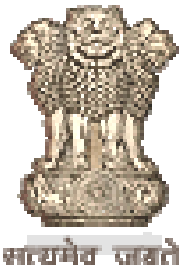


COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

THIRTIETH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2013 / Agrahayana, 1935 (Saka)

THIRTIETH REPORT

COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

MINISTRY OF DEFENCE

(Presented to Hon'ble Speaker on 04.01.2014)



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2013 / Agrahayana, 1935 (Saka)

CPB NO. 1 Vol.XXX

Price: Rs.....

(c) 2013 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifteenth Edition) and printed by the General Manager, Government of India Press, Minto Road, New Delhi – 110 092

(ii)

CONTENTS

	Pages
COMPOSITION OF THE COMMITTEE ON PETITIONS.....	(iii)
INTRODUCTION.....	(v)

REPORT

Representations from Shri Dilip Gandhi, MP, Lok Sabha regarding : Issue of right to passage to villagers of Nagardeole-Bhinger through Defence land occupied by Basic Training Regiment (BTR), Armoured Corps Center, Ahmednagar

ANNEXURES

- i) Letter dated 04 July 2005 addressed to The Head Quarters, Mumbai Sub Area, Mumbai from DEO Pune Circle
- ii) Minutes of the 56th sitting of the Committee held on 21.3.2013
- iii) Minutes of the 66th sitting of the Committee held on 17.12.2013

COMPOSITION OF THE COMMITTEE ON PETITIONS
(2012-13)

Shri Anant Gangaram Geete - Chairman

Members

2. **Shri Khiladi Lal Bairwa**
3. **Shri Arvind Kumar Chaudhary**
4. **Shri Syed Shahnawaz Hussain**
5. **Shri G. V. Harsha Kumar**
6. **Shri Bhartruhari Mahtab**
7. **Shri Vincent H. Pala**
8. **Shri A. Sai Prathap**
9. **Shri M.B. Rajesh**
10. **Prof.(Dr.) Ram Shankar**
11. **Shri Adhi Sankar**
12. **Shri Rakesh Singh**
13. **Shri Yashveer Singh**
14. **Shri Adagooru Vishwanath**
15. **Vacant**

SECRETARIAT

1. **Shri P. K. Grover - Additional Secretary**
2. **Smt. Sudesh Luthra - Joint Secretary**
3. **Shri Shiv Kumar - Director**
4. **Md. Aftab Alam - Deputy Secretary**
5. **Smt. Jagriti Tewatia - Deputy Secretary**
6. **Shri Soumik Roy - Executive Assistant**

THIRTIETH REPORT OF THE COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Thirtieth Report (Fifteenth Lok Sabha) of the Committee to the House on the representation of Shri Dilip Gandhi, MP, Lok Sabha regarding : Issue of right to passage to villagers of Nagardeole-Bhinger through Defence land occupied by Basic Training Regiment (BTR), Armoured Corps Center, Ahmednagar.

2. The Committee considered and adopted the draft Thirtieth Report at their sitting held on 17 December, 2013.

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

NEW DELHI ;

17 December, 2013
26 Agrahayana, 1935 (Saka)

ANANT GANGARAM GEETE
Chairman,
Committee on Petitions

REPORT

REPRESENTATION RECEIVED FROM SHRI DILIP GANDHI, MP, LOK SABHA REGARDING THE ISSUE OF RIGHT OF PASSAGE TO VILLAGERS OF NAGARDEOLE-BHINGAR THROUGH DEFENCE LAND OCCUPIED BY BASIC TRAINING REGIMENT (BTR), ARMoured CORPS CENTER, AHMEDNAGAR.

A representation dated 20 December, 2012 was submitted to the Committee on Petitions by Shri Dilip Gandhi, MP, Lok Sabha wherein he had raised the issue of providing right of passage to villages of Nagardeole-Bhingar through Defence Land presently under occupation of Basic Training Regiment (BTR), Armoured Corps Center, Ahmednagar.

