECIL have a tie-up with M/s Fuchs, a private company in South Africa dealing in electronics. M/s Fuchs are different from M/s Denel who are a Government owned Company of South Africa dealing in defence stores, with whom presently MoD has suspended all dealings.

The case for floating a Request for Proposal (RFP) to M/s ITI has been examined in the MoD as per existing procedures. In May, 2005, M/s ITI were granted registration by the Director General of Quality Assurance (DGQA) for supply of electronic fuzes for 155 mm Guns. It was opined by the Army Headquarters that notwithstanding DGQA registration, products of such nature must pass through trial evaluation. Accordingly, AHQ were asked in August 2005 to take up the trial evaluation of Fuzes ex-M/s ITI. In the meantime, 50% of the quantity then projected was processed for procurement in January 2006 on a single tender

basis from M/s ECIL Ltd to meet the on-going requirements. However, the trial evaluation of fuzes ex-M/s ITI has not yet been taken up by AHQ and presently only M/s ECIL are the approved source for the electronic fuzes. Since, a techno-commercial offer from M/s ITI (or any other firm) is not available, it is not possible to establish the extent of savings that may result if an order were to be placed on any other firm than M/s ECIL.

M/s ITI have been alleging discrimination against them and that certain officials in the MoD are trying to prevent the entry of ITI in the field. This was not found to be correct. M/s ITI have subsequently alleged that directorate of Artillery is trying to block the issue of RFP to ITI and maintain a monopolistic situation in favour of one company. They alleged that Lt. Gen. Charanjit Singh, DG Artillery joined M/s Fuchs (ECIL) as a consultant immediately after his retirement. The position was ascertained from AHQ and it is informed that ex-DG Artillery had nothing to do with M/s Fuchs but was appointed by M/s ECIL as an advisor. ECIL had been appointing several retired defence officials as their advisor. Further Signal Officer-in-Chief is always appointed as a director in the board of ECIL with the approval of Government.

In regard to development of new vendors for electronic fuzes, AHQ had initially expressed the following apprehensions—

- (a) Since ECIL fuzes for guns have been introduced in service after trials, no other type of fuzes should be introduced as it will involve conduct of fresh range and accuracy trials for preparation of range tables and also lead to other allied problems related to logistics and ammunition management.
- (b) Electronic Fuzes have to be operated upon by their respective fuze hand setters to set firing data before firing. As on date, fuze setter hand supplied by M/s ECIL is common for all type of fuzes for 105 mm, 130 mm and 155 mm gun system. Therefore, introduction of fuzes from different vendors may result in number of fuze hand setter at the gun end having different handling procedures.
- (c) Different types of fuzes with their respective fuze hand setters and range tables will result in confusion both in terms of firing data and ammunition management for the Artillery gunners.
- (d) Presently Project Shakti is being programmed with existing set of projectiles and fuzes and therefore there will be a need for re-programming of software and consequent trials when fuzes from different vendors are procured.

The contention of AHQ, which *ipso facto* tantamount to continuation of ECIL as the single vendor for electronic fuzes was not agreed to by the MoD. After further re-examination, AHQ agreed to the need to develop an alternate source as it will provide high assured level of supplies. AHQ moved a proposal to meet the existing deficiency of fuzes by placing an order for 80% of the quantity on the established vendor (M/s ECIL) on a single tender basis and to issue a multi-vendor RFP for the balance 20% quantity. The matter was then considered by a Committee in the MoD chaired by the Special Secretary and comprising of the

representatives of Defence (Finance), Defence Production and the Army Headquarters. The matter was deliberated at length by the Committee and the following course of action was recommended as an agreed position:—

- (a) The requirement project by AHQ for procurement be processed only for 80% of the requirements. The balance 20% may be taken out for development of new vendor.
- (b) The developmental order for identification of a new vendor may be processed on an open tender basis on Indian firms.
- (c) The procedure to be adopted may be calling two bids *i.e.* technical and commercial bids separately.

The case has been examined in MoD fairly, impartially and as per rules and regulations. The complaints regarding denying of chance to M/s ITI is not valid as it has been proposed to invite the firms to participate in a multi-vendor RFP, which will also include M/s ITI. It is quite likely that M/s ITI will emerge as the second approved vendor after the process and compete with M/s ECIL in future RFPs. The decision to meet 80% of the presently project deficiency has been based on the following considerations projected by the AHQ:—

- (a) The need to avoid operational voids on account of inadequate number of fuzes *vis-à-vis* the number of shells.
- (b) The current deficiency which will be left after processing the present case and future deficiencies will still be substantial for new vendors may also be considered.
- (c) The process of trial evaluation is expected to take time.”

3.4 The Committee, thereafter, took oral evidence of the representatives of the Ministry of Defence on the subject on 5th February and 15th April, 2008.

3.5 While giving a brief account of the case the Special Secretary, Ministry of Defence submitted before the Committee as follows:—

“This issue is related to procurement of electronic fuzes which are used in the shelves of different types of artilleries, guns since last 20-30 years. Earlier mechanical fuzes used to be purchased by the Army from ECIL. It was thought that electronic fuzes were better and so it was decided to go for the electronic fuzes and ECIL went in collaboration with M/s Fuchs a South African company. There was a transfer of technology from the South African company to ECIL and then ECIL started supplying electronic fuzes to the Army. Now, from 2000-2005 onwards we are buying electronic fuzes from ECIL, which is a public sector company, and the users basically are fully satisfied with the product supplied by the ECIL. In 2005, around that period, ITI which is another Public Sector Company approached Army saying that they are capable of supplying electronic fuzes. At that time, they approached DGQA also. The DGQA registered their company for supply of fuzes. However, the fuse has two parts – one is the mechanical part, *i.e.*, the shell which is empty portion and the other is filling up the fuse with explosives. This ITI got registered from DGQA which is our

organization, for empty fuzes. He has asked us that he should also be given the opportunity. This was referred to the Army Headquarters. They examined it and said that they would like to have only the standard fuzes of one type. They also said that they cannot have different types of fuzes. If they had that, then there will be management problem for the gunners in the field when they fire. At that time, there will be problem because the range table data and various types of things are required and in the field they cannot look into these types of things and verify. So they were of the view that it should be only the standard fuse which is being supplied and we have standardized the product. So, that was going on. This discussion between MoD and the Army Headquarters was going on. When the letters had come from ITI, a number of times, we further got it examined to know whether there is possibility of having multi-vendor situation. We thought as ECIL and ITI both are Public Sector Companies, why we should not get for more vendors rather than one vendor. We can think of better price in that process. Recently, after a great deal of examination and discussion between MoD and the Army Headquarters, a high level committee was appointed which consists of the then Special Secretary, Director-General of Artillery, persons from Finance and MGO and the persons from the Defence Production who are responsible for indigenisation. This Committee recommended that as on today only ECIL is able to supply the product as required by the Army as per the specifications prescribed by the Army. So, because of our requirement whatever our requirement is there, 80% of the product can be bought from them and for the new vendor development, we can keep the reserve of about 20 per cent of the requirement. Then we can go for open tender to know who else can supply this type of fuzes. We will examine that. The Army Headquarters agreed with that and we are going with that process.”

