

FOURTH REPORT
COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

MINISTRY OF RAILWAYS
MINISTRY OF PETROLEUM AND
NATURAL GAS

(Presented to Lok Sabha on 16.03.2010)



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NEW DELHI

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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Anant Gangaram Geete — *Chairman*

MEMBERS

2. Shri Rajendra Agrawal
3. Shri Khiladi Lal Bairwa
4. Shri E.T. Mohammed Basheer
5. Shri N.S.V. Chitthan
6. Shri Gurudas Dasgupta
7. Shri Dip Gogoi
8. Shri Devendra Nagpal
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11. Shri Sarvey Sathyanarayana
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13. Dr. Sanjay Sinh
14. Shri Kabir Suman
15. Shri Joseph Toppo

SECRETARIAT

1. Shri N.K. Sapra — *Additional Secretary*
2. Shri Ashok Sarin — *Joint Secretary*
3. Shri V.R. Ramesh — *Director*
4. Shri U.B.S. Negi — *Additional Director*

FOURTH REPORT OF THE COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

INTRODUCTION

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

- (i) Action taken by the Government on the recommendations of the Committee on Petitions (Fourteenth Lok Sabha) in their Thirty Eighth Report on the representation regarding system of procurement of Rails by Indian Railways from only one supplier.
- (ii) Action taken by the Government on the recommendations of the Committee on Petitions (Fourteenth Lok Sabha) in their Forty Second Report on the representation of Shri Rajendra Singh Yadav of Jaunpur, U.P. regarding irregularities committed by oil companies in allotment of petrol/diesel pumps.

2. The Committee considered and adopted the draft Fourth Report at their sitting held on 11th February, 2010.

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

NEW DELHI;
11 February, 2010
22 Magha, 1931 (Saka)

ANANT GANGARAM GEETE,
Chairman,
Committee on Petitions.

CHAPTER I

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (FOURTEENTH LOK SABHA) IN THEIR THIRTY EIGHTH REPORT ON THE REPRESENTATION REGARDING PROCUREMENT OF 'RAILS' BY INDIAN RAILWAYS FROM ONLY ONE SUPPLIER

The Committee on Petitions (Fourteenth Lok Sabha) in their Thirty Eighth Report presented to Lok Sabha on 19 March 2008 had dealt with a representation received from Sarvashri Anant Nayak and Jial Oram, former Members of Parliament regarding procurement of 'Rails' by Indian Railways from only one supplier.

1.2 The Committee made certain observations/recommendations in the matter for the Ministry of Railways to take action thereon and furnish their action taken replies for consideration of the Committee.

1.3 Action Taken replies have been received from the Ministry of Railways in respect of all the observations/recommendations contained in the Report. The observations/recommendations made by the Committee and the replies thereto furnished by the Ministry are detailed in the succeeding paragraphs.

1.4 In paragraph 2.24 of the Report, the Committee had observed/recommended as follows :—

“In their representation, the petitioners have alleged that Indian Railways are losing more than 500 crores of rupees annually as they are procuring Rails from only one supplier. According to the petitioners, the Indian Railways carried an amendment in the Rail specification in June 2002 and included the process of removing hydrogen as part of the Rail specifications. The petitioners contended that this was done in order to keep the monopoly of one party in supply of Rails. The petitioners have contended that no other country in the world has specified the process of hydrogen removal in its Rail specifications. According to the petitioners, the demand of Rails in the country is expected to increase substantially in the coming years due to construction of dedicated freight corridors and Golden Quadrilateral by 33 Indian Railways. There is also a large backlog of track renewal programme which also required a large quantity of Rails. But the petitioners have alleged that the Indian Railways are not encouraging new suppliers and are depending upon a lone supplier or otherwise on costly imports, as a result of which the Indian Railways are incurring heavy expenditure. The petitioners have contended that if there is any failure in supply from the existing source, there would be no alternative to fall back upon. Further, in case new suppliers are not developed, the country may have to import Rails to meet the increasing demand of Rails which means loss of precious foreign

exchange. Further, if the rails of required quantity and quality are not available timely in foreign countries, the implementation of ambitious projects being undertaken by the Indian Railways would suffer.”