2. In his representation the Member invited the attention of the Committee, on the long standing dispute of the right of passage through Defence Land, between the villages of Nagardeole-Bhingar and the Local Military Authority (LMA), Ahmednagar. The private land measuring 346.88 acres in Bhingar Village, Ahmednagar is situated along the Ahmednagar-Aurangabad Road. On the Eastern Side of the land lie the Nagardeole and other villages. This land was acquired by the Government during 1905 to 1907 for use by the Army. The land has since been under the active occupation of the Army - Basic Training Regiment (BTR) and various types of accommodation, ranges and the internal roads are existing on the land for the use of the troops. The residents of these villages have claimed that the passage had been in existence from the time the land was acquired and is not of recent origin. Therefore, they have a right to use the passage. The passage has always been used by the villagers as an approach road to the Aurangabad Road.

3. The Petitioner has also enclosed a copy of a letter No. J/RCS/320/97/P dated 04 July 2005 signed by the Defence Estate Officer (DEO), Pune Circle addressed to the Headquarters, Mumbai Sub Area, Mumbai wherein it has been stated *inter alia* as under:-

"In 1958 an effort was made by the one Shri Shrad M. Mutha and the villagers to convert the dirt road into a cemented road and it was objected by the LMA. The matter was subsequently taken to the court of adjudication of the dispute. Initially in an order dated 24 April 1998 by the Hon'ble Judge Senior Division (Ahmednagar) the court ruled in favour of the plaintiff granting an interim injunction from causing obstruction in the use and enjoyment of the road by the villagers. However, in a subsequent development the High Court, Bombay Bench, Aurangabad quashed the interim injunction. The matter is since then has been taken up with the Supreme Court. Shri Shrad M. Mutha also approached the LMA with a proposal for provision of an alternate road, which was considered favourably by the LMA so as to amicably settle the issue, the proposal submitted by Shri Mutha was sent to the Army Head Quarters, New Delhi by HQ Southern Command, Pune under letter dated 20 November, 1999 along with the recommendations of the GOC-in-C, Southern Command, Pune dated 20 November, 1996 to the following effects:-

- (i) An area measuring 12579.00 sq. mtrs of Defence Land be handed over to Shri Sharad Mutha for the proposed right of passage road, which will satisfy the aspirations of the plaintiff and other villagers of Nagar-Deole and adjoining villages.
- (ii) An area measuring 19393.25 sq mtrs of private land belonging to Shri Sharad M Mutha which is being offered by him in exchange to the right of passage road area be taken over by Defence Authorities.
- (iii) The offer by Shri Sharad M Mutha to construct a boundry wall as per MES specifications from Defence boundary pillar no.1 till boundary pillar no.16 at the end of Army Firing range be accepted as it will deter encroachment and add to the security of Basic Training Regiment."

It was further recommended that the said area of 12579.00 sq mtrs of Defence Land be handed over only on the fulfillment of commission made by Shri Sharad M Mutha i.e handing over of 19393.25 sq mtrs of private land and construction of boundary wall. It was also stated that the exchange of land will be in the organizational interest of the Army due to built in Security being provided by Shri Sharad M Mutha in the form of boundary wall around the BTR

of ACC& S instead of the Defence land being bifurcated in two segments by the existing passage through the Small Arms range. However, the proposal was not found agreeable by the Ministry of Defence, letter No. 13020/1/2002-D. Lands dated 1 July 2002 on the grounds of "Security Reasons" and that there is no provision in the Defence Land Policy for allotment of Defence Land to Private individuals.