3.6 The Committee pointed out that the 80% order is beyond Rs. 600 crore and as per the statement given by the Hon’ble Raksha Mantri in Lok Sabha for the purchase beyond Rs.100 crore global tenders should be given. The Committee, therefore, desired to know why global tenders are not being given. In response, the witness submitted before the Committee that :—

“The first thing I would like to tell that as mentioned by you, the bulk order worth Rs. 600 crores has not been given till date. This is an order of about six lakh fuzes and their total cost is Rs. 400-410 crores. As of now, it has been decided at the level of the Defence Minister. The proposal on recommendations of the high level committee has been referred to him, the Committee had recommended that 80% of the same should be taken from it. It has been approved at the minister level. Now, the RPF is to be convened and after that negotiation would be conducted and then the order will be released but the order has not been released as yet.”

As regards purchasing through global tender if the purchase is more than 100 crore, he further submitted:—

“The thing is not like that. We have two types of purchase. One is capital acquisition and the second is revenue procurement. The fuzes come under

revenue procurement. If any purchase comes under capital acquisition, the minister is entitled to approve the purchase worth Rs.100 crores, but above that it goes this, only recommends if any purchase is to be done locally or globally. Global means it can include local also or from outside also. Most of the things we should purchase from India. Anything being purchased from outside as far as possible should be indigenized so that the dependence on the foreigner is reduced, at the time of war or in emergency we cannot depend on outside agencies. Most of the case our efforts are to indigenize, that is the product produced in India. HAL is producing aircrafts, shipyards are producing ships and the ordnance factories are producing most of the ammunition. The fuzes are not being fully produced by the ordnance factories. Many of the ammunition are being purchased by the Ordnance factories and we call it the single vendor. It is our own department. ECIL is the public sector who has taken the technology transfer from South Africa and after taking technology under transfer of technology, they have established a plant and they are supplying to the Ministry. In fact, they are doing a good service to us. The need which was there in the Army has been fulfilled because we could avoid import of such critical item like fuse.

The other thing that you have mentioned that why we are involving the foreign companies etc. As far as the Ministry of Defence is concerned, we are buying these items from ECIL and in turn ECIL is having a collaboration with South Africa. Today if the product is of one rupee, then 70 paise comes from its own sources and 30 per cent value of the component they are getting from South Africa. That means out of 400 crore, about Rs. 300 crore worth will be from indigenous sources only and 100 crore, worth will be from South Africa which ECIL will be buying. So, basically we are buying from India only.....”

3.7 When pointed out that local manufacturers should also be considered, the witness submitted before the Committee as follows:—

“This fuse is very critical for the guns and we consume quite a lot of fuzes every year in the training. For our operational requirement we cannot think of that, we do not purchase the fuzes wherever it is available we have to buy. First our operational requirement has to be completed. We could not buy because of various type of petitions, complaints etc. This could not be brought for the last one and half years. So, there is an acute shortage of fuzes with Army. That is the reason today it has been decided that when a public sector is supplying perfect requirement of the Army, why should we not purchase from them? However, if we go for open tender this will take time. First we will go for a tender. After that he will offer, after offer there will be technical evaluation, after technical evaluation there will be field trials and for field trails we need minimum one year. One has to try in Winter, one has to try in summer. One season is required. This process would take at least two years. We cannot keep quiet for two years and we see that operationally Army suffers from that. That is the reason why an administrative decision has been taken at the highest level to go for 80% purchase and try for new vendors also for the 20%.”

3.8 When asked about the action taken on the request from the ITI for supply of fuzes, the witness submitted as follows:—

“The letters which we got from ITI were referred to AHQ and after their examination the Army Headquarters was of the view that we should not go for any other fuzes because what is required is standardization. That means the fuze system developed by ECIL should continue because the lower level persons who have passed 8th standard and 10th standard cannot read the date tables and by reading one will have to examine which fuze is for which gun and at what time.”

3.9 When asked if their fuzes have been tested, the witness replied in negative.

3.10 On being pointed out that without testing how is it possible to conclude that it is good or bad, the witness replied:

“They are only having empty. They do not have fuzes. They do not have explosive facilities. They have only empty. There is no DGQA registration for them except for the empty. Of course, we would like to have more and more vendors. ITI being from public sector, we will be very happy to have them. Their registration with DGQA was only up to August 2005 for various other products. They got the fuze included for registration in May 2005 which was over in August 2005. As of today, they do not have the DGQA registration. There is a company called VXL. They are also in the field of fuzes. Of course, nobody has supplied in full form so far to us.”

3.11 When asked about the procedure of registration, the witness submitted as follows:—

“We have an organization called DGQA. They do two works. One is called indigenization. They do the registration. We were purchasing certain things from outside. Now, we want to buy them locally. Whosoever has the capability they come to DGQA and register themselves. In this particular case, when the ITI approached the DGQA, DGQA has verified and found that they have the capability to produce fuse empty. They gave the certificate for fuse empty and not for fuse full. After that they did not approach them for renewal. They did not approach for explosives.”

3.12 On being asked if there is any documentary proof which shows that they have said that they will not be able to build this full unit, the witness submitted as follows:—

“They are telling they will be able to do it. We will see whether they will be able to do it. Development order will be given to them.”

3.13 When asked if for the last three years, any correspondence is there, the witness replied:—

“There has been a delay between us and the army. The Army’s apprehension is on technical grounds. They feel that we should not introduce any other fuze system. We should not introduce different vendors. This will create a problem

of standardization. In a product, standardization is very important. This requires high precision. It is not a simple thing.”

3.14 Regarding giving chance to other companies, the representative from the Army submitted before the Committee as follows:—

“The Special Secretary has told that the ITI was registered for the ammunition boxes, when they had been brought in 2005, it was registered for hardware. The general engineering hardware was only for components because they do not have facilities to fill explosives for that purpose they are required to produce safety certificate and other things. That was why they were registered only for empty and they were informed all this. The registration already done was later annulled in September, 2005. Afterward they had to apply for renewal as per the laid down procedure which they did not. Then, they told that there would be an agreement with HPL Naften and would work with the same. They will co-ordinate with some national or international company for explosives which is yet to be done. They did not approach us afterward. HPL Naften, a Hyderabad based company, had approached. They asked us for registration empty be registered, the explosives are not eligible for registration.”

The Ministry *vide* their subsequent written reply dated 28th May, 2008 informed as follows:—

“M/s ITI Ltd., Rai Bareilly had got registration from DGQA for production of fuze empty only and did not get registration for filled fuze from DGQA. M/s ITI Ltd., Rai Bareilly approached DGQA for renewal of registration in July 2007, as their registration had expired on 13 August, 2005. M/s ITI were never registered for explosive items and hence the question of renewal for explosives does not arise.”