1.5 In their reply, the Ministry of Railways have stated as follows:—

“1. Loss due to absence of competitive bidding

So far, M/s. Steel Authority of India (SAIL), a Government of India enterprise is the only indigenous supplier of rail, fulfilling the various norms of Indian Railways Specification and therefore, the competitive bidding has not been envisaged. Ministry of Railways have a pricing committee consisting of three Executive Directors, one from Civil Engineering, one from Stores and one from Finance, who recommend the escalation in prices bi-annually, on mutually agreed escalation formula. The recommendations of pricing committee are examined and finalized at Board’s level. However, an escalation in prices is due with effect from 01/01/2008. No undue advantage is being given to M/s. SAIL, a Government of India enterprise.

2. Amendment to IRS-12/96 made in June 2002

Improvement in rail quality has always been a process of evolution and with the knowledge gained from worldwide practices the specification of rail is being continuously updated. Prior to 1999, Bhilai Steel Plant was not using any equipments for degassing process resulting in high hydrogen content in the rail steel. Bhilai started using Vacuum Arc Degassing (VAD), quite similar to the vacuum tank degassing and switched to RH degassing from May 2000 onwards, considered to be a superior process. Since the aforesaid process gives confidence of a consistent/assured quality product in the manufacturing of, critical item like rails, it was considered justified to specify the particular process. The issue was deliberated within the Ministry as well as in the meeting of the Specification Committee convened on 24/02/2006 and it was concluded that the RH degasser is a superior technology and should be there in the specification. It was consciously decided, by the Indian Railways, to accept rails manufactured after RH degassing only.

3. Inadequacy of Bhilai Steel Plant to meet higher demand

The concern about inadequacy of M/s. SAIL/BSP to meet higher demand of rails due to large expansion plans of railways and also freight corridor; Bhilai Steel Plant has a capacity of one million MT as committed by them, out of which Railway is only taking supply to the tune of 7 lakh MT per annum. Bhilai Steel Plant of M/s. SAIL is a dedicated supplier of rails to the Indian Railways for the last fifty years without fail and therefore can be trusted. They have plans to improve/augment capacity too.

4. Development of new suppliers

In years 1997 and 1998 an effort was made by Indian Railways to develop another indigenous source for supply of rails through the process of open

tender and Expression of Interest. However, no acceptable offer was received at that time.

Proposal of one company was under examination of the Ministry of Railways. However, the same company has filed a Writ Petition in the Hon'ble High Court of Delhi in this regard and the matter is *sub judice*."

1.6 In paragraphs 2.30 and 2.31 of the Report, the Committee had recommended as follows:—

"The Committee note with satisfaction that M/s. SAIL has introduced adequate capacity to meet the existing requirement of Indian Railways and its foreseeable demand. The Committee are, however, concerned that Indian Railways are procuring rails from one Company only *i.e.* M/s. SAIL and are fully dependant on them which may, at times may land the Indian Railways in avoidable crisis, if, for one reason or the other, the supply of Rails is not maintained by the Company, against the requisite demand of the Indian Railways. There is no doubt that the demand of Rails in the country will progressively increase in view of the expansion programme or new projects undertaken by the Indian Railways. The Committee feel that sincere efforts should have been made to diversify the sources of suppliers or to encourage and involve new suppliers both from Public Sector and Private Sector to meet the regular demand of the Indian Railways subject to all the quality specifications being met."

(Paragraph 2.30)

"The Committee regret to note that the request of one of the suppliers is pending for quite some time without any decision. The Committee feel that there could not be any objection if other Indian Companies, be they in public sector or in private sector, are ready to supply the rails and ready to compete and accept the quality and the technical requirements or other terms and conditions of Indian Railways, particularly when the demand of Railways is increasing or set to increase in the near future. The Committee are of the view that Indian Railways should diversify its resources for procurement of Rails and for other items as well. The competition amongst various suppliers would not only bring down the prices of the product but also improve its quality which is always beneficial for the prospective customers or the end users. The Committee, therefore, recommend that existing system of procurement of rails for Indian Railways should be reviewed to meet the demand of the Indian Railways without compromising the quality needed for the purpose. The Committee would like to be apprised of the action taken in the matter."