Shri Sharad M Mutha approached the LMA again vide his letter dated 26 May, and 30 May, 2005 to resolve the issue of alternate or existing road. He gave fresh undertaking and affidavit for withdrawal of SLP filed by them (No. 6111/2002) in Supreme Court and the proposal to construct boundary wall on both sides of the road at his own expenses and unconditional transfer of land of 19407.18 sq mtrs of his land in lieu of 12579.00 sq mtrs of Defence land for road on the Southern Boundary of BTR. The Commandant, ACC & S, Ahmednagar (the user unit) and the Station Commander (the LMA managing the land) accordingly forwarded the proposal to Defence Estates Officer, Pune Circle and the same was forwarded to the Ministry with the following remarks:-

- (i) "The proposal is for exchange of Defence Land for private land and not for allotment of Defence land to private individual as viewed by the Ministry of Defence.
- (ii) The exchange of Defence land for private land of equal value or more, particularly when it is needed for a public purpose has been allowed by the Ministry of Defence in many cases. In this case the private land (19407.16 sq mtrs) being offered in lieu of the Defence land (12579 sq mtrs) is not only more in area but also in value as assessed by this office in the year 1999.
- (iii) The said exchange as recommended by the LMA can however be allowed only if sanctioned by Government of India, Ministry of Defence.
- (iv) As recorded in the Joint Survey Report prepared on the basis of a survey carried out with the help of Representation of Revenue Department, the LMA and this office Shri Sharad M Mutha is the legal owner of the

complete piece of land being offered for the exchange of the Defence Land.

- (v) The private land being offered by Shri Sharad M Mutha lies contiguous to the Defence land and can therefore be fruitfully used by the LMA as it will when transferred become an integral part of the existing Defence Land.
- (vi) A major part of the Private Land being offered for exchange by Shri Sharad M. Mutha is reported to be already under unauthorized occupation of the LMA which if transferred would automatically stand regularized.
- (vii) The Defence land proposed to be offered in exchange of private land for making of approach road for the villagers lie on the extreme boundary of the Defence land on the Southern Side and its alienation will not in any way whatsoever affect the status or use or security of the remaining Defence land.
- (viii) Shri Sharad M Mutha has even otherwise undertaken to construct a boundary wall as per MES specifications at his own expenses all along the boundary of the Defence land being offered in exchange of private land which as recommended by the LMA will not only deter any encroachment on the Defence land but also enhance the security of the BTR. The said wall on the outer southern boundary of Defence land is reported to have been constructed by Shri Sharad M Mutha.
- (ix) Shri Sharad M Mutha has also undertaken to withdraw all ongoing court cases in case the above said proposal is accepted by the Government and will have to do so before the Defence land is transferred to him on receipt of Government sanction.

The DEO, Pune Circle recommended for considering and forwarding this proposal for obtaining the Government sanction thereon as recommended by LMA :-

It further states that Shri Sharad M. Mutha have in their letter dated 30 May 2005 also requested that in case the above said proposal for transfer of lands for provision of road can not be allowed, they may be allowed to use the suit road after construction of wall on the both sides as per MES specifications at their own expense, which may also be considered from Military point of view".

4. The Committee on Petitions took up the matter for detailed examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the representation was referred to the Ministry of Defence for furnishing their comments on

the issues/points raised therein. The Ministry of Defence vide correspondence dated 13 March 2013 furnished the comments as follows:-.

"It is stated that the Land at Basic Training Regiment (BTR) of the Armoured Corps center and School (ACC&S) at Ahmednagar is acquired Defence Land. It is situated outside the Ahmednagar Cantonment. It is analogous to A-1 and placed under the management of Local Military Authorities. Residents of villages around this land have been representing the Right of Passage through this Defence land on the ground that a public passage existed thereon. One Shri Maruti M Kerulkar and others had filed a court case also in this regard which eventually went up to the Supreme Court in Civil No.1323/2003. It was dismissed on 04.05.2010 as having become infructuous.

No Passage has been constructed for public through Basic Training Regiment (BTR) at Ahmednagar.