3.15 During the course of oral evidence held on 15.4.2008, the CMD, ITI submitted before the Committee that they should be given the opportunity to make electronic fuzes as they have the infrastructure required for this and they make many things for Defence Services. They have already inspected their unit and infrastructure for this purpose it will help us to engage our people which we have in large numbers. We have around 4,000 persons working in our Rai Bareilly unit. If we get this order, we would also have an opportunity to serve defence and we should be treated with equal status. We should be given an opportunity as has been given to ECIL. The Committee thus desired to know about the problem in giving order to ITI when it has the infrastructure and is also a PSU in response the witness submitted before the Committee on 15.4.2008 as follows:—

“The opinion of MGO and DG (Artillery) was that Defence should also try the fuzes produced by ITI. But Army Headquarters had a view that if we produce another fuze, its standard may be different from the standard of fuzes. We cannot have a large number of different varieties of fuzes. We should have the same standardization of fuse. Otherwise, the persons who operate this will not be able to understand it and there will be a difficulty locally. That was their view. They wrote back to us. There was a Committee. We again wrote to them

saying that you should make a try for ITI fuze also. Finally what happened was this. That issue was going on between the Army Headquarters and the MoD. A Committee headed by the Special Secretary, Shri Jain, was appointed, wherein DG (Artillery), NGO, Finance and other offices were there. They recommended that we must try ITI. They said that we should have an open tender from the Indian vendors where ITI and others who are registered will also be there for purchasing this system, that is, fuzes by open tender. However, because there is an urgent requirement of the Army for operational necessity, for that purpose, whatever immediate need is there, that can be purchased from the vendor, from ECIL, who has already supplied and whose product already had been tried. So, their decision was this. They recommended that we can buy 80% from the adjusting vendor, whose product had been tried and we should keep 20% for trying the new tender.

As far as ITI is concerned, ITI product has not yet been tried which will take some time. First of all, QR has to be made. And we have to see whether the ITI product is meeting that QR or not. That takes time. It will have to be tried in the month of summer. It will also have to be tried in the period of winter. Then, Technical Evaluation Report has to be prepared. Finally, it may take some time, one or two years. Therefore, the urgent need should be fulfilled from ECIL and the rest should be given from the open tender. That was the decision. However, after the meeting of the Committee here, we had submitted to the Minister about the views of this Committee. The feeling of the Committee was that there should be an open tender system and we should not give 80% to one person or so. After considering the feelings of the Committee, our Defence Minister had ordered that let there be a separate Committee, one more Committee. They should look into as to how is the minimum operational requirement of the Army and then let them recommend as to what should be done keeping in mind the point that we should have multi vendors instead of having a single vendor and at the same time keeping the interest of the Army from the operational requirement point of view. That Committee has started its meeting. Already they have conducted one or two meetings. That decision of 80:20 is not standing today. The final decision will be based on this Committee's recommendation and the Defence Minister will take a decision. That is the position today. There is a slight change than what was done last time and now."

3.16 When asked by what time the decision will be taken, the witness submitted:—

"It should be done within a period of one month. I think, it will take less than that. They are finalizing it. Only two meetings have taken place. There is urgency from our side, operational side. So, urgently it has to be done. We will do it very shortly. That is the position."

The witness further submitted:—

"Presently we are giving 80% orders to ECIL and 20% through open tenders. The Committee will decide that whether this 80:20 ratio is to be continue or complete order should be procured through open tenders or operational requirement of six months, one year or one and half year should be procured

first and open tender for remaining order should be given. Earlier there was requirement of six lakh fuzes but it has been increased considerably to ten lakhs and now it ranges between twelve lakhs to fourteen lakhs. We are discussing on the point whether it can be procured for one or one and half year first, then we have to obtain it through open tender we have to decide that we have to procure it through open tender or partly from one party and the remaining through open tender. We start the process only after taking the decision in this regard.”

3.17 Giving reasons for relying only on M/s ECIL for procurement of electronic fuzes by the Ministry of Defence, the Ministry *vide* their subsequent written reply 4.2.2008 submitted that:—

“Till now, the electronic fuzes have been procured on single tender basis from M/s ECIL. ECIL is a Public Sector Undertaking (PSU) under the Department of Atomic Energy and at present they are the only successfully trial evaluated source for supply of fuzes.”

3.18 Giving reasons for not exploring the possibility of procuring electronic fuzes by private company, the Ministry in their reply submitted that in the past, efforts were towards standardization of fuzes and the established supplier had been supplying successfully.

3.19 To a query about the year in which the Government had started procurement of Fuzes from South Africa, the Ministry replied as follows:—

“The Indian Army has been procuring fuzes from M/s ECIL. M/s ECIL’s collaboration with M/s Fuchs of South Africa was done prior to 1999 when the first order of the electronic fuzes were placed on ECIL by MoD.”

3.20 When asked about the reasons for suspending all dealings with M/s Denel, a Government owned company and dealing with M/s Fuchs, a private company in South Africa. The Ministry submitted:—

“Certain allegations were revealed in the media in April 2005 about engagement of an agent and payment of agency commission by Denel, South Africa on procurement of Anti Material Rifle. On account of the same, dealings with M/s Denel, a Government owned company, remain suspended. M/s Fuchs are a private company in South Africa dealing in electronics and are different from M/s Denel who are a Government owned Company of South Africa dealing in defence stores.”

3.21 On being asked when did the MoD examine the case for floating a Request for Proposal (RFP) to M/s ITI. What is the existing procedure for the same? The Ministry in their reply submitted that:—

“The proposal for floating a RFP to M/s ITI was examined from September, 2004 onwards in the MoD. In case of indigenous firms, Director General of Quality Assurance (DGQA) is normally the Authority Holding Sealed Particulars (AHSP) for various defence stores and it registers firms after undertaking the capacity

verification of firms capable of supplying such stores. The DGQA registration of firms is checked before floating RPF to the firms.”

3.22 Giving the role of Director General of Quality Assurance (DGQA) and Army Headquarters (AHQ) in giving approval/clearance for procurement of equipment manufactured by any company, the Ministry in their reply submitted as follows:—

“Director General of Quality Assurance (DGQA) is normally the Authority Holding Sealed Particulars (AHSP) for various defence stores and it registers indigenous firms after undertaking the capacity verification of firms capable of supplying such stores. It also inspects stores for their conformity to contracted quality against various Contracts.

Army Headquarters undertakes processing of various procurement cases as per laid down regulations and procedures, which involves getting the requisite inputs from DGQA and consultation with integrated finance. In many cases of supply of defence stores, trial evaluation of stores is involved for their conformity to the requirements of field Army. Trial evaluation of stores is carried out under the aegis of Army Headquarters, after which the stores are cleared/not-cleared from user’s point of view.”

3.23 On being asked about the reasons for not taking up trial evaluation of Fuzes manufactured by M/s ITI till date, despite the fact that it was granted registration by the DGQA in May 2005, the Ministry in their written reply submitted that:—

“AHQ expressed the following apprehensions because of which the process has been delayed—

- (a) Since ECIL fuzes for guns have been introduced in service after trials, no other type of fuzes should be introduced as it will involve conduct of fresh range and accuracy trails for preparation of range tables and also lead to other allied problems related to logistics and ammunition management.
- (b) Electronic fuzes have to be operated upon by their respective fuze hand setters to set firing date before firing. As on date, fuze setter hand supplied by M/s ECIL is common for all type of fuzes for 105mm, 130mm and 155mm gun system. Therefore, introduction of fuzes from different vendors may result in number of fuze hand setter at the gun end having different handling procedures.
- (c) Different types of fuzes with their respective fuze hand setters and range tables will result in confusion both in terms of firing data and ammunition management for the Artillery gunners.”

The Ministry further submitted that:—

“This does not imply that AHQ do not want to break the monopoly of M/s ECIL in this field AHQ have accepted the need to develop alternate sources.”