(Paragraph 2.31)

1.7 In their action taken reply, the Ministry of Railways have stated as under:—

"As already mentioned, an effort was made in 1997 and 1998 to develop an alternative source for supply of rails but in vain.

The present capacity of M/s. SAIL is adequate. They also have plans to improve and add the capacity further.

A proposal received from a private Company was under examination of the Ministry of Railways. However, the same company has filed a Writ Petition in the Hon'ble High Court of Delhi in this regard and since then the matter is *sub judice*."

Observations/Recommendations

1.8 In their Thirty Eighth Report, the Committee had examined the representations of S/Shri Anant Nayak and Jial Oram, former Members of Parliament who had alleged that Indian Railways are incurring huge losses as a result of procurement of 'Rails' from only one supplier. They had also alleged that the Indian Railways were not encouraging new suppliers and were depending upon a lone supplier or otherwise on costly imports.

1.9 The Ministry of Railways informed the Committee that the Indian Railways procured rails through M/s. Steel Authority of India Limited (SAIL), a Government of India enterprise, through a set procedure framed by the Ministry of Railways. It was stated that SAIL is the only indigenous supplier of rails fulfilling the various norms of Indian Railways in this regard. The Committee were concerned to note that Indian Railways were procuring rails only from one Company, i.e. M/s. SAIL and were fully dependant on them which might, at times land them in avoidable crisis, if for any reason, the supply of rails was not maintained by the company. The Committee were of the view that sincere efforts should be made to diversify the sources of suppliers or to encourage and involve new suppliers both from the Public Sector and the Private Sector to meet regular demand of the Indian Railways subject to all the quality specifications being met. The Committee had, therefore, recommended that the existing system of procurement of rails for Indian Railways should be reviewed to meet the demand of the Indian Railways without compromising the quality needed for the purpose.

1.10 The Ministry of Railways in their action taken replies have stated that efforts were made in 1997 and 1998 to develop an alternative source of supply of rails through process of open tender and Expression of Interest (EOI) but no acceptable offer was received by them. The only proposal which they had received from a private company was under their examination but the said company had filed a writ petition in the High Court of Delhi and the matter is *sub judice*. However, the Ministry have not given details as to why the party had gone to the court and as to what is the status of the case. The Committee are anguished to note that the Indian Railways continue to procure rails only from one company, viz. M/s. SAIL and still remains fully dependant on them. It is surprising to note that the Indian Railways could not develop an alternate source of supply of rails over the years and they continue to depend only on SAIL. It only reflects the lack of will and sincerity on their part and manifest their reluctance to identify other sources for procurement of rails through open competition.

1.11 The Committee are not convinced with the explanation of the Ministry that no undue advantage is being given to M/s. SAIL as they have a pricing committee for the purpose and its recommendations are examined and finalized at Board's level.

The Committee are of the firm view that in the absence of any open competition amongst various suppliers, one can neither expect reasonable and competitive price of any product nor assess any loss or gain. The open competition amongst various suppliers not only brings down the price of any product but also brings in the latest technology and better quality of the product, which is ultimately beneficial to the customers or the end users.

1.12 Considering the fact that the case of the sole private company is *sub judice*, the Committee would like the Ministry to pursue the case vigorously and get it disposed of at the earliest. The Committee would also like to reiterate that the existing system of procurement of rails for Indian Railways should be reviewed. They should explore the possibility of developing different sources for procurement of rails through open competition and inviting tenders from the prospective suppliers subject to all the quality specifications being met for the purpose. The Committee would like to be apprised of the conclusive action taken by the Ministry in this regard.