There has been demand for passage for public through Defence land at BTR. Proposals have been made through Gram Panchayats. These have not been accepted due to security reasons and lack of endorsement by Government of Maharashtra." +

5. Again in response to a query by the Committee as to why the proposal of transfer of land is not being appreciated positively considering the fact that the acceptance of the proposal would be in the Organisational interest of the Army by having a built in security, the Ministry of Defence in their written reply submitted that though the Zilla Parishad /village panchayat Ahmednagar was advised by the LMA for sending their detailed proposal, if any, duly endorsed by the State Government, so far no reply/response has been received from them.

6. The Committee further sought the comments of the Ministry on the fact that Shri Sharad M. Mutha had proposed to exchange his private land, greater in both value and size, in lieu of the Defence land. The Ministry in its written note clarified that any proposal for the exchange of land or for allotment of land should be sent with the recommendation of the Government of Maharashtra before the same can be considered. The Ministry further informed the Committee that Ministry of Defence vide its order dated 01.07.2002 has conveyed its disagreement with the proposal for exchange of Defence land with private land owing to security reasons.

7. When the Committee desired to know, in particular, as to whether the LMA has made any consideration to the demands of the people to use the passage or made any alternate arrangement to desist the villagers from using the passage, the Ministry in their written note stated as follows:

"...the Gram Panchayat and the villagers have other access available to the city and the main road. Gram Panchyat /Zilla Parishad had been advised by LMA for sending their detailed proposal, if any, duly endorsed by the State Government of Maharashtra. However, no such proposal has been received. It is however reiterated that the residents of the villages of Burhanagar and Nagar-Devala have got easy and comfortable access through various roads in civil area. The grant of public passage to the villagers of Nagar-Devala through Defence land on BTR, Armoured Corps Center and School, Ahmednagar have not been recommended due to following reasons:-

- (a) Proposed passage passes through A-1 Defence Land and Training Area.
- (b) Security implication.
- (c) Non-receipt of formal proposal from village panchayat Nagar-Devla."

8. To a specific query by the Committee as to what are the possibilities of addressing the issue by accommodating both the demands of the villagers and the security concerns of the Army, the Ministry explained that any decision by the Government/Ministry in this respect can be taken only after a detailed proposal duly endorsed by the State Government of Maharashtra is received which will thereafter be processed keeping in view the existing land policy of the Ministry of Defence and security concerns of Army. The Ministry, however, also informed the Committee that the villagers have access to the city and the main road through other ways.

9. The Committee took oral evidence of the representatives of the Ministry of Defence on the issue on 21 March 2013.

10. On being pointed out by the Committee that as per petitioner's submission as per Section 5(2) of the Court Act 1906 the villagers have legal right to use the passage and the same has been certified by the Tehsildar, Department of Revenue, State Government of Maharashtra. In response thereto, the witness from the Ministry of

Defence stated that as per the available records the land was acquired between 1905 and 1907. Till the year 1997 there were no disputes reported regarding the use of this land. In 1992 the authorities started receiving representations from the Gram Panchayat seeking the right of passage and in 1997 a Court case was also filed in this regard. In 1998 the Court directed that the passage may be allowed to be used. After this the Union of India went for an appeal and after dismissal of the same, they appealed to the High Court- which cancelled the direction of the Court issued in 1998. Thereafter, the local parties went to Supreme Court. Finally in 2010 the Supreme Court had dismissed the suit on ground of being infructuous because the case had been withdrawn. The Certificate referred to by the Petitioner is, however, not in the knowledge of the Ministry and therefore would not be right to comment on it. In 2005 all the Court Cases have been withdrawn. Thereafter various proposals have been received. As per the security perspective in 1999, the permission of passage was sought which was rejected by the Government of India in the year 2002. In 2005 another proposal was received which was also rejected. Since then, the matter has been under discussion and keeping the security perspective in view, the Government of India has been rejecting the proposal for the use of passage.

