

COMMITTEE ON PETITIONS

(THIRTEENTH LOK SABHA)

SIXTEENTH REPORT



(Presented to Lok Sabha on 7 May, 2002)

LOK SABHA SECRETARIAT
NEW DELHI

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COMPOSITION OF THE COMMITTEE ON PETITIONS

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3. Shri S. Bangarappa
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2. Shri C.S. Joon — *Deputy Secretary*
3. Shri J.S. Chauhan — *Under Secretary*
4. Smt. Necra Singh — *Assistant Director*

* Nominated w.e.f. 27 March, 2002 vide para No. 2778 of Bulletin Part-II dated 27 March, 2002 vice Dr. K. Malaisamy, M.P. who resigned.

**SIXTEENTH REPORT OF THE COMMITTEE ON PETITIONS
(THIRTEENTH LOK SABHA)**

INTRODUCTION

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

- (i) Petition regarding environmental pollution in Chembur and adjoining areas of Mumbai.
- (ii) Representation seeking employment in the Eastern Coalfields Ltd. (ECL) in the category of land losers.
- (iii) Action taken by Government on the recommendations of the Committee on Petitions contained in their First Report (Thirteenth Lok Sabha) on the representation of youth farmers whose land had been acquired by IOC from 1960 to 1993 regarding unemployment problem pending with Gujarat Refinery, Koyali, Baroda.
- (iv) Action taken by Government on the recommendations made by the Committee on Petitions (Thirteenth Lok Sabha) in their Sixth Report on the representation regarding non-implementation of Government of India directive of 1989 for allowing Air Hostesses to serve upto the age of 58 years like male crew members.
- (v) Action taken by Government on the recommendations made by the Committee on Petitions (Thirteenth Lok Sabha) in their Twelfth Report on petition regarding grant of lease of land and sanction of a rehabilitation package for the people living on unused and vacant lands of Northeast Frontier Railway in different areas of Greater Guwahati.
- (vi) Action taken by Government on the recommendations of the Committee on Petitions contained in their Twelfth Report (Thirteenth Lok Sabha) on the representation regarding inclusion of Deswali Majhi Community of West Bengal in the list of Scheduled Tribes.

2. The Committee considered and adopted Sixteenth Report at their sitting held on 30th April, 2002.

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

NEW DELHI;
30 April, 2002

10 Vaisakha, 1924 (Saka)

BASUDEB ACHARIA,
Chairman,
Committee on Petitions.

CHAPTER I

PETITION REGARDING ENVIRONMENTAL POLLUTION IN CHEMBUR AND ADJOINING AREAS OF MUMBAI

1.1 On 29 November, 2000, Shri Kirit Somaiya, MP presented to Lok Sabha a petition signed by Shri Promod Shirwalkar resident of 42/1495, Tilak Nagar, Near Police Station, Chembur, Mumbai and others regarding environmental pollution in Chembur and adjoining areas of Mumbai. (see Appendix-I)

1.2 The petitioners in their petition submitted that about 10 lakh residents of Chembur, Turbhe, Mahul, Mankhurd, Govandi and Tilak Nagar areas were suffering from environmental problems for more than 10 years. The Government companies mainly Rashtriya Chemicals and Fertilizers Ltd. (RCF), Hindustan Petroleum Corporation Ltd. (HPCL), Bharat Petroleum Corporation Ltd. (BPCL), Indian Oil Corporation (IOC) and Bhabha Atomic Research Centre (BARC) were the real cause of this pollution. These companies had not installed proper machinery to stop this pollution. All these companies were using gas and polluting air in the sky. In the early morning hours if a persons came to Chembur, he would feel the real problem. The pollution in the area was affecting the life of ordinary citizens, particularly children and old people. Also, diseases like Asthma were very common in the Chembur area.

The petitioners contended that in spite of repeated requests and agitation on the situation in the area, no major measures have been taken in this regard. Also, the local Environmental Board seemed to be helpless in the matter.

1.3 The petitioners, therefore, requested to urge the concerned companies, Public Sector Undertakings and the Ministry of Environment and Forests to take steps to stop this pollution and to take strict action against these polluting units and to make the area pollution free.

1.4 The petition was referred to the Ministry of Environment and Forests on 30 November, 2000 for furnishing their comments on the various points raised in the petition. The Ministry *vide* their communication dated 19 December, 2000 have furnished their comments as under:—

“In the Chembur area there are four major Public Sector Undertakings (PSUs), namely, M/s Rashtriya Chemicals & Fertilizers Ltd. (RCF), Hindustan Petroleum Ltd. (HPCL), Bharat Petroleum Corporation Ltd. (BPCL) and Indian Oil Corporation (IOC).

As regards BARC, it may be stated that the unit is governed by Atomic Energy Regulatory Board and as such the unit is out of the purview of the Ministry and Maharashtra Pollution Control Board (MPCB). As regards IOC, it has been stated that the unit carries out only packing, storing, filling and distribution. There is no processing activity in the unit and as such it does not cause any water or air pollution problems.

It has been informed that due to action taken by MPCB and response given by industries in Chembur area, there has been substantial improvement in environmental quality in the area during the recent years.

In the past, Chembur Action Plan was prepared and executed. Industries in area have taken various measures and provided the necessary pollution control equipment to abide by the environmental norms. The State Government also constituted a Committee under the Chairmanship of hon'ble Minister of State for Environment for looking into the environmental problems in the Chembur area. This Committee has visited Chembur area from time to time and has taken action wherever required.

Earlier foul smell was felt in this area, hence for identification of sources and for suggesting remedial measures, Chembur Smell Committee was appointed by the State Government. This Committee took a review of all the units and came to the conclusion that the foul smell coming out was due to production of a chemical from a petrochemicals unit. Based on the recommendation of the Committee, the MPCB directed the closure of this unit in the area and accordingly the unit has been closed down.

The major PSUs have also undertaken a massive tree plantation programme for the last so many years thereby improving the air quality in the area.

The area is monitored regularly by the MPCB. The effluent and air samples are collected periodically from the industrial units and appropriate action as required is taken by the pollution control authorities.

As reported by MPCB, all the three units viz. M/s. RCF, M/s, HPCL and BPCL., are complying with prescribed environmental standards."

1.5 After persuing the comments furnished by the Ministry of Environment & Forests, the Committee took oral evidence of the officials of Minsitry of Environment & Forests on 13 September, 2001.

1.6 The Committee desired to know the names of the companies and other industries which are causing environmental pollution in Chembur,

Turbhe, Mahul, Mankhurd and Tilak Nagar areas of Mumbai and the extent of population in the area. To this, the Special Secretary of the Ministry of Environment and Forest stated as under:—

“The main units are three public sector undertakings, namely, RCF, BPCL and HPCL. Then, there are other industries of which Tata Power company is the only large one. Then, Oswal Petrochemicals was there, but it has been closed since almost four years now. Then, there are companies like Balmer and Laurie, Pepco Holding Ltd., Indian Oil Blending and Bombay Painting and Allied Products Ltd. But, I do not now know the exact population of the area.”

1.7 When asked about any complaint received by the Government on the growing environmental pollution in Chembur area, the witness stated as under:—

“This area was identified as highly polluted area and in 1995, an Action Plan was drawn up by the Central Pollution Control Board in consultation with the State Pollution Control Board and others. As per that plan, each of the units, industries and other sources of pollution were given time-bound action points and these action points have all been complied with by now. The State Government had also constituted two Committees headed by the State Environment Minister. One is, Chembur action Committee and the other is, Smell Committee. They have also been monitoring the pollution situation there in that area. Right now, the reports are that, by and large, the pollution level has come down and it is within normal standards. The Action Plan Committee was constituted in 1995 and the Smell Committee in 1997.”

1.8 The Committee asked as to how the Government was satisfied by the Pollution level in Chembur area of Mumbai. To this, the witness stated as under:—

“I would not say’ quite satisfactory. What I mentioned was that the pollution level has come down significantly from what it was. On an average, the monitoring of the readings of various environmental parameters is being done by air quality monitoring station that is located there. BMC maintains a certain monitoring station. State Pollution Control Board also checks up that for correctness of the readings.

In addition to that, these three major public sector undertakings were the main air polluting units. They have their own air quality monitoring stations also. It is on the basis of these readings and

the monitoring done by the Pollution control Board that I mentioned that the pollution levels, by and large, seem to be within the limits.”

1.9 When Committee desired to know whether the Central Pollution Control Board visited Chembur this year to find out the level of pollution in the area, the representative of Ministry of Environment and Forests stated as under:—

“We had drawn up certain action points in respect of each of these major polluting industries. We have been periodically monitoring them. In fact, every couple of months, our colleagues visit all these problem areas. The air quality has definitely improved over the years. One of the reasons, of course, is switch over to the cleaner fuel. Earlier, this area had a lot of problems because of use of coal. But after the Mumbai High crude was available, the feed stock was changed in a number of industries. If you are talking about Rashtriya Chemicals and Fertilizers, their major problem is in regard to ammonia, which is the feedstock there, and also the urea that comes out. For example, in a number of cases, we found the scrubbing system was not good enough. We had asked them to install an additional scrubbing system. Similarly in regard to the stripping of the ammonia that comes out, stripping system have also been installed. In the case of Rashtriya Chemicals and Fertilizers, we identified 16 action points starting from how the raw material should be covered because they should not leave this raw material particularly which contain sulphur. That has to be covered properly. They have complied with that. Similarly, installation of a continuous pH recording system and regular monitoring for pH of the effluent is a control measure because the pH automatic indicator with digital recording will give us an indication of how acidic/alkaline effluent is. That has been installed. Similarly, there was a proposal to be submitted by them in regard to ammonia strippers. That has also been submitted. In fact, it has been installed. Similarly, the installation of on line instruments for monitoring of ammonia and nitrogen and nitrite nitrogen was another action point. That has also been complied with. Provision of an additional air stripper in the integrated effluence treatment plan and proper calibration of the air quality instruments was required.

In fact, we have also a seen monitoring instruments. We saw the calibration as it has been done. Then, we were satisfied with the kind of systems that they have because this is an automatic system with recording. Therefore, there is no way in which the data can be manipulated.

Then, I come to the recovery of ammonia from the stack of the urea plants. There are Plant—I and Plant—II. In each of them, the recovery of ammonia has also been done. The dust removal in the ammonia phosphate plant, provision of Nox scrubbing system in the nitric acid plant, provision of Nox scrubbing system in the new nitric acid plant and converting certain area as a park have also been done.