3.23(a) The Ministry *vide* their subsequent written reply dated 28.05.2008 further submitted as follows:—

“Trial was not conducted as the Army Headquarters had recommended that the requirement of standardization in terms of internal and external ballistics and commonality of electronic fuze setter to avoid confusion and delay in firing, which would occur on proliferation of different type of fuzes.”

3.24 The Committee pointed out that AHQ were asked in August 2005 to take up the trial evaluation of fuzes ex-M/s. ITI which has not yet been taken by AHQ. Instead the Government in January, 2006 processed 50% of the quantity then projected for procurement on a single tender basis from M/s ECIL Limited to meet the ongoing requirement. The Ministry in their reply clarified as follows:

“The process of trial evaluation is expected to take time (of upto 2 years as informed by the AHQ) it is thus necessary to procure quantities to meet the immediate and ongoing requirements from the sources that are already established.”

3.25 When asked if it is justifiable to rely and procure electronic fuzes manufactured by a private foreign company M/s Fuchs and making a National Public Sector Undertaking (M/s ITI) manufactured products to take up the trial evaluation despite the fact it was granted registration by DGQA for supply of electronic fuzes for 155 mm guns, the Ministry in their reply submitted as follows:—

“It is incorrect to state that MoD is relying and procuring electronic fuzes manufactured by a private foreign company M/s Fuchs. MoD is relying on and procuring fuzes manufactured by a national Public Sector Company (M/s ECIL). For the supply of these fuzes, they have a tie-up with M/s Fuchs, a private company in South Africa dealing in electronics. Over a period of time, ECIL have taken efforts to source many of the components for the fuzes indigenously and as on date the imported content for the fuzes has been stated to be around only 30%.

In regard to selection of any new vendor including M/s ITI for supply of fuzes, the same can only be after a process of successful trial evaluation not withstanding the fact of DGQA registration. It is pertinent to mention that ECIL were also selected after a process of trial evaluation.

It is also brought out that M/s ITI had been reregistered for supply of hardware for fuzes only and not for complete fuze *per se*.”

3.26 On being asked if the apprehension expressed by AHQ is not compatible quality and cost wise by allowing one Company to firm its monopoly in manufacturing of electronic fuzes instead of other company also to bid and compete for it, the Ministry submitted in their reply as follows:—

“The apprehension expressed by AHQ, which *ipso facto* tantamount to continuation of ECIL as the single vendor for electronic fuzes, has not been agreed to by the MoD. On the insistence of MoD and after further

re-examination, AHQ have agreed to the need to develop an alternate source as it will also provide high assured level of supplied. MoD/AHQ have agreed to the need to develop alternate source for supply of fuzes and further action is being taken accordingly. The capability of other firms to supply electronic fuzes is proposed to be assessed by a process of open tendering limited to Indian firms.”

3.27 On inquiring about the reasons for placing the order for 80% of the quantity on an established vendor *i.e.* M/s ECIL on a single tender basis and to issue a multi-vendor RFP for the balance 20% quantity, the Ministry in their reply submitted that:—

“The decision to meet 80% of the presently project deficiency on M/s ECIL that is the established supplier has been based on the following considerations:—

- (i) The need to avoid operational voids on account of inadequate of fuzes *vis-à-vis* the number of shells.
- (ii) The current deficiency which will be left after processing the present case and future deficiencies will still be substantial for new vendors may also be considered.
- (iii) The process of trial evaluation is expected to take time.”

3.28 When asked if it is justifiable to give special package to ECIL by giving it order of 80% of the required quantity instead of letting it to bid and compete with other vendors, the Ministry submitted:—

“Processing of 80% of the quantity on M/s ECIL is justified as per the laid down policy for development of second indigenous source by agencies under MoD. The policy guidelines are enumerated in MoD OM number 7(76)/73/D(s-II) dated 11.10.1999. It allows for setting aside 20% of the requirement for an education order in case where there is only single develop source. It also allows for procurement of balance *i.e.* 80% quantity from sources already developed. It may not be justified to allow ECIL to compete with other vendors in a multi-vendor RFP as the other vendors are not similarly placed. While M/s ECIL is a trial evaluated vendor, others are not. In case of ECIL emerging L-1, there may not be development of a second source. Further, orders need to be placed on ECIL to make up immediate and on going requirements till the process of trail evaluation is over.”

3.29 The Committee pointed out that Indian Companies are capable to manufacture electronic fuzes and desired to know the reasons for procuring from a foreign company and causing loss to the exchequer. In response the Ministry submitted in their written reply that:—

“MoD is not procuring from M/s Fuchs but from ECIL which is public sector company. Since, a techno-commercial offer from any successfully trial evaluated supplier is not available, it is not possible to comment on saving that may result if an order were to be placed on any other firm than M/s ECIL and on the statement that there will a loss to the exchequer.”

3.30 Based on the discussion held with the Ministry while tendering oral evidence before the Committee on 05.02.2008 and 15.04.2008, the Ministry of Defence *vide* their factual note dated 28.05.2008 submitted as follows:—

“The following course of action had earlier been decided in the Ministry in the matter regarding procurement of electronic fuzes for Artillery Guns (105/130/155 mm Guns):—

- (i) The requirement of electronic fuzes projected by AHQ for procurement be processed on the established source (M/s ECIL) for 80% of the requirements only. The balance 20% may be taken out for development of new vendor.
- (ii) The developmental order for identification of a new vendor be processed on an open tender basis on Indian firms.
- (iii) The procedure to be adopted should be by calling two bids *i.e.* technical and commercial bids separately.

In view of the observations from the Chairman of the Lok Sabha Petitions Committee on the aforesaid proposed course of action, it was considered appropriate to re-examine the matter in the Ministry and holistically review the matter. A high-level Committee headed by Secretary (Defence Production) was constituted by the Hon’ble Raksha Mantri to take a final decision on the matter.

The following recommendations made by the Committee have now been approved by the Competent Authority:—

- (a) A revised General Staff Quality Requirements (GSQR) for electronic fuzes should be prepared taking into account the latest advancements in technology and the current requirements of Army.
- (b) In view of the time that will be taken for the procurement process it has been decided to take the shortage projected as 14.25 lakh fuzes as of March 2009 as the basis.
- (c) In view of high level of deficiency, an order for 4 lakh fuzes may be placed on ECIL, the sole approved supplier, on nomination basis, as per the procedure prescribed in Defence Procurement Manual-2006 with an option clause, for procuring additional quantity if any exigency arises. The quantity would broadly correspond to ECIL’s capacity for supply in 15 months and should take care of the immediate operational and training requirements of the Army.
- (d) The remaining quantity of 10 lakh fuzes will be procured as per the revised GSQR through open competition in accordance with the procedure prescribed in Defence Procurement Procedure-2006.”

3.31 Regarding the Annual production capacity of M/s ECIL, Prof. H.N. Sharma, National General Secretary, Samajwadi Janata Party (Rashtriya) submitted subsequent representations, stating therein that the licence, issued by Ministry of Commerce to M/s ECIL which clearly confirms that till 2004 M/s ECIL had the capacity of 120000 Nos. of special kind of Defence like fuzes and after expansion till date they have the capacity to supply 150000 Nos. fuzes only. Giving four lakh fuzes order on single

tender basis cannot be permitted under any circumstances. To push 4 lakh fuzes on a single vendor, without having such capacity, clearly proves malafide intentions in the name of operational requirement, which cannot be permitted in National interest.