11. The Committee drew the attention of the witness to a letter of 2011 addressed to Shri Gandhi, MP wherein the then Hon'ble Minister of Defence had written that if a proposal from Zila Parishad for passage road is received alongwith recommendations of the State Government of Maharashtra to LMA, it can be considered. In response, thereto, the witness from the Ministry of Defence stated that Shri Dilip Gandhi, MP had asked a question in this respect, the reply for which was furnished on 17 December 2012. This reply has two perspectives. The first is that no public road was ever constructed and the second is that the demand which has come from the Gram Panchayat. The demand has been rejected due to security reasons and lack of endorsement by the Government of Maharashtra.

12. To a specific query, whether the Ministry is unwilling to grant permission for passage for any purpose, the witness from the Ministry submitted that as per the

Security Perspective of 2013, the question of grant of passage was taken up with the Army Authorities and it is the belief of the Army Authorities that granting passage would not be in the interest of security.

13. Again when the Committee referred to a reply dated 4 July 2005 from the Pune Circle Office wherein it was stated that a major part of the private land being offered for exchange by Shri Sharad Mutha is reported to be already under unauthorized occupation of the LMA and if the land is transferred to LMA it will automatically stand regularized, the witness from the Ministry of Defence submitted that they are in possession of a copy of the reply and assured that the matter would be looked into and physically verified whether the land is in unauthorized occupation of the LMA.

14. The Ministry of Defence vide its subsequent written reply updated the position as follows :-

"... the site was inspected by the Defence Estate Officer, Pune and staff. Based on the site inspection, the DEO has confirmed that on site it was found that the boundary of the Defence Land along the Western side of the Defence Land has been clearly marked and boundary pillars erected. The boundary was also found protected by a wall to maximum extent and also fencing along the rest of the boundary. Therefore, on site we could not find any occupation of private land by the BTR as alleged by Shri Sharad M. Mutha."

15. Again the Committee pointed out to the witness from the Ministry that, the road under reference is adjoining the Highway and the private party is proposing to exchange his land with this land, in response, thereto, the witness from the Ministry submitted that this proposal has two parts. One is that the grant of passage which is being claimed as been in existence much before and to construct a boundary wall on both sides of the road. However, this would bifurcate the Defence land into two. Therefore this is not advisable from the security point of view. The second part of the proposal pertains to an offer by a private party to exchange twelve thousand sq ft of the Defence land on one side with his nineteen thousand sq ft of land. In this way the passage would be a one side instead of in the middle of the Defence land. This

would also address the security concern. However, even this arrangement is not suitable from the security point of view.

16. The witness from the Ministry of Defence further submitted that if any proposal which is of public interest is endorsed by the State Government then, due consideration would be given to it.

17. In response to the Committee's query about the specifics of the 'Security Concerns' of the Army in respect to Cantonment Areas and Defence Land, the witness from the Ministry of Defence informed the Committee that from security point of view, the Cantonment Area has earmarked boundaries. The area beyond this boundary is called analogous to A 1 Defence land. After independence when cantonments were not formed, all land acquired by Defence were outside the cantonment area but its status is same as Defence land elsewhere.

The witness further informed the Committee that the land surrounding the Cantonment area is also considered Defence Land and security must be provided to not only the area inside the Cantonment but also the whole of the Defence Land. In this case the land is a training area and tanks and other machineries are kept in it and drills and exercises are conducted within that area.

18. The Committee also undertook an on-the-spot Study Visit to Pune on 28 September 2013 and held informal discussion on the issue with the representatives of the State Government of Maharashtra and the officials of the Ministry of Defence.

19. During the informal discussion, the Committee were informed that BTR is an important institution, which imparts training to the new recruits in the Indian Army. The training module and the programme offered by the BTR needs to be done in the complex of the BTR and therefore any trespassing or infringement into the area would affect the course offered. The officer further stated that the BTR is the institution which transforms general civilians into a soldier. The Committee were informed by the officers of the BTR that alternate routes exist to link the villages under reference with

Ahmednagar and Pune. The Military Officer further informed that the right of passage through Defence land would lead to frequent trespassing by the villagers in the prohibited area, thereby waiving the required restriction of the BTR. Also, the area adjoining the passage under reference is the periphery of the BTR and is used for firing. It was further submitted before the Committee that the passage as prepared in the representation may also endanger civilian life due to the firing range of the BTR. The Committee during the on the site inspection observed that the periphery of the BTR has vast stretch of unused land which could be utilized for the purpose of providing passage subject to exclusivity of the Training Regiment.