CHAPTER II

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (FOURTEENTH LOK SABHA) IN THEIR FORTY SECOND REPORT ON THE REPRESENTATION FROM SHRI RAJENDRA SINGH YADAV OF JAUNPUR, U.P. REGARDING IRREGULARITIES COMMITTED BY OIL COMPANY IN ALLOTMENT OF PETROL/DIESEL PUMPS

The Committee on Petitions (Fourteenth Lok Sabha) in their Forty Second Report presented to Lok Sabha on 5 May 2009 had dealt with a representation from Shri Rajendra Singh Yadav of Jaunpur, U.P. regarding irregularities committed by the Hindustan Petroleum Corporation Limited (HPCL) in allotment of petrol/diesel pumps.

2.2 The Committee made certain observations/recommendations in the matter for the Ministry of Petroleum and Natural Gas to take action thereon and furnish their replies for consideration of the Committee.

2.3 Action Taken replies have been received from the Ministry of Petroleum and Natural Gas in respect of all the observations/recommendations contained in the Report which have been given in the succeeding paragraphs.

2.4 In paragraphs 2.15, 2.16, 2.17 and 2.18 of the Report, the Committee had observed/ recommended as follows:—

“The Committee note from the submission of the petitioner that the Hindustan Petroleum Corporation Limited (HPCL) issued an advertisement on 10.08.2005 for allotment of a petrol pump between Jaunpur and Ramdayalganj in Uttar Pradesh. However, no interviews were conducted for the same and ultimately the said advertisement was cancelled. According to the petitioner, it was contended by the company that fresh advertisement will again be published for the purpose. The petitioner, therefore, requested that the matter may be investigated and the concerned Oil Company may be asked about the reasons for cancellation of the advertisement without giving any reason.

(Paragraph 2.15)

The Committee note that the location ‘Jaunpur-Ramdayalganj’ on State Highway-5 was advertised by HPCL in August 2005 for setting up of a Retail Outlet (RO). The sales potential considered at the time of advertisement was about 20 KL MS and 100 KL HSD per month. Subsequently, to ensure that the network expansion is done selectively and at strategic locations, it was decided to review the potential of the advertised locations afresh. Thus, HPCL had carried out a fresh feasibility study of various locations, including the subject location. On SH-5, there are 4 industry retail outlets situated on one side of the advertising locations towards NH 56, in a stretch of about 8 kms. and there are

2 outlets on the other side of the advertised location towards Madiyahu on SH-5 in a stretch of 9 kms. Thus, there are 6 ROs *i.e.* IOC-4, BPCL-1, HPCL-1, location in a stretch of 17 kms. on SH-5. The average sales for the ROs on this stretch of 17 Kms works out to 12 KL MS and 65 KL HSD per month per RO. Thus, according to the HPCL, the location 'Jaunpur-Ramdayalganj' has not been found feasible for setting up an RO as it will not be commercially viable. In view of the foregoing, interviews have so far not been conducted for this location. HPCL would initiate necessary steps to drop this location from Marketing Plan and inform the applicants regarding cancellation of the location and refund of application fees etc.

(Paragraph 2.16)

The Committee have been informed that subsequent to the dismantling of Administered Pricing Mechanism (APM) *w.e.f.* 1 April 2002, public sector Oil Marketing Companies (OMCs) are authorized to finalize their own Marketing Plans for setting up of retail outlets across the country. The locations are finalized based on the feasibility study and only those locations that are found to be commercially viable for opening of ROs are rostered in the Marketing Plan. These rostered locations are then advertised for award of retail outlet dealership. The rosters are approved by Head Zones in case of HPCL. The subject location 'Jaunpur-Ramdayalganj' was rostered in HPCL's Marketing Plan 2005-06 and was advertised in August, 2005. Subsequently in April/May 2006 it was decided to review the potential of advertised locations afresh. In the revised study carried out for this location 'Jaunpur-Ramdayalganj', it was observed that the location is not commercially viable for setting up a Retail Outlet due to low potential. As per the fresh feasibility study carried out in November 2007, it has again been found that the potential in the trading area is still low for setting up a new retail outlet.