Then, we have been asking them for bi-monthly progress report both to the Maharashtra State Pollution Control Board and also to the Central Pollution Control Board. This is also periodically received by us. Then, we asked them to carrying out an environmental audit to ensure what are the further improvements that can be done, particularly, in regard to the in plant process control measures. This has also been carried out.”

The witness further added:—

“We have also suggested about the water conservation measures, such as, commissioning of a sewage treatment plant to utilise the treated water for cooling purposes. In other words, not to put pressure on the water which is available through the civic authorities but use the waste water and treat it. A part of that is to be used for cooling purposes. This has also been done.

Then, I come to the compliance of the ambient air quality standard for ammonia. We prescribed this because a particular plant has a specific pollutant as ammonia which is not otherwise covered under the general criteria, as we call them, in terms of ambient air quality like sulphur dioxide Nox, suspended particulate matter or carbon monoxide. But this is a specific pollutant which is characteristic of that plant. So, we had to give the prescription for what would be the emission norms for ammonia in this plant. That has also been complied with.

Then, we had also asked them to prepare an action plan for off-site emergency. This is another activity which, of course, comes under the hazardous waste management and even the disaster relief. This was also carried out. Like this, those 16 action points, that we had asked them, have been complied with. Similarly, in regard to the Bharat Petroleum, we had asked them to commission the effluent treatment plant to meet the minimum national standards that we have complied with. Similarly, in regard to the Bharat Petroleum, we had asked them to commission the effluent treatment plant to meet the minimum national standards that we have prescribed in regard to various effluents and also the plant was to be stabilized. It has been done. Then, recycling of the sludge biomass has also been complied with. The storage system, particularly of the solid waste, was not satisfactory. We had asked

them that there must be the system for proper inspection and checking as also the disposal of the stored oil sludge. This still remains a problem because the technology is required for treating the oil sludge. Till today, there is no cost effective technology that has been found. Only recently, the Engineers India Ltd. has gone in for a new technology to treat the oil sludge. We will insist on them that they must have such kind of system installed. Then, of course, the monitoring of the ambient air quality for benzene and hydrocarbons is again specific to this particular unit because they are refining the crude out of which we can expect hydrocarbons and also benzene to come out. That has also been complied with. As a matter of fact, now they are producing good quality of both gasoline and diesel. For example for Euro-II norms, we require diesel with .05 sulphur. That is being produced by Bharat Petroleum as has been done by the Indian Oil Corporation in Mathura. Also in regard to Benzene reduction, they have improved their refining process; as a result, the Benzene content is also reduced considerably both in gasoline and also in emissions. That has been a successful effort on the part of the BPCL.

Likewise, industry-wise, we have identified the action points and also given responsibility as to what should be done. So, over the years, the situation in these industries has indeed shown a remarkable progress, and thanks to the fuel which has been substituted. That has also added to the betterment in the air quality.”

1.10 The Committee pointed out that so many factories (either Government or Private) which have toxic effects were situated in that area. The matter related to global warning. There is Kyoto Agreement. A majority of the countries of the globe are very much concerned about that. India is also signatory to the Kyoto Agreement. The Committee desired to know whether the Government of India have adopted any method to control pollution as per terms and conditions of the Kyoto Agreement. To this, the witness stated as under:—

“Global warning is caused by the green houses gases of which the most important is the Carbon di-oxide. The most important source of this Carbon di-oxide is the thermal power plants. Under the Kyoto Protocol, the developing countries have not undertaken any obligations. In fact that is the main objection being raised by the United States now on the major developing countries like China and India. The US is saying that they have not been made to undertake any obligation to reduce the Carbon di-oxide emissions whereas the developing countries have been saying that the present state of global warning has been caused by the industrial development in the developed countries. They have got all the benefits in the last development few decades when the industrial

development took place there. That has caused this global warning and we, developing countries, also need space for development. So, right now, the first report has come from the developed countries. That decision has been accepted except by the United States. Moreover, we have also stated that when you are looking at the emissions, we cannot compare a country like Nauru that has a population of 10,000 with a country like India that has a population of 1 billion. We have to look at the per capita emissions. By that standard, we are nowhere as a major contributor. So, except the United States, others have accepted this position. We do not have any obligation under the Kyoto Protocol to bring it down. Anyway, we will be able to get the latest technology. There should be some option that India and other countries can keep so that our masses can be benefited. It is because we will be able to absorb the technologies better than many other developed countries.”

1.11 The Committee desired to know as to how much pollution control in Chembur area is due to change for feed-stock from coal to oil and how much was due to introduction of new anti-pollution equipment and gadget by the various factories which were not there in 60s and 70s. The Committee also asked about the efforts made by the Government to control noise pollution in Chembur area. To this, the witness stated as under:—

“At one time, Chembur used to be known as gas chamber instead of Chembur. But the introduction of feed-stock made quite a lot of difference, particularly with regard to the particulate emission. To the 60 percent of the total pollution load in the atmosphere, due to the suspended particulate matter, was taken care of by the introduction of new feed-stock. But other emissions were also required because they were the specific pollutants which could not have been solved by normal feed-stock. So, all those measures were also required. In number of cases, we find that still there is scope for further improvement.

The other question that you have put is in regard to noise pollution. We did monitor the noise level. Like in many other metro cities and urban centres, Chembur also has similar type of problems. In recent times, we have some regulations framed, particularly in regard to noise levels and source specific noise levels, such as motor vehicles. We have given certain standards, so also for the diesel generating sets we have prescribed certain norms. But these are yet to catch up. Still, today we are not in a position to say that we have been able to reduce the noise levels from what was there earlier and what is now.”

1.12 On a query as to whether there was any law to control noise pollution, the witness stated:—

“We have taken action on two fronts. One is legal control right at the manufacturing stage and another is in regard to certain actions like in the State of Delhi, we organised it along with students and NGOs. So, also in some other states like Kolkata, it has been quite a bit of success in regard to noise pollution control. We talked to airport authorities particularly in regard to the noise standards that are complied with in aircrafts. This is because there is an international norm which is to be followed by the aircrafts. We were told that the aircrafts are meeting those standards. But in regard to the noise which is being produced when they land or takeoff in the densely populated areas, the view which was expressed by the airport authority is that when they came there, there was not so much of population in that area and now it is too difficult for them to move out. There is definitely a problem, particularly to the people who live in that area.”

The Witness further added:—

“In some countries, they do have this kind of a rule that they do not allow landing/takeoff after certain hours. It so happens in this country that we are not in a position to impose such restriction because of economic reasons.”

1.13 Subsequently, in a written reply to a question as to what action has been taken by the central/State Government to solve the problem of environmental pollution in the Chembur area, the Ministry of Environment and Forests replied as under:—

“The Ministry of Environment and Forests in consultations with Central pollution Control Board had prepared an action plan in respect of major polluting industries in Chembur. The Action plan was drawn up after interaction with MPCB and also the concerned industries. As a result of regular monitoring and persuasion, the action points of the plan have been complied with.

In addition to this, the Maharashtra Pollution Control Board (MPCB) have taken following actions for controlling pollution in the area:

- (i) While examining application for consent, MPCB prescribe the conditions for control of air and water pollution to meet the prescribed standards.
- (ii) Monitoring the implementation of the conditions prescribed at the time of granting consent.
- (iii) Initiating legal action by way of serving notices etc. to industries who are not meeting the prescribed norms.

(iv) Monitoring ambient air to assess the status of ambient air quality in the area.”

1.14 Regarding action taken against the polluting units in Chembur area, the Ministry of Environment & Forests informed in the written reply that various actions have been taken by Maharashtra Pollution Control Board on the industries in Chembur area by serving notices and issuing proposed directions. The details of the actions taken by the Board on each industry along with the compliance status of the industry is given at (Appendix-II.)

1.15 The Ministry of Environment & Forests further stated in their written reply regarding the issue of instructions/guidelines to MPCB by the Ministry in the matter, that the Ministry of Environment and Forests has constituted a Special Committee to look into the various aspects of pollution control in problem areas including the criteria for identification as well as creation of environmental Authorities for the critical areas. Chembur was identified as one of the 24 critically polluted areas. A Chembur Action Plan was prepared and implemented in consultation with the State Authorities. Also, specific recommendations made for the major industries in the area were monitored by CPCB officials along with MPCB officials from time to time to ensure compliance of the recommendations.

Observations / Recommendations

1.16 The Committee note that about 10 lakh people of Chembur, Turbhe, Mahul, Mankhurd, Govandi and Tilak Nagar the adjoining areas of Mumbai were suffering from environmental pollution for the last 10 years. The Government companies which are the real cause of this pollution have not installed proper machinery to stop the pollution. The life of the ordinary citizens particularly children and old people is being affected by the pollution and diseases like Asthama which are very common in the Chembur area.

1.17 One of the main demands of the petitioners is to take strict action against these polluting units in order to make Chembur, Turbhe, Mahul, Mankhurd, Govandi and Tilak Nagar a pollution free and healthy areas.

1.18 The Committee note from the reply of the Ministry of Environment & Forests that in Chembur area there are four major Public Sector Undertakings namely, M/s Rashtriya Chemicals & Fertilizers Ltd. (RCF), Hindustan Petroleum Corporation Ltd. (HPCL), Bharat Petroleum Corporation Ltd. (BPCL) and Indian Oil Corporation (IOC). The area is monitored regularly by the Maharashtra Pollution Control Board (MPCB). The effluent and air samples are collected periodically from the industrial units and appropriate action as required is taken by the pollution control authorities. The Committee, therefore, recommend that the Ministry of Environment & Forests should persuade the MPCB to furnish bi-monthly

reports to the Ministry, on air samples and purity of the atmosphere at Chembur. Also the action taken report by the pollution controlling authorities against the defaulting industrial units for not fulfilling the pollution norms may be furnished to the Committee by the Ministry of environment & Forests within three months.

CHAPTER II

REPRESENTATION SEEKING EMPLOYMENT IN THE EASTERN COALFIELDS LIMITED (ECL) IN THE CATEGORY OF LAND LOSERS

2.1 Shri Sunil Khan, MP forwarded a representation on 3rd September, 2000 signed by Shri Bhaboi Sengupta and 12 others of Village Bakulia, District Bankura, West Bengal seeking employment in the Eastern Coalfields Ltd. (ECL) in the category of land losers.