Observations/Recommendations

20. In his representation, Shri Dilip Gandhi, MP drew attention of the Committee on the long pending dispute of the right of passage through the Defence land between the villages of Nagardeole-Bhingar and the Local Military Authority, Ahmednagar. As stated in the representation, as per the available records the land measuring 346.88 acres in Bhingar Village, Ahmednagar was acquired by the Government during 1905 to 1907 for use by the Army. It has since then been under the active occupation of Army and is presently held by the Basic Training Regiment (BTR) and various types of accommodation, ranges and the internal roads are existing on the land for use of troops and their families. The land is situated along the Ahmednagar-Aurangabad Road. On the Eastern Side of the land lie the Nagardeole and other villages. The residents of these villages as well as one Shri Sharad M. Mutha have claimed that one cart track on the said land had been existing there from the time the land was acquired and is not of recent origin. He therefore, requested that since the passage has always been used by the villagers as an approach road to the Aurangabad Road, they have a right to use the passage.

21. From the chronology of events emanating from different communications issued by various State level authorities/ Local Military Authority (LMA)/Ministry of Defence, the Committee note that in 1953 an effort was made by the villagers alongwith Shri Sharad M. Mutha to convert the said track into a pucca road which was objected to by the Local Military Authority (LMA). Thereafter, one of the villagers took up the matter to the Court of Hon'ble Judge (Senior Division), Ahmednagar by filing Regular Civil Suit in which order was passed on 24 April, 1998 in favour of the plaintiffs and was awarded an interim injunction refraining the defendants (Union of India) from causing obstruction in the use of the existing road by the

villagers and converting it into a tar road. Being aggrieved with this order, the Union of India had filed a Miscellaneous Civil Appeal which was dismissed on 16 July, 2001. Challenging this order the Union of India filed Civil Revision Application before the High Court which quashed the order dated 16 July 2001 and the interim injunction granted was also rejected. Against this order Shri Sharad M. Mutha filed a Special Leave Petition, before the Hon'ble Supreme Court, which subsequently dismissed the case as infructuous.

22. The Committee note that the Defence Estates Officer (DEO), Pune circle vide his letter dated 04 July, 2005 addressed to the HQs, Mumbai Sub Area (Copy enclosed with representation) had submitted that during the pendency of the Court cases Shri Mutha had submitted a proposal to amicably settle the issue. This proposal was considered by the LMA in consultation with Defence Estates Officer, Pune Circle and verification of the extent of land involved in the proposal was carried out under a joint survey. This proposal, in turn, was sent to the Army Headquarters New Delhi by HQs, Southern Command, Pune under their letter dated 20 November, 1999 along with the recommendation of the GOC-in-Chief, Southern Command, Pune dated 20 November, 1996 regarding exchange of the Defence land of 12579 sq mtrs with 19393 sq mtrs of Private land belonging to Shri Mutha as a quid pro quo which would satisfy the aspirations of the villagers as well as the security need of the LMA.

The Committee further note that as mentioned in the letter of DEO, Pune Circle, as per HQs, Southern Command the offer of Shri Mutha to construct a boundary wall around BTR instead of the Defence land being bifurcated into two segments by the existing passage through the ER Range would be in the Organizational interest of the Army. The Committee however find that the said proposal did not find favour with the Ministry of

Defence on the grounds of security concerns and the Defence Land Policy of not permitting the allotment of Defence land to private individuals. The Committee further note that Shri Sharad M. Mutha had again approached the LMA to consider the case and gave fresh undertaking and affidavit for withdrawal of Court cases - in addition to construction of boundary wall at his own expense and an unconditional transfer of 19407.16 sqmtr of land in lieu of 12579 sqmtr of Defence land.