(Paragraph 2.17)

The Committee are constrained to note that the subject location under reference, *i.e.* 'Jaunpur-Ramdayalganj' was cancelled even though the same was advertised under Marketing Plan 2005-06 of the HPCL. The Oil Company has not indicated the relevant provisions of the Marketing Plan or the guidelines under which the subject location, once advertised, after feasibility study, could be cancelled. The Committee feel that the Oil Company should, carry out the detailed feasibility studies in the first instance itself. They are of the view that once the Oil Company goes in for an advertisement for allotment of ROs, the same should not be cancelled except in rare circumstances, in order to avoid unnecessary harassment and inconvenience to the applicants. The abrupt cancellation of advertisement without any plausible reason gives an opportunity to the applicants raising allegations of irregularities and malpractices in the selection of the candidates for award of dealerships. In view of the foregoing, the Committee recommend that the Oil Company should strictly follow the Marketing Plan for award of dealership and should not give any cause of complaint or grievance to the applicants. The Committee would also urge review of the potential of advertised

subject location afresh for award of dealership with due consideration of its likely increase in coming years and the ingenuity and skills of the prospective candidate to augment the same, further to make it economically viable. The Committee would like to be apprised of the action taken by the Ministry/Oil Company in this regard.”

(Paragraph 2.18)

2.5 In their reply, the Ministry of Petroleum and Natural Gas have stated as follows:—

“1. HPCL has reported that in the advertisement published by the Corporation for dealer selection, there is a provision for cancellation/withdrawal/amendment of the advertisement. This is as per the approved guidelines on Dealer Selection and the terms and conditions of the advertisement.

2. HPCL has further reported that the reason for the decision to cancel the location “Jaunpur-Ramdayalganj” for setting up a Retail Outlet (RO) is primarily due to non-viability of the location. As per the recommendation of the Hon’ble Committee, viability of the subject location has been assessed by HPCL once again in June 2008. It was observed that from Jaunpur side (NH 56), there are 6 ROs located on SH-5. Details of existing ROs with sales performance for the period April – March 2008, are indicated below. Map of trading area is enclosed.

S. No.	Name of Oil Company	Location of Retail Outlet	Average sales per month (April-March 2008)	
			MS	HS
1.	IBP	1 KM from NH 56, LHS of SH-5	12	55
2.	IOC	3 KM from NH 56, LHS of SH-5	38	166
3.	HPC	3.8 KM from NH 56, LHS of SH-5	0	37
4.	BPC	4.5 KM from NH 56, LHS of SH-5	10	43
5.	IOC	12 KM from NH 56, LHS of SH-5	31	99
6.	IOC	17 KM from NH 56, LHS of SH-5	14	43
Average sales per month for trading area			106	443
Average sales per month per dealer			18	74

3. The average sales volume per RO in the trading area works out to 18 KL of MS and 74 KL of HSD per month. From this, HPCL has concluded that the viability of a new RO continues to be low and the Corporation has decided not to set up a new RO at this location.”

Observations/Recommendations

2.6 In his representation, the petitioner had stated that the Hindustan Petroleum Corporation Limited (HPCL) issued an advertisement for allotment of a petrol pump

between Jaunpur and Ramdayalganj in Uttar Pradesh. However, no interviews were conducted for the same and ultimately the said advertisement was cancelled without giving any reasons for the same. The petitioner had, therefore, requested the Committee to investigate the matter. At the instance of the Committee, the Ministry of Petroleum and Natural Gas had informed that public sector Oil Marketing Companies (OMCs) are authorized to finalize their own Marketing Plans for setting up of Retail Outlets (ROs) across the country. The locations are finalized based on the feasibility study and only those locations that are found to be commercially viable for opening of ROs are rostered in the Marketing Plan. These rostered locations are then advertised for award of retail outlet dealership. The subject location 'Jaunpur-Ramdayalganj' was rostered in HPCL's Marketing Plan 2005-06 and was advertised in August 2005. However, in the subsequent review of potential of the advertised location in April/May 2006 and November 2007, it was again found that the potential in the trading area was still low for setting up a new retail outlet. Commenting adversely on the action of the HPCL to cancel advertisement for setting up of a retail outlet, the Committee had pointed out that the Oil Company had not indicated the relevant provisions of the marketing plan or the guidelines under which the subject location once found economically feasible and thus advertised could be cancelled. They had desired that once an advertisement for allotment of ROs was issued, the same should not be cancelled except in rare circumstances, in order to avoid unnecessary harassment and inconvenience to the applicants. The abrupt cancellation without any plausible reasons gives an opportunity to the applicants to raise allegations of irregularities and malpractices in selection of the candidates for award of dealerships.