2.2 The petitioners, in their representation submitted that they were seeking employment in the land losers category under the Eastern Coalfields Complex (Incline Nos. 1 & 2) in the village/Mouza Bakulia, P.S. Saltora, District Bankura, West Bengal. The petitioners stated that Eastern Coalfields Ltd. had acquired land area of 48.5 acres in the year 1988 for Bakulia Project and an agreement between Eastern Coalfields Ltd., local Panchayat and the land losers had also been made for 24 employments. The petitioners further submitted the following points:

- (i) A notice for acquisition of land of 48.5 acres was served by the Collector, Bankura in 1987-88 Land Acquisition Case No. Act-II, 5/87-88 dated 20.5.1988;
- (ii) A tripartite agreement between Eastern Coalfields Ltd., the panchayat and the land losers was signed on 3.7.1991 which included a provision of employment to 24 persons;
- (iii) The land owners handed over the land to the Eastern Coalfields Ltd. on 4.7.1991;
- (iv) The Eastern Coalfields Ltd. empowered the Panchayat for processing for 24 employments on 19.7.1993 *vide* ref. No. ECL/DGM/BKP/PO/93/1169;
- (v) The Panchayat Pradhan submitted 15 files on 12.2.94; 6 files in 1997 (total 21 files) for the purpose of appointment;
- (vi) 24 employments were approved *vide* ref. No.ECL/CMD/LRE/1669/26.9.1997;
- (vii) 21 employment files had been recommended by the G.M. Satgram Area and had also been sent to the Eastern Coalfields Ltd. Headquarters, *vide* Ref. No. SAT/GM/LRE/99/9846 dt. 21.6.1998;

- (viii) The processing and collection of land searching report for genuineness of land had been done; and
- (ix) DIB & Police verification reports had been collected.

The petitioners also contended that already an expenditure of approx. Rs. 4 crore had been incurred by Eastern Coalfields Ltd. on Bakulia project. Even the compensation to the land losers had not been paid by Eastern Coalfields Ltd.

2.3 The petitioners therefore, requested, that necessary steps may be taken for giving the required employment to 24 persons from the land losers category so that they were not deprived of their legal right of employment.

2.4 The representation was referred to the Ministry of Coal for furnishing their comments on the various points raised in the representation. In response, the Ministry of Coal *vide* their O.M. No. 49028/91/2000PRIW dated 21st December, 2000 furnished their comments as follows:—

“It was reported by ECL that earlier there was a proposal to acquire 48.5 acres of land for setting up of Bakulia Project. However, the Project could not take off because of its non viability. It is also a fact that proposals were initiated with L.A., Collector, Bankura for acquisition of land and initial payment as demanded by the villagers was paid to the District Collector. No further action was taken in the matter although 8 to 10 acres of land out of this 48.5 acres of land was utilised initially for the project work, which was later abandoned. Nevertheless the Company is ready to pay compensation as per rules.”

2.5 The Committee undertook an on-the-spot study visit to Kolkata in order to gather first hand information. The Committee held informal discussions with the petitioners and the officials of Eastern Coalfields Ltd. at Kolkata on 31st January and 2 February, 2001. On the points raised by the Committee during the informal discussions with the officials of Eastern Coalfields Ltd., the Company *vide* their letter No. ECL/CMD/C 6-B/GM(P&IR) 14/08/97 dated 26.2.2001 informed as follows:

“The reasons for the non-viability of the Bakulia Project is on financial account. It was incurring heavy loss since formulation of the project. Coal from this Project was initially proposed to be linked to Mejia Thermal Power Project of DVC and it was proposed to DVC to accept the coal on cost plus basis *i.e.* entire cost for production of coal is to be borne by DVC. But, DVC did not agree and as such there was no other alternative buy to shelve the Project.

The land acquisition proposal for 48.5 acres was submitted to LA Collector, Bankura under LA Case No. 5/'87-88 and an

amount of Rs. 4,90,000 (Rupees Four Lakhs Ninety Thousand) only demanded by the LA Collector, Bankura, was deposited in April, 88. The total land was not utilised, but only 7 acres was used for initial activities *i.e.* drivage of Incline, Drilling, Soil Testing etc. No villages have been affected in the process of acquisition of land for Bankulia Project.

It is a fact that Tripartite Agreement was signed on 3.7.1991 to provide the employment to 24 persons against 48.5 acres of land as per norm prevalent at that time. In view of the above development, there is no progress in this regard *i.e.* the files could not be processed. Since nationalisation of Coal Mines a total of 10,672 employments have been given in Eastern Coalfields Ltd. against land losers upto December, 2000. Eastern Coalfields Ltd. is not in a position to provide employment to the 24 persons in view of down sizing of the manpower to make it viable. The Management of Eastern Coalfields Ltd. is ready to pay compensation as per rates fixed by LA Collector, Bankura. The District Magistrate, Bankura will be in a position to reply this. The Eastern Coalfields, however has deposited initial amount in 1988 as demanded which is yet to be distributed.”

2.6 The Committee took oral evidence of the representatives of the Ministry of Coal & Mines (Department of Coal) in the matter on 31 January, 2002. During evidence the Committee desired to know whether a uniform and consistent policy for land acquisition and for the land losers had to be followed by the Central Government. The representative of the Ministry of Coal & Mines informed the Committee that the Land Acquisition Act is uniform throughout the country. Direct negotiations are done wherever negotiations are respected to.

2.7 Regarding the area of land acquired and the present status of the land, the Ministry of Coal & Mines informed in a written note, subsequently that 48.5 acres of land was acquired through LA Collector, Bankura *vide* No.5 of 1987-88 dated 20.5.1988 under Sec. 4(1) of LA Act II. 7 acres of land out of 48.5 acres of land had been used for cutting Nos. 1&2 incline, dumping debris, soil testing and approach road to site of incline. The work was suspended during the end of 1991 after cutting of exploratory incline Nos. 1&2.

2.8 As regards the stage upto which the the Bakulia Project had been completed, the Ministry informed in the written note that there has been no further progress in the project.

2.9 Regarding employment as a compensation to the land losers, the Ministry informed in the written note that in a meeting held with ECL, Panchayat and land losers on 3.7.1991, it was agreed in principle to provide 24 employment against 48.5 acres of land on *ad-hoc* basis, provided the project starts ECL agreed in principle to provide employment

amount of Rs. 4,90,000 (Rupees Four Lakhs Ninety Thousand) only demanded by the LA Collector, Bankura, was deposited in April, 88. The total land was not utilised, but only 7 acres was used for initial activities *i.e.* drivage of Incline, Drilling, Soil Testing etc. No villages have been affected in the process of acquisition of land for Bankulia Project.

It is a fact that Tripartite Agreement was signed on 3.7.1991 to provide the employment to 24 persons against 48.5 acres of land as per norm prevalent at that time. In view of the above development, there is no progress in this regard *i.e.* the files could not be processed. Since nationalisation of Coal Mines a total of 10,672 employments have been given in Eastern Coalfields Ltd. against land losers upto December, 2000. Eastern Coalfields Ltd. is not in a position to provide employment to the 24 persons in view of down sizing of the manpower to make it viable. The Management of Eastern Coalfields Ltd. is ready to pay compensation as per rates fixed by LA Collector, Bankura. The District Magistrate, Bankura will be in a position to reply this. The Eastern Coalfields, however has deposited initial amount in 1988 as demanded which is yet to be distributed."

2.6 The Committee took oral evidence of the representatives of the Ministry of Coal & Mines (Department of Coal) in the matter on 31 January, 2002. During evidence the Committee desired to know whether a uniform and consistent policy for land acquisition and for the land losers had to be followed by the Central Government. The representative of the Ministry of Coal & Mines informed the Committee that the Land Acquisition Act is uniform throughout the country. Direct negotiations are done wherever negotiations are respected to.

2.7 Regarding the area of land acquired and the present status of the land, the Ministry of Coal & Mines informed in a written note, subsequently that 48.5 acres of land was acquired through LA Collector, Bankura *vide* No.5 of 1987-88 dated 20.5.1988 under Sec. 4(1) of LA Act II. 7 acres of land out of 48.5 acres of land had been used for cutting Nos. 1&2 incline, dumping debris, soil testing and approach road to site of incline. The work was suspended during the end of 1991 after cutting of exploratory incline Nos. 1&2.

2.8 As regards the stage upto which the the Bakulia Project had been completed, the Ministry informed in the written note that there has been no further progress in the project.

2.9 Regarding employment as a compensation to the land losers, the Ministry informed in the written note that in a meeting held with ECL, Panchayat and land losers on 3.7.1991, it was agreed in principle to provide 24 employment against 48.5 acres of land on *ad-hoc* basis, provided the project starts ECL agreed in principle to provide employment

subject to the commissioning of the Bakulia Project. The coal from Bakulia Project was proposed to be linked to Mejia Thermal Power Station of Damodar Valley Corporation (DVC) and DVC was to accept the coal on cost plus basis. DVC did not agree to pay the above price and the project became non viable and did not take off. Ultimately, it was shelved by the Government of India. Therefore, the providing of employment without any project coming up despite agreed in principle was difficult for ECL as expenses were booked under approved project which included land compensation and rehabilitation.

2.10 When the Committee enquired about the agreement on price of the Coal with MEJA Thermal Power Station, the representative of the Ministry of Coal & Mines stated as follows:—

“MEJA Thermal Power Stations wanted us to supply the coal. Accordingly, we made a project report of Rs. 104 crore, and the sanction was given in 1992. When we were going ahead and discussing for a fuel supply agreement, we said the price would be on the basis of cost plus. Then, they said that they would not take the coal. Then, the Government in 1995 having seen that internal rate of return does not come on the notified price prevailing at that time, so they shelved the project. So, the project was shelved and abandoned.”

2.11 Subsequently, in a written note the Ministry of Coal & Mines stated further that the work was suspended during the end of 1991 after cutting of exploratory incline Nos.1 and 2. Bakulia project was shelved by the Government in 1995. There was no budget provision for this project and hence the company had no other alternative but to suspend advance activities in this project including employment.

2.12 On a query whether compensation had been paid to the affected land losers, the representative of the Ministry of Coal & Mines stated as follows:—

“As they did not take the compensation, we have deposited the compensation of Rs. 4.9 lakh to the District Collector. We have paid 80 per cent. It is about Rs. 7 lakh to Rs. 8 lakh, Rs. 4.9 crore we have paid.... The land losers have not taken the compensation. It is with the Land Acquisition Collector.”

2.13 In their subsequent written note the Ministry of Coal & Mines further stated as follows:—

“Total compensation is 8.92 lakhs 19.40 thousand per acre on an average Eastern Coalfields Ltd. had deposited Rs. 4.9 lakhs for the entire land on ad hoc basis the reasons for not distributing the payment to the land oustees can only be

explained by the LA Collector, Bankura as after the amount is deposited by ECL, it is the responsibility of the LA Collector to verify the individual record and take appropriate action."