Based on recommendations of MoD now license capacity to manufacture electronic fuzes ECIL has been increased to 30000 Nos. per month. The amendment of the license to manufacture after taking the decision of covering huge quantity on single tender basis is questionable and is not understood.

As informed that in the pretext of operational requirement 4.25 lakh fuzes are to be procured on single tender basis with ages old technology/specification and 10 lakh fuzes are to be procured with revised specifications/latest technology. The procurement case is pending for last about four years. About 4 lakh fuzes were decided to be procured from ECIL four years back and now again in the pretext of operational requirement same quantity is being procured without even having production capacity and denying opportunity to other firms, clearly needs investigations. According to the representation, M/s ECIL has been requested to clarify issues relating to the production capacity.

It is understood that despite global downward trend of prices M/s ECIL (South African Principal) has quoted exorbitant price with a lead period of six months to start supplies.

He has, therefore, requested that in the National interest and to save huge Government exchequer the electronic fuzes should be procured in competitive bidding only.

3.32 In response to the above representation, the Ministry of Defence *vide* their O.M dated 19th June, 2008 submitted as follows:—

“The case has now been re-examined in light of further representations that have been received. It is stated that the above decision has been arrived at after considering all the relevant factors pertaining to the case and after giving due weightage to the representations that have been made by M/s ITI. The following are also highlighted:—

- (a) There has been no extraneous influence in arriving at the decision.
- (b) The deficiency of 14.25 lakh fuzes as of March 2009 has been arrived as per the laid down norms.
- (c) The shortage/urgency of fuzes has been projected from the highest levels of the Army and the aspect of Army’s operational capability not getting hampered has to be kept in mind.
- (d) As on date, since ECIL is the sole supplier whose electronic fuzes have undergone trials and accepted by the Army and there is no option but to place order on them for the immediate requirements. An order cannot be placed on M/s ITI at this stage as they are not trial-evaluated. M/s ITI will be afforded an equal chance as ECIL to undergo trial evaluation for a quantity of 10 Lakhs against a revised GSQR.

The decision of the Ministry is in order and is reiterated.”

3.33 The Ministry *vide* their subsequent note dated 4th September, 2008 further submitted as follows:—

“The operational requirement of fuzes has been projected at the highest levels of Army and it is not in operational/national interest to further delay the procurement process of 4 lakh fuzes ex-M/s ECIL. The established procedure for selection of new vendor for supply of electronic fuzes is undertaken as per procedure given in Defence Procurement Procedure. The time required for selection and evaluation of new vendor is 24 to 36 months. The time taken for trial test of electronic fuzes supplied by ECIL before finalizing them as vendor was from 1996 to 1999.”

Observations/Recommendations

3.34 In their representations, Shri Manvendra Singh, M.P. and Prof. H.N. Sharma, have submitted that there were some serious irregularities in procurement of Electronic Fuzes of 155 mm, 130mm and 105 mm shells by the Ministry of Defence. All procedures, CVC guidelines, Directions of the Ministry of Defence and undertakings given by a reputed PSU, *i.e.* ITI Ltd., Rai Bareilly were ignored to maintain monopolistic situation of a South African Company, *viz.* M/s Fuchs through ECIL, another non-Defence PSU. The following irregularities were pointed out:—

- (i) All the Government policies, DPM and procedures are ignored just to accommodate South African product under cover of a PSU, *i.e.* ECIL.
- (ii) Some lobby is preventing ITI Limited, Rai Bareilly Plant for the last three years to get entry and supply Electronic fuzes on one or the other pretext to avoid competition and to ensure monopoly of M/s ECIL which is totally dependent upon South Africans.
- (iii) When MoD had decided to try and evaluate samples of Electronic fuzes for trial and even instructed AHQ on 8th August 2005 to take up trials and evaluation of fuzes Ex-M/s ITI so that the firm gets the fair chance to participate in future tender enquiry and based on this decision 50% quantity as projected had been ordered to M/s ECIL Limited for Rs. 25.85 Crore without any competition. The Government could have saved 40% of the said amount of Government Exchequer.
- (iv) It is well within the knowledge of the Ministry of Defence that few highly ranked officers had joined M/s Fuchs, South Africa/ECIL as an award of loyalty for maintaining monopoly of a single source even at the cost of scuttling indigenous efforts.
- (v) ITI Limited has time and again given an undertaking that in the event of getting work order it will submit required no. of Electronic fuzes for trial and evaluation at its risk and cost and bulk supply of the same will be commenced after approval of trials.

- (vi) **The Ministry has taken a decision in December 2006 to prevent monopolistic situation and directed AHQ to move the case of procurement only after the trial evaluation of fuzes Ex- M/s ITI, Rai Bareilly. AHQ also recommended to procure fuzes from two sources, i.e. both the Non-defence PSUs only. This decision again was never implemented under pressure.**
- (vii) **It is understood that a Committee was formed with most of its members who are under transfer or on the verge of retirement and they decide to load ECIL with 80% of current requirement which comes to about five lakh fuzes on a single tender. The whole exercise was done to somehow prevent ITI, Rai Bareilly to get work order for Electronic fuzes and for vested interest.**
- (viii) **All the decisions and deliberations taken by the Government to avoid monopolistic situation has been kept aside to accommodate 80% quantity of the current requirement to the only source having monopoly for the last 30 years though ECIL may take about 3 to 4 years in execution of this quantity. Whereas ITI is confident that trials will not take more than 4/6 months after submission of samples. By pushing 80% quantity on a single vendor, in a great haste, the Committee has over-stepped its jurisdiction by creating monopolistic situation which may have far-reaching implications. Whatever be the reasons behind this decision, the guidelines and procedures of Ministry of Defence as well as CVC have been violated.**

They have, therefore, requested that single vendor situation should not be permitted and this case of procurement of electronic fuzes be referred to CVC for investigation and the procurement of Electronic Fuzes by the Ministry of Defence from single vendor should be deferred till then.

3.35 The Committee note from the Ministry's submission that till date electronic fuzes for artillery guns have been procured on single tender basis from M/s ECIL, a PSU under the Deptt. of Atomic Energy. The ECIL had a tie-up with M/s Fuchs, a private company in South Africa dealing in electronics, for the supply of these fuzes.

3.36 The Committee note that in May 2005, M/s ITI were granted registration by the Director General of Quality Assurance (DGQA) for supply of electronic fuzes for 155mm Guns, however, it was opined by the Army Headquarters that notwithstanding DGQA registration, products of such nature must pass through trial evaluation. Accordingly, Army Headquarters were asked in August 2005 to take up the trial evaluation of fuzes ex-M/s ITI and in the meantime, 50% of the quantity then projected was processed for procurement in January 2006 on a single tender basis from M/s ECIL Limited to meet the on-going requirement. The Committee further note from the Ministry's submission that as per Army Headquarters the process of trial evaluation is expected to take time upto 2 years. The Committee note that the trial evaluation of fuzes Ex-M/s ITI has not yet been taken up by Army Headquarters and presently only M/s ECIL are the only approved source for procurement of the electronic fuzes.