23. The Committee take note of the clarification tendered by the Commandant, Armoured Corps Centre and School (ACC & S), Ahmednagar while recommending again that the proposal is for exchange of the Defence Land for private land and not for allotment of Defence land to private individual as viewed by the Ministry of Defence. Furthermore, the exchange of Defence land for private land of equal value or more, particularly when it is needed for a public purpose has been allowed earlier by the Ministry of Defence in many cases. In this case the private land (19407.16 sq mtrs) being offered in lieu of the Defence land (12579 sq mtrs) is not only more in area but also in value as assessed by this office in the year 1999. Moreover as stated by the Commandant, ACC & S, Ahmednagar, the Defence land proposed to be offered in exchange of the private land for making of approach road for the villagers lie on the extreme boundary of the Defence land on the Southern Side and its alienation will not in any way whatsoever affect the status or use or security of the remaining Defence land.

24. The Committee also note that besides above stated comments of DEO, Pune Circle, Army Headquarters had also sought in principle approval of Ministry of Defence in April 2006, for grant of the permission for alternate road proposed by Shri Sharad M. Mutha and in January 2009, the Vice President, Zila Parishad also wrote to MOD and AHQ requesting for right of

passage for villagers. The Committee further note that the Deputy Collector in his letter dated 31 October 1995 addressed to the Station Commandant, Station Headquarters Ahmednagar had written that, the Tehsildar, Ahmednagar in his certificate had mentioned that the villagers of Nagardeole-Bhingar are using this road for long and therefore has the legal right to use this road as per Section 5 (2) of the Court Act 1906.

25. The Committee are, however surprised to note that despite all these recommendations from different local Authorities viz LMA Ahmednagar, Army HQ, DEO Pune Circle, GOC-in-Chief, Southern Command, Commandant ACC & S, Ahmednagar and Vice President Zila Parishad to the Ministry of Defence for grant of the permission for an alternate road proposed by Shri Sharad M. Mutha, the proposal has been rejected by the Ministry of Defence due to one reason or the other.

26. The Committee are constrained to note that all the concerned local Authorities, who are in a better position to appreciate the situation as obtaining on the ground and assess the merits and demerits for either accepting or rejecting the proposal, have been repeatedly recommending the proposal mutually suitable to both LMA as well as the general public. The Committee obviously are unhappy over the apathy shown by the Ministry of Defence for not appreciating the whole issue in the larger public- interest which is evident from the position taken by them in their written submissions and also in the depositions made before the Committee.

27. The Committee observe that although no formal proposal has been moved by the State Government of Maharashtra but the local Authorities representing the State Government at the local level i.e the Tehsildar , Zilla Parishad and the Collector, have all recommended for the grant of right of passage duly backed by proof of existence of a road for the stated purpose. Therefore taking sense of the depositions made before the Committee

wherein the Ministry of Defence have maintained that they would consider a proposal if moved from the State Government, the Committee are, of the view that the Ministry of Defence should consider the recommendation made by the State Authoritie(s)- keeping in view the larger public interest and expedite the formalities for the exchange of Land instead of waiting endlessly for receiving a formal proposal from the State Government to this effect. The Ministry of Defence should also examine the proposal submitted by Shri Sharad M. Mutha or as feasible to the Local Authority or Ministry of Defence with due pragmatism because the same is not only beneficial for the LMA, but would also meet the long pending aspirations of the people of the adjoining villages in the area. The Committee would, therefore, urge the Ministry of Defence, to address the whole issue in a proactive manner so that various technicalities involved are settled and the right of passage is provided to the people residing in that area.

The Committee would like to be apprised of the final conclusive action taken by the Authorities concerned in this regard within three months from the date of presentation of this Report to the House.

NEW DELHI

**17 December, 2013
26 Agrahayana, 1935 (Saka)**

**Anant Gangaram Geete
Chairman
Committee on Petitions**