2.14 On a query regarding giving employment to the land losers on sympathetic ground, in their written note the Ministry of Coal & Mines further stated as follows:—

"There is no provision for the company to provide employment on sympathetic ground. The employment is given against land acquired and taken into physical possession or provision of NCWA on compassionate ground, which has been agreed to by management of Coal India and its Subsidiaries and the Central Trade Unions. The recruitment/employment has been banned for coal industry due to sickness."

Observations/Recommendations

2.15 The Committee note that 48.5 acres of land had been acquired through Land Acquisition Collector, Bankura *vide* case No. 5 of 1987-88 dated 20.5.1988 under section 4(1) of Land Acquisition Act II for the Bakulia Project by Eastern Coalfields Ltd. (ECL.). However, the Project could not take off because of its non viability. The Committee also note that the work had been suspended during the end of 1991 after cutting of exploratory incline No. 1 & 2. The reason for the non-viability of the Bakulia Project is stated to be on financial account as the Project had been incurring heavy losses since its formulation. Initially coal from this project had been proposed to be linked to Mejia Thermal Power Project of Damodar Valley Corporation (DVC) and it had been proposed to DVC to accept the coal on cost plus basis. The entire cost for production of Coal had to be borne by DVC but DVC did not agree. Hence, there had been no other alternative but to shelve the project.

2.16 The Committee further note that a Tripartite Agreement had been signed on 3.7.1981 between ECL; the Panchayat and the land losers to provide employment to 24 persons from the affected land losers as per norm prevalent at that time. ECL had empowered the Panchayat for processing of 24 employments on 19.7.1993 and the concerned Panchayat Pradhan submitted the proposals for appointments to the company which had been approved by ECL also. The required verification and processing had been completed in this regard but these employments had not been effected by the company.

2.17 The Committee find from the information furnished to them that the main contention of the petitioners is that an expenditure of around Rs. 4 crore had been incurred by ECL on Bakulia Project but the land losers had not been provided the required compensation. The 24 employments in ECL as per the said Tripartite Agreement should be made so that the land losers are not deprived of their right of employment.

2.18 In this context, the Committee note that since nationalisation of Coal Mines a total of 10,672 employments have been made against land losers category upto December, 2000. However, the land losers affected by the proposed Bakulia Project have not been duly compensated by providing them employment in ECL. The Committee desire that a Committee comprising of representation from ECL, Local Panchayat and representative from District administration be constituted to find out the quantum of land damaged because of cutting of incline and submit the report in regard to this within three months.

2.19 The Committee are informed that a total of Rs. 8.92 lakh compensation has been earmarked. ECL has deposited Rs. 4.9 lakh for the entire land on adhoc basis to Land Acquisition Collector of Bankura. However, the compensation amount deposited by ECL is yet to be distributed amongst the affected land losers by the Land Acquisition Collector of Bankura. The Committee desire that compensation amount to the land losers should be duly distributed amongst the land losers expeditiously. The Committee recommend that the land losers of the proposed Bakulia Project whose lands have been destroyed by the works of the project should be given employment by ECL so as to provide them a sustainable source of income.

2.20 The Committee regret to note that the 24 employments as promised to the land losers by a Tripartite Agreement between ECL; the Panchayat and the land losers have not been made by the ECL or the Government which has kept the poor land losers at a loss. The Committee recommend that the decisions made as per the Tripartite Agreement should be implemented by giving the required 24 employments to the land losers in appropriate dimensions in the Government.

CHAPTER III

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR FIRST REPORT (THIRTEENTH LOK SABHA) ON THE REPRESENTATION OF YOUTH FARMERS WHOSE LAND HAD BEEN ACQUIRED BY IOC FROM 1960 TO 1993 REGARDING UNEMPLOYMENT PROBLEM PENDING WITH GUJARAT REFINERY KOYALI, BARODA

3.1 The Committee on petitions in their First Report (Thirteenth Lok Sabha) presented to Lok Sabha on 24 February, 2000 had dealt with a representation of farmers whose land had been acquired by Indian Oil Corporation from 1960 to 1993 regarding unemployment problem pending with Gujarat Refinery Koyali, Baroda.

3.2 The Committee had made certain observations/recommendations in the matter and the Ministry of Petroleum and Natural Gas were requested to implement those recommendations and furnish their action taken notes for the consideration of the Committee.

3.3 Action Taken notes have been received from the Ministry of Petroleum and Natural Gas in respect of the recommendations contained in the report.

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

3.5 In paragraph 44 of the First Report (Thirteenth Lok Sabha), the Committee observed as follows:—

“It is also observed from the petition that at the time of acquisition of land, the Government have made a commitment to the affected families that one person from each affected family would be given job in the Gujarat Refinery. Thus, one person each from 348 affected families was to be given job in the Gujarat Refinery by the ONGC (later IOC).

On the same principle, one person each from 319 affected families (whose land was transferred back to the Government of Gujarat and IPCL) was to be given job by the IPCL/Government of Gujarat.

Between 1987 and 1993, Gujarat Refinery further acquired 287 acres of land affecting 204 families.”

3.6 In their action taken reply, the Ministry of Petroleum and Natural Gas have stated as under:—

“As regards employment to land losers, there were no guidelines to regulate the employment of land losers nor was there any agreement between IOCL and the State Government to provide employment to one member of each dispossessed family. There was no commitment made in this regard to the affected families. However, as a measure of goodwill and human consideration affected persons had been considered for employment and 112 persons were employed during the period of 1963 to 1977.

During, 1978, a local agitation was launched by the land losers for employment in Gujarat Refinery. The crux of the demand of agitationists was that there were many land losers who had not been provided employment either because they were not qualified for the employment or for other factors. A demand was raised that from every affected family, either the land loser or one of his/her dependent should be provided employment. Subsequently, discussions were held between the State Government Authorities at the District level, the Revenue Authorities, the representatives of the agitators and the representatives of IOC on 12.7.1978.

During the above meeting, it was agreed, in principle, that

- The concerned Employment Exchange would carry out a survey to identify the land losers who had not been provided employment and a list of identified land losers candidates would be prepared.
- The listed persons would thereafter be interviewed giving relaxation in qualifying standards, wherever possible, with a view to assess their suitability for employment and would be given employment, subject to satisfaction of other requirements, as and when vacancies occur in future.

As a result of this understanding a survey was conducted by the Employment Officers and a list of land losers was forwarded to the Gujarat Refinery.

In 1981, while acquiring a small portion of land for new LPG Bottling Plant, a demand was raised for the inclusion of names of 5 families of land losers whose names had not been included in the survey conducted in 1978.

Again, a meeting was convened by the District Collector wherein Revenue and Panchayat Authorities, the representatives of the agitators and the Management of IOC participated. A Tripartite Understanding was reached, *inter-alia* agreeing that:—

*Five families which were left out in the survey conducted in 1978, shall be included in the list.

* No further names will be added to the list.

Thus, the issue of providing employment to the original evictees was fully resolved and settled in line with the discussions/guidelines issued by Collector, Vadodara.

In the year 1986, Government of India, Ministry of Industry issued instructions *vide* Office Memorandum dated 3.2.86 stressing upon the urgent necessity of Public Sector Undertakings to operate on viable and commercial basis and to safeguard against over-manning. The memorandum specifically states that:

“Any understanding, formal or informal, in regard to offer of employment to one member of every dis-possessed family in the project will stand withdrawn.”

In view of the above guidelines of Government of India, the affected families on account of land acquisition for the Gujarat Refinery from 1987 to 1992 measuring 287 acres, are not *per se* entitled for relief of employment in the Gujarat Refinery. However, the affected candidates, if sponsored by the Employment Exchange are accorded preference, subject to other things being equal, in employment in relation to others.”

3.7 In paragraph 45 of the First Report (Thirteenth Lok Sabha), the Committee observed as follows:—

“The Committee note that due to acquisition of land between 1960 and 1986 a total of 667 families were affected.”

3.8 In their action taken replies, the Ministry of Petroleum & Natural Gas stated as follows:—

“The land for Gujarat Refinery Project which was originally under ONGC was acquired through the State of Gujarat, under the Land Acquisition Act, 1894. On 1.4.65, this project became part of Indian Oil Corporation Limited.

Prior to 1986, total of 1899 acres of land was acquired, affecting 667 families. Out of 1899 acres of land, 737 acres of land was transferred involving 319 affected families back to State Government/IPCL.

Therefore, the land retained by IOC's — Gujarat Refinery involved 348 affected families.”

3.9 In paragraph 51 of the First Report (Thirteenth Lok Sabha), the Committee observed as follows:—

“The Committee feel that the Government should also pursue the matter with IPCL for providing job to one person each from 319 families whose land was transferred mainly to IPCL.

They hope that persons belonging to these families will also be given job, if not already given, by IPCL without any further loss of time.”

3.10 The Ministry of Petroleum & Natural Gas in their action taken reply have stated that Ministry of Chemicals & Fertilizers is the administrative Ministry of IPCL and they have to take appropriate action in the matter.

3.11 In para 53 of the Report, the Committee recommended as follows:—

“The Committee are happy to note that the Government have responded positively to their suggestion to settle the long pending issue of providing employment to land losers and that the Indian Oil Corporation was agreeable to follow the principle enunciated by the District Collector in his report. They further note the assurance that the variance in number for employment of eligible land losers between the analysis of District Collector and Indian Oil Corporation report can be further scrutinized at the level of District Collector and issue resolved.”

3.12 The Ministry of Petroleum & Natural Gas in their action taken reply stated that action has been taken by I.O.C. — Gujarat Refinery for scrutinising the variance in number for employment of eligible land losers between analysis of District Collector and I.O.C.DC's report is awaited.

Observations/Recommendations

3.13 The Committee in their earlier Report had desired that the Government should pursue with IPCL for providing jobs to one person each from 319 families whose land was transferred mainly to IPCL. In this context, the Committee are informed that the Ministry of Chemicals and Fertilizers is the administrative Ministry of IPCL and they have to take appropriate action in the matter. The Committee, therefore, recommend that the Ministry of Chemicals and Fertilizers should examine this issue thoroughly and take a final decision followed by an appropriate action within a stipulated time period.