3.37 The Committee note that the apprehensions projected by the Army Headquarters initially in regard to development of new vendor for electronic fuzes were:

- (a) Since ECIL fuzes for guns have been introduced in service after trials, no other type of fuzes should be introduced as it will involve conduct of fresh range and accuracy trials for preparation of range tables and also lead to other allied problems related to logistics and ammunition management.
- (b) Electronic Fuzes have to be operated upon by their respective fuze hand setters to set firing data before firing. As on date, fuze setter hand supplied by M/s ECIL is common for all type of fuzes for 105 mm, 130mm and 155mm gun system. Therefore, introduction of fuzes from different vendors may result in number of fuze hand setter at the gun end having different handling procedures.
- (c) Different types of fuzes with their respective fuze hand setters and range tables will result in confusion both in terms of firing data and ammunition management for the Artillery gunners.
- (d) Presently Project Shakti is being programmed with existing set of projectiles and fuzes and therefore there will be a need for re-programming of software and consequent trials when fuzes from different vendors are procured.

3.38 The Committee note that after persuasion by the Ministry of Defence, Army Headquarters agreed to the need to develop an alternate source but moved a proposal to meet the existing deficiency of fuzes by placing an order of 80% of the quantity on the established vendor (M/s ECIL) on a single tender basis and to issue a multi-vendor RFP for the balance 20% quantity. This matter was then considered by a Committee in the Ministry of Defence chaired by the Special Secretary and comprising the representatives of Defence (Finance), Defence Production and the Army Headquarters. After deliberating over the matter at length, this Committee also agreed for procurement of 80% of the requirement projected by Army Headquarters, and the balance 20% may be taken out for development of new vendor, based on the following considerations projected by the Army Headquarters:

- (a) The need to avoid operational voids on account of inadequate number of fuzes *vis-à-vis* the number of shells.
- (b) The current deficiency which will be left after processing the present case and future deficiencies which will still be substantial for new vendors may also be considered.
- (c) The process of trial evaluation is expected to take time.

3.39 The Committee further note that the letter from M/s ITI requesting for giving them permission to supply electronic fuzes, was referred to Army Headquarters for examination and after their examination the AHQ was of the view that we should not go for any other fuzes because what is required is standardization and the established supplier *i.e.* M/s ECIL had been supplying successfully and they are the only source for supply of fuzes who have been successfully trial evaluated.

3.40 The Committee further note from the Ministry's submission that the apprehension expressed by AHQ, which *ipso facto* tantamounts to continuation of ECIL as the single vendor for electronic fuzes, has not been agreed to by the MoD. On the insistence of MoD and after further re-examination, AHQ have agreed to the need to develop an alternate source as it will also provide highly assured level of supplies. The MoD/AHQ have agreed to the need to develop alternate source for supply of fuzes and further action is being taken accordingly. The capability of other firms to supply electronic fuzes is proposed to be assessed by a process of open tendering limited to Indian firms.

3.41 The Committee take a serious view of the lackadaisical approach adopted by the Ministry of Defence in taking up the matter with AHQ pertaining to procurement of the electronic fuzes for Artillery Guns by floating an open tender for the same and promoting other indigenous firms including the PSU, viz. M/s ITI, which have been approaching Ministry of Defence since 2005 for allowing them to supply electronic fuzes. The Committee are of the firm view that though Ministry of Defence have from time to time impressed upon AHQ about the need to develop an alternate source, it has in a way supported AHQ by accepting their apprehensions and not pursuing them to expedite the trial process of ITI since August 2005 especially in view of the fact that the trial takes around 2 years only. The Committee feel that had the Ministry of Defence been firm in their stand and proceeded with a set time frame of two years to conduct the trial of fuzes produced by ITI, then as on date, after completing all the required formalities they would have started procurement at competitive prices of electronic fuzes manufactured indigenously by a reputed PSU through an open tender instead of relying on only one firm to supply fuzes as per their quoted price and causing heavy loss to the exchequer. The Committee, therefore, take a serious note of such lackadaisical approach of the Ministry of Defence which has not only caused loss to the exchequer, but has also led to the shortfall in the supply of electronic fuzes to the Army.

3.42 The Committee note with satisfaction that after the matter was taken up by the Committee on Petitions, the Ministry have considered it appropriate to re-examine/review the matter holistically. A high level Committee headed by Secretary (Defence Production) was constituted by the Hon'ble Raksha Mantri (RM) to take a final decision on the matter.

3.43 The Committee, however, note that the Competent Authority has approved the following recommendations made by the Committee constituted by RM:—

- (a) A revised General Staff Quality Requirements (GSQR) for electronic fuzes should be prepared taking into account the latest advancements in technology and the current requirements of Army.
- (b) In view of the time that will be taken for the procurement process it has been decided to take the shortage projected as 14.25 lakh fuzes as of March 2009 as the basis.
- (c) In view of high level of deficiency, an order for 4 lakh fuzes may be placed on ECIL, the sole approved supplier, on nomination basis, as per the procedure prescribed in Defence Procurement Manual – 2006 with an option clause, for procuring additional quantity if any exigency arises. The quantity

would broadly correspond to ECIL's capacity for supply in 15 months and should take care of the immediate operational and training requirements of the Army.

- (d) The remaining quantity of 10 lakh fuzes will be procured as per the revised GSQR through open competition in accordance with the procedure prescribed in Defence Procurement Procedure—2006.

3.44 The Committee note from the Ministry's submission that as on date, ECIL is the sole supplier whose electronic fuzes have been accepted by the Army after having undergone trials and there is no option but to place order on them for the immediate requirements, since an order cannot be placed on M/s ITI at this stage as they are not trial-evaluated. However, M/s ITI will be afforded an equal chance as ECIL to undergo trial evaluation for a quantity of 10 lakh against a revised GSQR.

3.45 The Committee were surprised to note that the Government have approved an order for 4 lakh fuzes from M/s ECIL, that too with an option clause for procuring additional quantity if any exigency arises, whereas, at that time the existing manufacturing capacity of electronic fuzes by ECIL as per the license issued by the Ministry of Commerce and Industry was only 1.5 lakh fuzes per annum and the same has been expanded for additional 1.5 lakh fuzes, thereby making the existing capacity of 3 lakh fuzes per annum *vide* the Ministry of Commerce and Industry license dated 18 August, 2008. The Committee are of the firm view that this expansion of manufacturing capacity by M/s ECIL will also take time, thus in such a situation ECIL cannot manufacture 4 lakh fuzes on immediate basis to meet the existing deficiency.

3.46 The Committee are, therefore of the firm opinion that the decision of the Ministry of Defence to order 4 lakh fuzes to ECIL, *i.e.* beyond their manufacturing capacity needs reconsideration because pushing such a huge order on a single vendor, which does not have the requisite capacity, on the pretext of emergent operational requirement and National Interest should not be permitted. The Committee also desire the MoD to renegotiate the price at which the fuzes are being procured as the international prices for the same are reportedly much less.