2.7 In their action taken replies, the Ministry/HPCL have reported that the location 'Jaunpur-Ramdayalganj' for setting up a RO was cancelled primarily due to non-viability of the location. In this context, the HPCL have also referred to the advertisement published by them for dealer selection which indicates that the same can be cancelled/withdrawn/amended as per the approved guidelines and the terms and conditions of the advertisement. According to HPCL, the viability of the proposed location continues to be low as per the assessment conducted by them in June 2008. Besides, 6 ROs are already running in the trading area. The HPCL have, therefore, decided not to set up a new RO at the said location.

2.8 The Committee are least convinced with the explanation of the Ministry/HPCL that the location was cancelled as the same was not found commercially viable. The urgency of issuing an advertisement without a feasibility study is beyond comprehension. Even if it was done, the specific provision of the guidelines which empowered them to review the commercial viability of the location was not referred to at all. The plea of the Ministry that 6 ROs are already running in the trading area is also unacceptable. If it was the case, it has not been explained as to why it was considered necessary to issue an advertisement for setting up new ROs. The Committee are inclined to conclude that the cancellation of the said location after its advertisement was totally unjustified. This has caused unnecessary harassment and mental agony to the petitioner which led him to approach the Committee for redressal of his grievances.

2.9 The Committee would, therefore, like to recommend that HPCL should scrupulously follow its own Marketing Plan for award of dealership after feasibility studies have been conducted and necessary homework done. However, once the proposed locations are advertised for setting up of new ROs, the same should not be withdrawn/cancelled except in compelling circumstances which should be clearly specified and widely publicized. Further, it would also be appropriate for the Oil Company to indicate the commercial viability of the proposed locations and the feasibility study conducted by them so that the prospective candidates are well aware of the same before they apply for the dealership. If felt necessary, the guidelines in this regard should be suitably modified so that no scope is left for any irregularity or complaints from any quarter in the matter. The Committee would like to be apprised of the action taken in this regard.

NEW DELHI;
16 March, 2010
25 Phalgun, 1931 (Saka)

ANANT GANGARAM GEETE,
Chairman,
Committee on Petitions.

ANNEXURE I

MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE ON PETITIONS
(FIFTEENTH LOK SABHA)

The Committee on Petitions sat on Thursday, 11th February, 2010 from 1500 hrs. to 1630 hrs. in Committee Room No.139, First Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Anant Gangaram Geete — *Chairman*

MEMBERS

2. Shri Khiladi Lal Bairwa
3. Shri E.T. Mohammed Basheer
4. Shri N.S.V. Chitthan
5. Shri Gurudas Das Gupta
6. Shri Jagdambika Pal
7. Prof. Ram Shankar
8. Shri Joseph Toppo

SECRETARIAT

1. Shri N.K. Sapra — *Additional Secretary*
2. Shri V.R. Ramesh — *Director*
3. Shri U.B.S. Negi — *Additional Director*
4. Shri Hulasi Ram — *Deputy Secretary*

* * * * *

4. The Committee then considered and unanimously adopted draft Third and Fourth Reports of the Committee.

* * * * *

The Committee then adjourned.

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The Souvenir Items with logo of Parliament are also available at Sales Counter, Reception, Parliament House, New Delhi. The Souvenir items with Parliament Museum logo are available for sale at Souvenir Shop (Tel. No. 23035323), Parliament Museum Parliament Library Building, New Delhi. List of these items are available on the website mentioned above.”