3.14 In para 55 of the Report, the Committee observed as follows:—

“The Committee note that though a tripartite agreement was reached in 1981 between the village Sarpanch, the Management of the Gujarat Refinery and the District Collector wherein it was agreed *inter-alia* that no further names would be added to the list,

thereby resolving the issue of providing employment to original evictees, the land losers were not honouring the said agreement and went on adding names to the lists from time to time. In fact, two lists, one containing 532 names and other containing 74 names, were submitted to the Committee by the Land Losers Association during their on the spot study visit to Vadodra. In view of the fact that the matter has been pending since long and also in view of the fact that Courts have five times rejected the claim of the petitioners for jobs and also in view of the agreement signed in 1981, the Committee recommend that no more names should be added to the list of land losers families and list of applicants for employment as submitted to the Committee should be treated as the final list so that the matter is settled once for all.

3.15 The Ministry of Petroleum & Natural Gas in their action taken replies have stated as follows:—

“Ministry agrees with the recommendation of the Committee that no more names should be added to the list of the land loser families and list of applicants for employment as submitted to the Committee should be treated as final list, so that the matter is settled once for all.”

3.16 The Committee in their paragraphs 57 and 58 recommended as follows:—

“The Committee are inclined to accept the suggestion made by the District Collector ‘that on humanitarian ground, the 17 second generation heirs (sons) whose land acquired measures 10 Gunthas or more and who possess minimum Matric/SSC qualification may be considered as suitable for employment, subject to observing recruitment rules of Refinery and availability of vacancies. This may be done after completing formal recruitment procedure.”

(Para 57)

“The Committee, therefore, recommend that 17 applicants who belong to 2nd generation of land losers, as referred to in District Collector’s report should be provided suitable job, subject to completing necessary formalities, without further loss of time.”

(Para 58)

3.17 The Ministry of Petroleum & Natural Gas in their action taken replies have stated as follows:—

“Gujarat Refinery drew up an Action Plan for providing employment to 2nd generation heirs subject to fulfillment of

criteria laid down by DC/Committee, within a period of one year. The principles enunciated by the DC are as under:

- * Land acquired for Gujarat Refinery prior to 1986 *i.e.*, before issue of Government guidelines.
- * Land acquired measuring 10 Gunthas or more.
- * Minimum Qualification — Matriculation.
- * No one else from family has been given employment by IOC in the past.

While action was in hand for scrutinizing the variance in number for employment of eligible land loser between the analysis of District Collector and Indian Oil Corporation (as observed by the Hon'ble Committee *vide* Para 53 of the Report), the Land Losers Association led by Shri Vinubhai Thakkar, Convenor, apparently not being satisfied with the recommendations of the Committee on Petitions, tried to put undue pressure on the Indian Oil Corporation Limited and the Government Agencies by resorting to mass agitation from 1.8.2000, in fulfillment of the demand of recruitment of land loser in Gujarat Refinery.

Upon receipt of representation from the Convenor of Land Loser Association, District Collector convened a meeting with the representatives of Land Losers Association and apprised them that IOC is ready to implement the recommendation of Parliamentary Committee on the issue of providing employment to the eligible land losers. However, they were not convinced with the reasoning/explanation given by District Collector. Finally, intervention of local MP Mrs. Jayaben Thakkar was sought and the agitation was called off after an understanding having been reached in a meeting presided by the District Collector, Vadodara on 14.8.2000. The understanding was signed in the presence of local MP Mrs. Jayaben Thakkar representative of District Collector, representative of Land Losers Association and officials of Gujarat Refinery.

The following understanding, was arrived at on 14.8.2000:

- (i) From 21.8.2000, scrutiny of records of eligible land losers as per criteria laid down by Parliamentary Committee on Petitions will start at the office of District Collectorate. This exercise shall be completed within a period of two months.
- (ii) Once the number of eligible land losers are available, the representative will meet again in the presence of District Collector to decide the period within which eligible land losers as per the criteria of Parliamentary Committee will be provided employment.

(iii) Following arrangements have been agreed to be the Management representatives for the eligible land losers as per the criteria laid down by the Parliamentary Committee on Petitions.

- (a) Management will consider offering contract jobs to labour co-operative formed by the eligible and losers. However, contracts to such co-operative will be awarded taking into consideration the ability, competence and viability of such co-operative, subject to their meeting legal requirements.
- (b) Management is willing to sponsor and reimburse tuition fees to the eligible land losers for pursuing ITI course. Acquiring so such qualification will improve employability and hasten the process of employment.

In accordance with the understanding reached on 14.8.2000, the exercise for scrutiny of records of eligible land losers commenced in the office of SDM on 22nd August, 2000. Gujarat Refinery furnished comments in respect of all 606 (532 + 74 land losers as per DC's Report) land losers to the office of Mamlatdar, Vadodara, and a copy thereof was handed over to Land Losers' Association. The Land Losers Association submitted objection in respect of 341 cases. Rejoinders in respect of all the cases were submitted by Gujarat Refinery. A meeting was convened by SDM, Vadodra on 16th November 2000 which was attended by the representatives of Land Losers Association as well as Gujarat Refinery officials. As complete details/comments on all 606 cases had been provided, and since the two months time frame set (as per understanding reached on 14th August, 2000) for completion of scrutinizing the list of candidates was over Executive Director, Gujarat Refinery took up the matter with District collector and requested for his intervention in the matter and for giving his findings on the eligibility of claimants, as per criteria laid down by the Parliamentary Committee on Petitions so that the issue could be resolved.

Thereafter, Mamlatdar (Rural) handed over objections submitted by Land Losers Association to Gujarat Refinery. Subsequently, the Mamlatdar (Rural), wanted certain details for preparing his final report/recommendations, which were furnished by Gujarat Refinery.

As the Land Losers Association has raised objections regarding employment provided by IOC to the land losers, Gujarat Refinery was asked to re-verify the claims. For the purpose, SDM, Vadodara handed over relevant papers (Family tree, land acquisition certificate, 7/12 Utara etc.) pertaining to all the 606 applicants and asked to verify the claims for employment with regard to their family tree. The records/documents were checked by Gujarat Refinery and the desired information was furnished by

IOC to the office of SDM, Vadodara, on 23.2.2001. Discussions with SDM has also been held by Gujarat Refinery officials. Executive Director, Gujarat Refinery, has also requested District Collector Vadodara to expedite his findings so that the matter can be resolved.

Action for providing employment can now only be initiated after receipt of the report from the District Collector. Time frame within which employment can be provided to second generation heirs shall be drawn up after receipt of DC's report and the issue for providing employment shall be expedited."

Observations/Recommendations

3.18 The Committee note that an understanding has been arrived at on 14.8.2000 between the Land Losers Association, the representative of District Collector and the officials of Gujarat Refinery regarding the scrutiny of records of eligible land losers and give employment to the second generation heirs of the land losers. However, the action for providing the required employment could be initiated only after receipt of the report from the District Collector. The Committee, therefore, recommend that the issue of providing employment to the land losers should be resolved within a specific time frame so as to obviate any further agitation from the Land Losers Association.

CHAPTER IV

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (THIRTEENTH LOK SABHA) IN THEIR SIXTH REPORT ON THE REPRESENTATION REGARDING NON-IMPLEMENTATION OF GOVERNMENT OF INDIA DIRECTIVE OF 1989 FOR ALLOWING AIR-HOSTESSES TO SERVE UPTO THE AGE OF 58 YEARS LIKE MALE CREW MEMBERS

4.1 The Committee on Petitions (Thirteenth Lok Sabha) in their Sixth Report presented to Lok Sabha on 1st March, 2001 had dealt with a representation forwarded by Shri Sunil Khan, M.P. and signed by Ms. Mulgaokar and 574 others regarding non-implementation of Government of India directive of 1989 for allowing Air hostesses of Air India to serve upto the age of 58 years like the male cabin crew members.

4.2 The Committee have made certain observations/recommendations in the Report and the Ministry of Civil Aviation were requested to implement those recommendations and furnish their action taken notes for the consideration of the Committee.

4.3 Action taken notes have been received from the Ministry of Civil Aviation in respect of all the recommendations contained in the Report. The recommendations made by the Committee and the replies thereto furnished by the Ministry of Civil Aviation are discussed in the succeeding paragraphs.

4.4 In paragraph 1.29 of the Sixth Report, the Committee observed as follows:—

“The Air Hostesses of Air India have represented before the Committee against the non-implementation of the Government of India directive of 1989 for allowing air hostesses of Air India and Indian Airlines to serve till the age of 58 years. The petitioners also informed that while in Indian Airlines the Air hostesses were being allowed to perform in-flight duties upto the age of 58 years like their male crew members, the position was different in Air India. In Air India the air hostesses were assigned flight duties till the age of 50 years and that too subject to periodic medical examination to ascertain their fitness for flight duties. Thereafter they were being assigned ground duties. The male crew were not required to undergo any medical check up and they continued to perform in-flight duties upto the age of 58 years. The petitioners

requested that they should also be allowed to perform inflight duties upto the age of 58 years. Among the other grievances of the petitioners were that they had no inflight career progression; all air hostesses, regardless of their seniority in years of service, were listed and considered junior to the junior-most male crew member; and women were not permitted to carry out in-flight supervision.”

4.5 In their action taken note the Ministry of Civil Aviation have stated as follows:—

“Presently, all Air Hostesses are flying beyond the age of 50 years and no Air Hostesses have been grounded on reaching the age of 50 years. The above action has been taken by the Management as per the direction of the Hon’ble Supreme Court of India in the pending SLPs filed by the Air India Cabin Crew Association, Air India Officers’ Association, Mrs. Rani Anthony and 4 others as well as Mr. Kanwarjeet Singh and 11 others by way of appeal against the order and the judgment of the Bombay High Court.

The Grievances of the Air Hostesses as observed by the Committee were covered by the writ petitions filed by some of the air hostesses before Bombay High Court who were given ground assignment on attaining 50 years of age and were not assigned flight duties upto 58 years. All these petitions were heard by the Bombay High Court and disposed off by its judgment dated 20th/23rd August, 2001 read with clarification order dated 9th November, 2001 by which Air India has been directed to implement the Government Directive dated 16.10.1989 along with the safeguards submitted by the management at the time of hearing of the petition which has been adopted as a part and parcel of the High Court Order.

As per the Order of the High Court, Management has allowed Air hostesses to fly beyond the age of 50 years during the period, August, 2001 to November, 2001. However, the Management has received letters dated 22.11.2001 from the Advocates on behalf of the Air India Cabin Crew Association and the Air India Officers’ Association, representing the Executive Male Cabin Crew as to not to take any further action in terms of the High Court Judgment as SLP have been filed by them challenging the Order and the Judgment of the Bombay High Court passed in the Air Hostesses matter.