3.47 The Committee fail to understand the shifting and contradictory approach of AHQ from time to time. In the beginning it raised the issue of handling procedures and allied problems related to standardization, logistics and ammunition management apart from confusion likely to be caused for the Artillery gunners, etc. AHQ later agreed to the need to develop an alternate source as it will provide high quality assured supplies. However, they moved a proposal to meet the existing deficiency of fuzes by placing an order for 80% of the quantity on the existing vendor (M/s ECIL) on a single tender basis. The Committee strongly deprecate the indefensible plea of the AHQ for sticking to single vendor in the first instance and to permit multi vendor RPF for balance 20% quantity that too after persuasion from the MoD. The Committee also deplore the role of the MoD and their failure to introduce multi vendor system in the procurement of electronic fuzes by the AHQ even though another PSU *viz.* M/s ITI which was in a position to deliver fuzes, was knocking at their door incessantly for more than 3 years. The Committee are anguished that

this inexplicable approach of the MoD and AHQ, is causing avoidable loss to the national exchequer both in Indian as well as hard currency.

3.48 The Committee, therefore, recommend that the entire matter needs to be investigated thoroughly by an appropriate agency to unearth the motives and the financial irregularities in the procurement process of electronic fuzes.

3.49 The Committee would also like to recommend that the Ministry of Defence should modify their order commensurate with the capacity of M/s ECIL so as to meet the immediate operational requirement. The remaining requirement of approximately 12 lakh fuzes may be procured through an open tender limited to Indian firms who pass the required necessary trial tests.

3.50 The Committee further note that M/s ITI got the registration from Directorate General of Quality Assurance (DGQA) in May 2005 for supply of electronic fuzes. Even, AHQ were asked in August 2005 to take up the trial evaluation of the fuzes ex-M/s ITI. But the Committee are concerned to observe that the same has not been done till date despite the fact that it takes approximately 2 years to conduct the trial. This proves the intention of the Ministry of Defence/ AHQ for not letting M/s ITI enter in the foray of supply of electronic fuzes despite their having the required infrastructure. The Committee, therefore, desire that the enquiry already recommended by them may also ascertain the reasons for not taking up the trial evaluation of fuzes produced by M/s ITI and fix responsibility in the matter. They also desire that the trial evaluation may be taken up immediately within a stipulated time frame as per international norms.

NEW DELHI;
6 November, 2008

15 Kartika, 1930 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

MINUTES OF THE SEVENTY-SIXTH SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Tuesday, 5th February, 2008 from 1500 hrs. to 1700 hrs. in Committee Room "C", Parliament House Annexe, New Delhi.

PRESENT

Shri Prabhunath Singh—*Chairman*

MEMBERS

2. Shri Mohan Jena
3. Adv. Suresh Kurup
4. Kunwar Jitin Prasada

SECRETARIAT

1. Shri A. K. Singh — *Director*
2. Shri U.B.S. Negi — *Deputy Secretary*
3. Shrimati Jagriti Tewatia — *Committee Officer*

WITNESSES

Ministry of Defence

1. Shri P. K. Rastogi — Special Secretary (Defence)
2. Shri Pradeep Kumar — Secretary (Defence Production)
3. Dr. W. Selvamurthy — CCR & D (LS & HR)
4. Shri Ashok K. Baweja — Chairman, HAL
5. Shri Binoy Kumar — JS(O)
6. Shri S. N. Misra — JS (HAL)
7. Shri Ajay Tirkey — JS (E)
8. Maj. Gen. P. K. Rath — ADGDV
9. Maj. Gen. V. K. Tiwari — ADG Arty. (A)
10. Maj. Gen. Anukul Chandra — ADG (EM)
11. Maj. Gen. S. Sunder — ADG WE
12. Maj. Gen. Chander Prakash — Addl. DGQA(A)
13. Dr. Narender Kumar — Director, Personnel
14. Dr. A.K. Singh — Director, PEACE
15. Shri Pankaj Kumar — DS(O)
16. Shri S.C. Barmma — Director (AG)

2. At the outset, the Chairman welcomed the representatives of the Ministry of Defence and drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings. The Chairman also drew attention to Direction 95 which clearly stipulates that the Committee shall also meet as often as necessary to consider representations, letters, telegrams from various individuals,

associations etc. which are not covered by the rules relating to petitions and give directions for their disposals.

3. Thereafter, the Committee took oral evidence of the representatives of Ministry of Defence on the following four representations:—

** ** * *

- (iii) Representation signed by Shri Manvendra Singh, M.P. regarding irregularities observed in procurement of Electronic Fuzes by the Ministry of Defence; and
- (iv) Representation signed by Lt. S.S. Chauhan and forwarded by Capt. Jai Narayan Prasad Nishad, M.P. (Rajya Sabha) regarding injustice by the Ministry of Defence for the last 17 years.

III. Representation signed by Shri Manvendra Singh, M.P. regarding irregularities observed in procurement of Electronic Fuzes by the Ministry of Defence

The following issues/points were discussed by the Committee:—

- (i) Reasons for purchase of Electronic Fuzes only from ECIL and not giving opportunity to ITI or going for global tender for procurement of fuzes.
- (ii) Priority to domestic defence products over products produced abroad.
- (iii) 20% procurement of fuzes to be reserved for new vendors.
- (iv) Transparency in procurement of fuzes.
- (v) High Level Committee set up to look into entire gamut of issues pertaining to procurement of fuzes and opinion of the Law Ministry on the issue, if referred to them.
- (vi) Reasons for not conducting field trial of fuzes manufactured by ITI.

IV. Representation signed by Lt. S.S. Chauhan and forwarded by Capt. Jai Narayan Prasad Nishad, M.P. (Rajya Sabha) regarding injustice by the Ministry of Defence for the last 17 years

The following issues/points were discussed by the Committee:—

- (i) Details of Inquiry Report submitted by the Commanding Officer prior to Court Marshal of the petitioner.
- (ii) Affidavit submitted by the Army before the Allahabad High Court.

4. The Committee asked the witnesses to send the replies on points or demands which were not supplied or readily available with them during the evidence, within, the stipulated period.

The witnesses then withdrew.

5. A copy of the verbatim proceedings of the sitting of the Committee was kept on record.

The Committee then adjourned.

MINUTES OF THE EIGHTY-FIRST SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Tuesday, 15 April, 2008 from 1500 hrs. to
1700 hrs. in Committee Room "C", Parliament House Annexe, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri Mohan Jena
3. Shri Wangyuh W. Konyak
4. Shri C. Kuppusami

SECRETARIAT

1. Shri A. K. Singh — *Director*
2. Shri U.B.S. Negi — *Deputy Secretary*
3. Smt. Jagriti Tewatia — *Committee Officer*

WITNESSES

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Ministry of Defence

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|------------------------------|---|----------------------|
| 1. Shri P. K. Rastogi | — | Special Secretary |
| 2. Smt. Neelam Nath | — | AS(N) |
| 3. Shri Anand Misra | — | JS(C & W) |
| 4. Shri Binoy Kumar | — | JS(O) |
| 5. Shri Ajay Tirkey | — | JS(E) |
| 6. Lt. Gen. Thomas Mathew | — | AG |
| 7. Lt. Gen. I. J. Koshy | — | DG Arty |
| 8. Lt. Gen. G. Sridharan | — | DGQA |
| 9. Brig. S. S. Gill | — | Officiating ADG WE |
| 10. Maj. Gen. Anukul Chandra | — | ADG (EM) |
| 11. Brig. R. Bahuguna | — | DDGO & V (A) |
| 12. Brig. S. K. Sinha | — | DDGLW |
| 13. Brig. P. C. Choudhary | — | Cdr. Bhopal Sub Area |

14. Shri S. C. Barmma	—	Director (AG)
15. Shri Balsharn Singh	—	DGDE
16. Shri O. P. Mishra	—	ADG DE
17. Maj. Gen. V. K. Tiwari	—	ADG Arty.
18. Lt. Gen. A. K. Lamba	—	PG (DE & W)
19. Shri Pankaj Kumar Singh	—	Dy. Secretary (O)
20. Shri B. B. Mohan	—	Dir. D & V

Ministry of Defence (ECIL)

1. Shri K. S. Rajasekhara Rao	—	C & MD
2. Col. R. K. Bhanot	—	Executive Director
3. Shri Sudesh Chandra	—	Head, Special Product Division

2. At the outset, the Chairman welcomed the representatives of the Ministries of Textiles and Commerce & Industry and drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings. The Chairman also drew attention to Direction 95 which clearly stipulates that the Committee shall also meet as often as necessary to consider representations, letters, telegrams from various individuals, associations etc. which are not covered by the rules relating to petitions and give directions for their disposal.