The Supreme Court, at the time of hearing of the SLPs for admission, has by its order dated 14th December, 2001 observed that the direction so far it relates to the age of retirement of 58 as flying duty is not stayed. So far as other part of the direction

is concerned, *status-quo* as on date until final disposal of the matter and issue notice to the impleaded parties. However, the case is now coming up before the Supreme Court on 04.3.2002.”

4.6. In paragraph 1.30 of the Sixth Report, the Committee observed as follows:—

“The Committee note that the provision of the Government directive of 1989 *inter-alia* stipulated that like the male cabin crew, Air hostesses in Air India and Indian Airlines should also be allowed to serve till the age of 58 years. However, the Ministry *vide* their letter dated 29th December, 1989 clarified that increase in age of retirement to 58 years in respect of Air hostesses did not specify job functions after the age of 35 years. Air hostesses might be given suitable alternate jobs till they attained the age of 58 years. Based on these clarifications, the Air India was stated to have adopted a policy whereby (i) Air hostesses would retire from the services of company on attaining the age of 58 years, (ii) Air hostesses who would like to retire on attaining the age of 35 years but before 45 years would be extended retirement benefits, (iii) Air hostesses would be assigned flight duties beyond the age of 45 years till they attained age of 50 years subject to fitness in periodic medical examinations after attaining the age of 45 years. Air hostesses who did not opt for voluntary retirement might be given employment on ground in suitable position.”

4.7 In their action taken note, the Ministry of Civil Aviation have stated as follows:—

“The Government Directive dated 16.10.1989 read with 29.12.1989 were a subject matter of the writ petition filed by some one of the air hostesses in the Bombay High Court which were heard and disposed of by its common judgment and order dated 20th/23rd August, 2001 read with clarification order dated 9th November, 2001. In the said judgment, the Bombay High Court has observed that Ministry’s letter dated 29th December, 1989 cannot be construed as a directive and hence, set aside the same. The Bombay High Court has, however, upheld the directive dated 16th October, 1989 and directed Air India to implement the same subject to the “safeguards” as submitted by the management in its proposal to the Bombay High Court. (See Appendix III).”

4.8 In paragraph 1.31 of the Sixth Report, the Committee observed as follows:—

“The Committee have been informed that the female cabin crew and the male cabin crew in Air India belonged to distinct/separate cadres having different sets of service rules/standing orders and distinct duties. The initial recruitment conditions of Air hostess and male cabin crew were different and the former got accelerated

promotions since they were to retire at the age of 35 years. Their duties and responsibilities/job descriptions were laid down in Air India Cabin Crew Manual. However, the Committee do not appreciate the practice being followed in Air India whereby the female cabin crew were assigned flight duties only upto the age of 50 years and that too subject to fitness in periodical medical examinations after attaining the age of 35 years, while the male cabin crew remained on flight duties till the age of 58 years.”

4.9 In their action taken note, the Ministry of Civil Aviation stated as follows:—

“Assignment of flight duties to air hostesses upto 58 year was covered by the order and judgment of the Bombay High Court dated 20th/23rd August, 2001 read with clarification order dated 9th November, 2001. While the management was in the process of implementing the Order of the High Court, intimations were received through the advocates of the Air India Cabin Crew Association and the Air India Officers’ Association that their clients have filed special leave petitions in the Hon’ble Supreme Court of India and the management should not take any further steps in implementing the order and judgement of the Bombay High Court. However, during the interregnum *i.e.* after the passing of the judgment of the Bombay High Court but before filing of special leave petition by the Air India Cabin Crew Association and Air India Officers’ Association, management allowed those air hostesses to continue to fly who have reached the age of 50 years during this period.

The Supreme Court at the time of hearing of the SLPs for admission, has by its order dated 14th December, 2001 observed that the direction so far it relates to the age of retirement of 58 as flying duty is not stayed. So far as other part of the direction is concerned, *status-quo* as on date until final disposal of the matter and issue notices to the impleaded parties. However, the matter is now coming up before the Supreme Court on 4.3.2002.”

4.10 In paragraph 1.32 of the Sixth Report, the Committee observed as follows:—

“An effort was stated to have been made to merge the two cadres of cabin crew. By virtue of an understanding dated 5 June, 1997 between Air India Management and Air India Cabin Crew Association, a recognised union representing the cabin crew, it was agreed to enforce interchangeability of job functions of male and female cabin crew only for the future entrants and not for the existing cabin crew. As per the aforesaid Memorandum of Understanding the Assistant Flight Pursers and Air hostesses who had joined between the period commencing from January, 1989 to

February, 1995, which numbered 428 when doing standby duties could be pulled out for operating flights in either position *i.e.* Assistant Flight Pursers of Air Hostesses. However, this position was valid only for a period of three years from the date of settlement *i.e.* 5 June, 1997 to 5 June, 2000. The said Understanding also stated that those cabin crew who had joined during the year 1989 to 1991 will be released from such an arrangement on 1 January, 2000 and thereafter it will be on an annual basis. The Committee are also informed that as per the revised promotion policy dated 7 June, 1997 applicable to cabin crew, only the new recruits who had joined as cabin crew fell in the interchangeable category and their seniority was not only merged but they were treated at par. However, since no fresh recruitment is stated to have taken place from 1995 onwards till date in Air India the Committee are at a loss to understand whether the agreement reached in June 1997 has really served any purpose.

4.11 In their action taken note, the Ministry of Civil Aviation stated as follows:—

“The question of interchangeability of job functions between male and female cabin crew was also one of the prayer made by the petitioner air hostesses before the Bombay High Court. At the time of the hearing of the writ petition, management had submitted a proposal as per the directions of the Bombay High Court which *inter-alia* relates to complete interchangeability in job functions between male and female cabin crew on board the aircraft and that assignment of position on board the aircraft to the cabin crew should be at the discretion of the management. This was also accepted by the Bombay High Court and the writ petitioner air hostesses but was opposed by the Air India Cabin Crew Association representing male and female cabin crew on the ground that it is covered by existing Award and Settlements between the management of Air India and the Air India Cabin Crew Association which can not be changed unilaterally by the Bombay High Court under Article 226. The AICCA had further contended that these are all productive points which should be negotiated between the management of Air India and the AICCA.

The Bombay High Court has however, rejected all the contentions of the AICCA and held that there will be complete interchangeability in the job functions between male and female cabin crew and that senior most cabin crew will be in-charge of each zones as well as that inflight supervisory position onboard the aircraft will be based on seniority irrespective of sex.

The Supreme Court, at the time of hearing of the SLPs for admission, has by its order dated 14th December, 2001, observed

that the direction so far it relates to the age of retirement of 58 as flying duty is not stayed. So far as other part of the direction is concerned, *status-quo* as on date until final disposal of the matter and issue notices to the impleaded parties. However, the case is now coming up before the Supreme Court on 4.3.2002."

4.12 In paragraph 1.33 of the Sixth Report, the Committee observed as follows:—

"The Committee agree that Air India being a service industry should strive to give the best possible services to its customers and it should ensure the commercial interests of the company. In order to achieve these objectives, Air India has to fulfill the requirement of fitness of its Air Hostesses in terms of agility, alertness and good health to enable them to render quick and efficient service. The Committee, however, desire that any kind of discrimination between the male and female cabin crew should be completely eliminated. To achieve this end, the concept of job interchangeability introduced earlier should be extended. In case there are any Air hostesses presently working in Air India who would not be covered by the concept of job interchangeability for any reasons, their case should be looked into sympathetically by the management and some agreement acceptable to all should be reached."

4.13 In their action taken note, the Ministry of Civil Aviation stated as follows:—

"The observation of the Committee that any kind of discrimination between male and female cabin crew should be completely eliminated and that concept of job interchangeability introduced earlier should be extended as well as that in case of air hostesses presently working in Air India who would not be covered by the concept of job interchangeability for any reason, their cases should be looked into sympathetically by the management and some agreement acceptable to all should be reached, management of Air India had submitted a proposal to the Bombay High Court without prejudice to the rights and contentions taken in the written argument in case the Bombay High Court decided to grant relief to the air hostesses to fly upto 58 years. The said proposal of the management *inter-alia* contained complete interchangeability in job functions between male and female cabin crew, common seniority and merger of the existing male and female cabin crew into one and also a proposal that one time option has to be exercised within one month by such of those air hostesses as to whether they would like to accept flight duties upto 58 years or not in case they do not accept, assignment of flight duties upto 58 years they will be allowed to voluntarily retire from service on attaining the age of

- 50 years. The option which has to be exercised by the air hostesses will be irrevocable.

The Cabin Crew Association representing both the male and female cabin crew have opposed the said proposal of the management on the ground that it will adversely affect the future career progression of the existing male and female cabin crew and further the said conditions of service is covered by the existing Award and Settlement which cannot be unilaterally changed by the Bombay High Court and that the management should negotiate with the Cabin Crew Association as the said terms and conditions of service constitute productive points.

The Bombay High Court has rejected the contentions of the Cabin Crew Association and adopted the said safeguards of the management as a part of its Orders.

The Supreme Court, at the time of hearing of the SLPs for admission, has by its order dated 14th December, 2001, observed that the direction so far it relates to the age of retirement of 58 as flying duty is not stayed. So far as other part of the direction is concerned, *status-quo* as on date until final disposal of the matter and issue notices to the impleaded parties. However, the case is now coming up before the Supreme Court on 04.3.2002."

4.14 In paragraph 1.34 of the Sixth Report, the Committee observed as follows:—

"The Committee would also like to reiterate their earlier recommendations made in their 10th Report (8t Lok Sabha) that the Air Hostesses working in Air India should also be permitted to function as supervisors on board. A thorough review of the service regulation of employees in Air India should be made with a view to removing the in-built bias against female employees and to provide them all necessary facilities and avenues of advancement as are generally made available by the international Airlines to their female employees."

4.15 In their action taken note, the Ministry of Civil Aviation stated as follows:—

"The observations of the Committee were adopted by the management as a part of the safeguard submitted by it by way of proposal for the consideration of the Bombay High Court in the petitions filed by air hostesses. The executive male cabin crew who have got impleaded as party through the Air India Executive Cabin Crew Association have opposed the proposal of the management in permitting air hostesses to fly in the capacity of inflight supervisor on board the aircraft. The said proposal was also opposed by the Air India Cabin Crew Association. The executive cabin crew have taken a stand that before allowing the

air hostesses to fly as inflight supervisor on board the aircraft, the executive male cabin crew should be brought on par with the executive female cabin crew in the matter of rank, seniority and the basic pay on the ground that female air hostesses who have joined later in comparison with the male cabin crew who have joined earlier in service have enjoyed the benefit of accelerated promotion, higher starting of scale and basic pay at the time of recruitment. Hence the male cabin crew who have joined earlier to the female cabin crew or whose joining date is the same as that of the female cabin crew should be promoted as Manager and Senior Manager, as the case may be, in comparison with the female air hostesses who have joined later but promoted before the male cabin crew as Manager and Senior Manager.

The proposal submitted by the management also contained a safeguard to that extent providing thereby that existing position and the pay scale of the female air hostesses will be frozen till the male cabin crew reaches the position who have joined earlier for a period of four years. The Bombay High Court while adopting the safeguard of the management provided for freezing of the position only for a period of two years.

The Bombay High Court has negated the connection of the Executive cabin crew.

Similarly, the various safeguards as submitted by the management providing for absolute parity between male and female cabin crew were adopted by the Bombay High Court.

The Supreme Court, at the time of hearing of the SLPs for admission, has by its order dated 14th December, 2001 observed that the direction so far it relates to the age of retirement of 58 as flying duty is not stayed. So far as other part of the direction is concerned, *status-quo* as on date until final disposal of the matter and issue notices to the impleaded parties. This matter is coming up for hearing on 4.3.2002."

4.16 In a supplementary information, the Ministry of Civil Aviation also stated as follows:—

"The observations/recommendations of the Committee namely that any kind of discrimination between the male and female cabin crew should be completely eliminated was the subject matter of writ petitions filed by some of the air hostesses in Bombay High Court wherein the petitioner air hostesses have referred to and relied on the observations of the Committee and annexed a copy of the said recommendations of the Committee. During the course of the hearing by the Hon'ble Bombay High Court, Air India Cabin Crew Association representing both male and female cabin

crew have impleaded themselves as party. Some of the executive cabin crew through the Air India Executive Cabin Crew Association have also got impleaded themselves as a party. At the time of the hearing of the case, the Hon'ble Judge of the Bombay High Court (Division Bench) have directed Air India to list out the practical difficulties in assigning flight duties to air hostesses upto 58 years. In compliance with the directions of the Bombay High Court, management had listed out the safeguards which have to be provided in case the Hon'ble Mumbai High Court allow the air hostesses to fly upto 58 years while at the same time, maintain the stand that the management is per-se not in favour of assignment of flight duties to air hostesses upto 58 years since both male and female cabin crew belong to distinct and different cadre. In the said proposal, it was also made clear that the safeguards mentioned by management is without prejudice to the rights and contentions and the stand taken by the management in written arguments submitted to the Court. In short, the management had *inter-alia* mentioned in the said proposal that there must be total and complete parity between male and female cabin crew and all vestiges of discrimination between male and female cabin crew should be eliminated by having a common cadre, complete interchangeability in job functions between the male and female cabin crew on board the aircraft, common seniority by merging both the cadres and to achieve parity in this regard, freezing of the existing position and salary held by the female category for a period of four years until the male member reaches the said position in cases where the date of joining of the male crew is earlier than the female cabin crew, senior most cabin crew to be assigned inflight supervisory position on board the aircraft, a one time option to be exercised by cabin crew as to whether they will continue to serve upto 58 years or not, such of those air hostesses who do not wish to continue to serve upto 58 years will opt for voluntary retirement on completion of 50 years, the assignment of flight duties upto 58 years will be confined only to the cabin crew who are in service prior to October, 1997, medical examination to be undergone by the cabin crew (both male and female) on annual basis.

In the said proposal, the management also indicated that all these safeguards should be impleaded in totality and in the event of any of the parities to the proceedings file any appeal against the order of the Bombay High Court, management also will be allowed to file appeal and pursue its contentions as contained in para (a) and (b) of the said proposal.

Both the Air India Cabin Crew Association and the Air India Executive Cabin Crew Association have opposed the merger of both male and female cabin crew and providing for a common seniority between a male and female cabin crew on the ground that it will adversely affect the future

career progression of the male cabin crew since the female cabin crew have been enjoying higher position (Grade and Salary) by virtue to their accelerated promotion given to them in the past.

The Air India Executive Cabin Crew Association have also opposed the Inflight Supervisory position being assigned onboard the aircraft on the basis of the seniority.

Both the Air India Cabin Crew Association and the Air India Executive Cabin Crew Association have pointed out to the court the various existing provisions of various Settlements/Awards on the question of interchangeability of job function, on hierarchy on board the aircraft and took a stand that court cannot unilaterally change those existing terms and conditions of service but at the same time pointed out to the Court that they are not opposed in principle for assignment of flight duties to air hostesses upto 58 years without the "safeguards" as submitted by the management.

Both the management and the counsel for the Ministry of Civil Aviation pointed out to the Court that the directive dated 29th December, 1989 by way of clarification to the first directive dated 16.10.1989 is mandatory in nature as both the directives have been issued under Article 34 of the Air Corporations Act, 1953 and hence, binding on the management.

The safeguards submitted by the management at the time of the hearing of the writ petitions by the Division Bench of the Bombay High Court was also supported by the senior advocate appearing on behalf of the Ministry of Civil Aviation.

The Hon'ble Bombay High Court by its judgment dated 20th/23rd August, 2001 read with clarification dated 9th November, 2001 have granted the relief to air hostesses by directing the management of Air India to allow them to fly upto 58 years and also adopted the safeguards provided by the management *vide* its proposal as a part of the High Court Order and to that extent set aside the award and settlement in this regard. The effect of the Order is that there will be a common seniority between the male cabin crew and the female cabin crew and that senior most cabin crew will be assigned Inflight Supervisory position onboard the aircraft irrespective of the sex, there would be complete interchangeability in job functions and assignment of position onboard the aircraft will be on the discretion of the management, all cabin crew hereto exercise on time option within a period of eight months for flight duties upto 58 years, freezing of existing position and salary of female cabin crew for a period of two years until the male cabin crew, whose date of joining is earlier or the same with the female cabin crew, all cabin crew to undergo annual medical examination. The High Court has also granted monetary compensation to air hostesses who have been grounded on reaching the age of 50 years on a graded basis and also observed that the judgement will apply only to such of those air hostesses who have been in service prior to October, 1997.

The Air India Cabin Crew Association filed a petition (Civil Petition No. 21084 of 2001) on 22.11.2001 and the Air India Officers' Association representing some of the Executive Cabin Crew have filed special leave petition (Civil Petition No. 9250 of 2001) on 20.11.2001 before the Hon'ble Supreme Court of India by way of appeal against the order and judgement of the Bombay High Court dated 20th/23rd August, 2001 read with 9th November, 2001.

Further, Mr. Kanwarjeet Singh, Ms. Neelam Talwar, Ms. Anuja Sharma, Ms. Vandana Kapoor, Mr. Rajendra Grover, Mr. Rahul Sharma, Ms. L. Sridharan, Mr. Corenelius Soren, Mr. Ajay Talwar, Mr. K.S. Subramanian, Mr. Rakesh Kaul and Mr. Samarkanth Marwah (Civil Petition No. 8957-58 of 2001), based at Delhi Station have filed a special leave petition on 23.11.2001 challenging the order of the Bombay High Court.

Ms. Rani Anthony, Ms. Anu Jain, Ms. Simi Kapoor, Ms. Swapnila Begerohotta, Ms. Mita Joshi have also filed a SLP (Civil Petition No. 9379-80 of 2001) on 12.12.2001 challenging the order of the Bombay High Court.

All these Special Leave Petitions came up for admission on 10th December, 2001 and 14th December, 2001 before Hon'ble Supreme Court of India and after hearing the Senior Counsels appearing for petitioners, the Hon'ble Supreme Court, has by its order dated 14th December, 2001 observed that the direction so far it relates to the age of retirement of 58 as flying duty is not stayed. So far as other part of the direction is concerned, status-quo as on date until final disposal of the matter and issue notices to the impleaded parties. However, the matter is now coming up for hearing in the Supreme Court on 4.3.2002.

Observations/Recommendations

4.17 The Committee note that the hon'ble Mumbai High Court by its judgement dated 20th/23rd August, 2001 has granted relief to Air Hostesses by directing the management of Air India to allow them to fly upto 58 years and also upheld the Government of India directive of 16.10.1989, Air India has been directed to implement the said directive subject to the "safeguards" as submitted by the management in its proposal to the Mumbai High Court. In this respect, the Air India Cabin Crew Association has filed a petition on 22.11.2001 and the Air India Officers' Association representing some of the Executive Cabin Crew have filed a special leave petition before the Hon'ble Supreme Court of India. The Committee, therefore, cannot but conclude that the matter being *sub-judice* and as such should not be intervened by the Committee.

4.18 As regards any kind of discrimination meted against the female cabin crew and executives in Air India, the Committee are of the firm view that male and female cabin crew and executives should be given analogous treatment and proper opportunities of career progression. The Committee desire that while taking the follow-up action based on the final judgement of

the Hon'ble Supreme Court adequate steps are taken to safeguard the rights and privileges of the female employees particularly female cabin crews in Air India and Indian Airlines.

CHAPTER V

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (THIRTEENTH LOK SABHA) IN THEIR TWELFTH REPORT ON PETITION REGARDING GRANT OF LEASE OF LAND AND SANCTION OF A REHABILITATION PACKAGE FOR THE PEOPLE LIVING ON UNUSED AND VACANT LANDS OF NORTH-EAST FRONTIER RAILWAY IN DIFFERENT AREAS OF GREATER GUWAHATI

5.1 The Committee on Petitions in their Twelfth Report (Thirteenth Lok Sabha) presented to Lok Sabha on 19 December, 2001 had dealt with a petition regarding grant of lease of land and sanction of a rehabilitation package for the people living on unused and vacant lands of Northeast Frontier Railway in different areas of Greater Guwahati.

5.2 The Committee had made certain observations/recommendations in the matter and the Ministry of Railways (Railway Board) were requested to furnish their action taken notes for the consideration of the Committee.

5.3 Action Taken notes have been received from the Ministry of Railways (Railway Board) in respect of the recommendations contained in the report.

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

5.5 In paragraph 2.14 of the Report, the Committee observed as follows:—

“The Committee note that a total of 154.460 hectares of railway land of Northeast Frontier Railway has been lying vacant in greater Guwahati, Assam. Out of this vacant land in 62.60 hectares of land about 9000 migrants are residing. These people are living on this railway land in ‘Pucca’ buildings built by themselves for the last few decades. In the land occupied by them provisions for basic amenities and schools etc. have been built up by these migrants with their own efforts.”