3. Thereafter, the Committee took oral evidence of the representatives of Ministry of Defence on the following three representations:—

- (1) Representation signed by Shri Manvendra Singh, M.P. regarding irregularities observed in procurement of Electronic Fuzes by the Ministry of Defence.
- (2) Representation signed by Lt. S.S. Chauhan and forwarded by Capt. Jai Narayan Prasad 'Nishad', Ex-M.P. (Rajya Sabha) regarding injustice by the Ministry of Defence for the last 17 years.
- (3) Representation signed by Shri Prabhudayal Patel regarding renewal of lease of 177.66 acres of defence land for cultivation purposes.

(1) Representation signed by Shri Manvendra Singh, M.P. regarding irregularities observed in procurement of Electronic Fuzes by the Ministry of Defence

The following issues/points were discussed by the Committee:—

- (i) Problem in procuring electronic fuzes from ITI, a Government of India undertaking which is also technically compatible.
- (ii) Need of multi vendor system instead of single vendor system for procurement of electronic fuzes.

(2) Representation signed by Lt. S.S. Chauhan and forwarded by Capt. Jai Narayan Prasad 'Nishad', Ex-M.P. (Rajya Sabha) regarding injustice by the Ministry of Defence for the last 17 years.

The following issues/points were discussed by the Committee:—

- (i) Reasons for not mentioning about the Court of inquiry ordered on 13 April, 1990 in the Report submitted by the Commanding officer on 14 April, 1990.

- (ii) Procedure followed for conducting inquiry for absence without leave under Rule 106 of Armed Forces Act 1950.
 - (iii) Details recorded in the Summary of Evidence.
 - (iv) Grounds on which the petitioner was declared as absconding from service.
 - (v) Reasons for destruction or relevant documents, specially when the matter was pending in court for examination.
- (3) Representation signed by Shri Prabhudayal Patel regarding renewal of lease of 177.66 acres of defence land for cultivation purposes.**
- (i) Regarding delay in submission of survey report to be done by the State Government and Local Army Officers.
 - (ii) Settlement to be done in Co-ordination with State Government so as to provide alternate land to the occupants.

4. The Committee asked the witness to send the replies on points which were not supplied or readily available with them during the evidence, within the stipulated period.

5. A copy of the verbatim proceedings of the sitting of the Committee has been kept on record.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE NINETY-EIGHTH SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Tuesday, the 21st October, 2008 from 1500 hours to 1545 hours in Chairman's Room No. 45(II) Ground Floor, Parliament House, New Delhi. In the absence of the Chairman, the Committee chose Shri Anant Gangaram Geete to act as Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

PRESENT

Shri Anant Gangaram Geete — *In the Chair*

MEMBERS

1. Shri N.S.V. Chitthan
2. Shri Sardinha Francisco
3. Shri Wangyuh W. Konyak
4. Shri C. Kuppasami

SECRETARIAT

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|-------------------------|---|----------------------------|
| 1. Shri A. K. Singh | — | <i>Director</i> |
| 2. Shri U.B.S. Negi | — | <i>Deputy Secretary</i> |
| 3. Shri H. R. Kamboj | — | <i>Deputy Secretary-II</i> |
| 4. Shri V. P. Gupta | — | <i>Under Secretary</i> |
| 5. Smt. Jagriti Tewatia | — | <i>Committee Officer</i> |

2. The Committee decided to defer the consideration of the following draft reports in their next sitting:—

- (i) Forty Third Report on the representations concerning the Ministry of Defence (Department of Defence).
- (ii) Forty Fourth Report on the representations concerning the Ministries of Culture, Rural Development, Civil Aviation, Heavy Industries and Public Enterprises (Department of Heavy Industries).
- (iii) Forty Fifth Report on the representations concerning the Ministry of Petroleum and Natural Gas.

The Committee then adjourned.

MINUTES OF THE NINETY-NINTH SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Thursday, the 6th November, 2008 from 1500 hours to 1545 hours in Chairman's Room No. 45(II) Ground Floor, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

1. Shri Sardinha Francisco
2. Shri Mohan Jena
3. Adv. Suresh Kurup
4. Shri Kishan Singh Sangwan

SECRETARIAT

- | | | |
|-------------------------|---|----------------------------|
| 1. Shri P. K. Grover | — | <i>Joint Secretary</i> |
| 2. Shri A. K. Singh | — | <i>Director</i> |
| 3. Shri U.B.S. Negi | — | <i>Deputy Secretary</i> |
| 4. Shri H. R. Kamboj | — | <i>Deputy Secretary-II</i> |
| 5. Shri V. P. Gupta | — | <i>Under Secretary</i> |
| 6. Smt. Jagriti Tewatia | — | <i>Committee Officer</i> |

2. The Committee considered and adopted the following draft reports of the Committee with slight modifications as shown in the Appendix-I:—

- (i) Forty Third Report on the representations concerning the Ministry of Defence (Department of Defence).
- (ii) Forty Fourth Report on the representations concerning the Ministries of Culture, Rural Development, Civil Aviation, Heavy Industries and Public Enterprises (Department of Heavy Industries).
- (iii) Forty Fifth Report on the representations concerning the Ministry of Petroleum and Natural Gas.

3. The Committee also authorised the Chairman to finalise and present the above Reports to Hon'ble Speaker in terms of Directions 71A of the Directions by the Speaker.

The Committee then adjourned.

APPENDIX I

(See para 2 of Minutes dated 6th November, 2008)

AMENDMENT MADE BY THE COMMITTEE ON PETITIONS IN THE DRAFT FORTY-THIRD REPORT

Para 2.44, 7 line onwards from bottom

For — The Committee, therefore recommend that an independent inquiry may be instituted immediately to look into all aspects of the petitioner's grievances including his removal from service wherein the petitioner should be given full opportunity and legal assistance to put forth his case. The Committee would like to be apprised of the outcome of the inquiry along with supportive documents which may be completed within a period of 3 months.

Substitute — The Committee, therefore, recommend that the petitioner should be reinstated in the Army with full honour on notional basis retrospectively from the date he was cashiered from service and be paid all consequential benefits with full pay and allowances which could have accrued to him in the normal course but for his dismissal from service. The Committee would like to be apprised of the conclusive action taken in this regard within a period of 3 months.

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