5.6 In their action taken note the Ministry of Railways (Railway Board) have stated that it is true that total of 154.460 hectares of railway land of Northeast Frontier Railway is lying vacant in greater Guwahati area of Assam. This land presently lying vacant is proposed to be utilised for various activities connected with Railway working. Around 62.60 hectares

of railway land is under encroachment in different pockets. Approximately 9000 no. of encroachments exist on the railway land. These are mostly fresh or about 10 to 15 years old. Railways do not provide basic amenities to the encroachers of their land. Basic amenities, if any, built up by the encroachers on their own are considered unauthorised and illegal by the Railways.

5.7 In paragraph 2.15 of the Report, the Committee observed as under:—

“One of the main demand of the petitioners who are the occupants of the railway lands in greater Guwahati is that no positive steps towards the rehabilitation of these people belonging to lower income groups have been made. They have contended that these people had migrated from erstwhile East Pakistan (now Bangladesh) to Assam after the partition of the country in 1947 and had settled themselves on the vacant, unused and low-lying lands of the Northeast Frontier Railway spreading over different areas of Greater Guwahati including Pandu-Maligaon. The occupants of the railway lands in Greater Guwahati including Pandu-Maligaon have also been making payments against electricity bill, municipal taxes etc. to the appropriate Governmental authorities in the State Government of Assam. However, the eviction of these poor migrants is being continued unabated by the railway authority.”

5.8 In their action taken note, the Ministry of Railways (Railway Board) have stated that as per information available with the Railways no refugee who migrated in 1947 settled on railway land. This has also been confirmed by the State Government. The demand of the petitioners regarding their rehabilitation pertains specifically to the State Government since housing is a State subject. If the encroachers of railway land are making payment for amenities to the State Government, Railways cannot be held responsible for the same. Railways are legally bound by the provision of various Central Acts viz. The PPE Act, 1971 and Railways Act, 1989 to make continuous efforts to free their land from encroachers with the help of the State Governments.

5.9 In paragraph 2.16 of the Report, the Committee observed as under:—

“In this context, the Committee are informed by the Ministry of Railways (Railway Board) that the Northeast Frontier Railway have taken up the issue of removal of encroachments on the railway lands with the State Government of Assam time and again during the last 30 to 40 years based on the provision of the Railway Act, 1989 and Public Premises (Eviction of Unauthorised Occupants) Act, 1971. As on 1.4.2000 there were 23495 encroachments (20984 of hard type and 2511 of soft type) on their railway lands. In 15724 cases eviction orders had been passed by

the Estate Officer/Court. There were 4636 number of encroachments on railway land in Pandu area of Guwahati and eviction orders had been passed in 1447 cases by the Estate Officer, but eviction could not be effected.”

5.10 In their action taken note, the Ministry of Railways (Railway Board) have stated that due to large scale socio-economic-political changes and consequent massive migration to urban areas, public land all over the country has become vulnerable to encroachments. Railways who own more than 4.20 lakh hectares of land spread mostly in long narrow strips all over the country, are more vulnerable than any other Public Sector/Government Organisation. The Ministry of Railways have already submitted the practical difficulties being faced by the Railways to deal with the problem of encroachments.

While agreeing with the data regarding encroachments quoted in the para under consideration, this Ministry needs to add that as on the end of November, 2001 the total number of encroachments in entire N.F. Railway is 21359, and there are 11725 cases in which orders of Estate Officers are to be executed.

5.11 In paragraph 2.17 of the Report, the Committee observed as under:—

“In their latest communication, the Committee are informed by the Ministry of Railways (Railway Board) that this land in greater Guwahati is required for training centre for Signal & Telecommunication Department; Regional Centre for Scout & guides; Coach Maintenance Depot; Expansion of station/yards for passenger and goods; Welfare activities of Staff; Protection and improvement of environment and maintaining healthy and pleasant surroundings etc. The Committee are, however, deeply constrained to learn that this land acquired by the Railways almost 200 years back has not been utilised for expansion of the railway network although a perspective plan of 15 to 20 years is followed by the Railways for development/expansion of railways.”

5.12 In their action taken note, the Ministry of Railways (Railway Board) have stated that as already explained by the officers of the Ministry of Railways during oral evidence before the Committee the lands that were acquired by the Railways even a hundred years ago had a certain objective. If those lands were not acquired to the extent they were acquired at that time many of the developments that Railways are doing today would not have been possible without land acquisition. Railway development and expansion is a continuous process. Execution of a project depends on a wide variety of factors like availability of funds, priority-wise importance of a project, socio-economic-political compulsion, anticipated returns from a project, unforeseen compelling circumstances like natural calamities and many other factors. Therefore, it is quite possible that a

piece of land acquired decades ago cannot be utilised for any project all through the decades, and on the other hand a piece of land acquired only recently can be utilised immediately after its acquisition. Depending on the numerous factors which determine the selection/execution of projects a piece of land acquired decades ago could be utilised on a much later date.

5.13 In paragraph 2.18 of the Report, the Committee observed as under:

“The Committee cannot but express their distress over the fact that these railway lands have been allowed to remain unused or vacant by the railways eventually leading to the alleged encroachments on these railway lands. The Committee feel that if the surveillance on all these lands had been carried out regularly and earnestly such encroachments could have been easily avoided. Moreover, a timely and comprehensive survey regarding the usage of acquired land for railway projects in greater Guwahati could have shown a clear picture of any surplus land as the lands in greater Guwahati including Pandu-Maligaon were acquired almost 200 years back. The Committee hope that the proposed utilisation of these vacant railway lands as submitted to the Committee by the Ministry of Railways (Railway Board), lately, should be made in a specific time frame. The Committee also expects that a positive consideration may be given by the Ministry of Railways (Railway Board) towards the relinquishment of the unused, vacant and surplus railway lands in greater Guwahati to the State Government of Assam for social benefits as well as for rehabilitation of people of Assam.”

5.14. In their action taken note, the Ministry of Railways (Railway Board) have stated that the constraints being faced by the Railways in dealing with the problem of encroachments have already been submitted before the Committee. Railways do not deliberately allow any land to remain unused or vacant. The encroachments in Greater Guwahati area are in the middle of railway colonies, playgrounds, parks, land kept vacant along road sides for aesthetics etc. They have come up using force. Slackness on surveillance as brought out by the Committee had been there initially due to law and order problem but this was subsequently corrected and encroachers were taken up for eviction which reduced tide of fresh encroachments. The removal is necessary to provide relief to railway employees living in railway colonies whose Civic amenities, sanitation, water supply, hygiene are being affected. In view of the situation explained in this regard and preceding paras execution of the projects earmarked for the encroached land would depend on approval of schemes from time to time.

Regarding the suggestion for positive consideration for relinquishment of any surplus land to the State Government it may be stated that there is no surplus land in Greater Guwahati.

5.15 In paragraph 2.19 of the report, the Committee recommended as under:—

“The Committee note that rehabilitation being a State subject, the State Government of Assam had rehabilitated the registered/recognised refugees in camps established at Boko, Matia and in some other districts in the State of Assam and they were provided the basic amenities. The State Government of Assam had also set up camps at Jagi Road etc. for the migrants in Assam during the partition of East Pakistan (now Bangladesh). However, after 27 March, 1971 the migrants have been put for examination under the Illegal Migrants (Determination of Tribunals) Act, 1989. The Committee, therefore, recommend that coordinated and comprehensive efforts may be made to verify the legal migrants to the State of Assam and these migrants should be rehabilitated with a positive perspective. The Committee also desire that the needs of a dwelling unit of the people residing on the unused railway lands in greater Guwahati are met based on the principles of natural justice and on humanitarian grounds. The people who are residing for more than 20 years should not be thrown away without any alternative arrangement.”

5.16 In their action taken note, the Ministry of Railways (Railway Board) have stated that housing being a State subject it is for the State Government to act upon the recommendation regarding resettlement and rehabilitation of the encroachers of Railway land. Railways being bound by the provisions of PPE Act, 1971 and Railways Act, 1989, have no alternative but to continue with the process of removal of encroachments from their land. As already submitted before the Committee, Railways have been directed by the Standing Committee on Railways to improve their efficiency in removal of encroachments.

Observations/Recommendations

5.17 The Committee note that resettlement and rehabilitation is a State subject and the State Government of Assam has to settle and rehabilitate the encroachers of Railway Land. The Committee desire that the Ministry of Railways may coordinate with the State Government of Assam and make comprehensive efforts to rehabilitate the legal migrants with a positive perspective. The Committee are also of the firm view that the people who are residing for the last 20 years should not be thrown away without any alternative arrangement.

5.18 The Committee desire that the proposed development works at the Railway lands at Greater Guwahati are started at an early date. The Committee would like to be apprised about the latest position regarding the developmental works carried out on this said Railway lands within three months of the presentation of this report to the Parliament.

CHAPTER VI

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR TWELFTH REPORT (THIRTEENTH LOK SABHA) ON THE REPRESENTATION REGARDING INCLUSION OF DESWALI MAJHI COMMUNITY OF WEST BENGAL IN THE LIST OF SCHEDULED TRIBES

6.1 The Committee on Petitions in their Twelfth Report (Thirteenth Lok Sabha) presented to Lok Sabha on 19 December, 2001 had dealt with a representation regarding inclusion of Deswali Majhi Community of West Bengal in the List of Scheduled Tribes.

6.2 The Committee had made certain observations/recommendations in the matter and Ministry of Tribal Affairs were requested to implement those recommendations and furnish their action taken notes for the consideration of the Committee.

6.3 Action taken notes have been received from the Ministry of Tribal Affairs in respect of the recommendations contained in the report.

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

6.5 In para 4.13 of the Report, the Committee observed as follows:—

“The Committee are informed that the ‘Deswali Majhi’ community was a section of the Santal Aboriginal Tribe but during the middle of 19th Century (*i.e.* after the great Santal rebellion) they had appeared as a separate group. At present, they possess in vestigial form the past clan structure similar to the tribals which still regulates their marital relations. They practice clan endogamy and clan exogamy and they celebrate festivals alike to the festivals of “Santal Aboriginals”. Also, they practice divorce or remarriage alongwith junior sororate.”

6.6 In para 4.14 of the Report, the Committee observed as follows:—

“The Committee are also informed that in the year 1941, ‘Deswali Majhi’ had been declared as a ‘Tribes’ and in the year 1952-1959 accepted as a part of “Santal Aboriginal” It had been a declared “primitive Body”. The students belonging to the community had been provided with the necessary grants by “Adivasi Kalyan Vibhag” of State Government of West Bengal. Moreover, certain members of this community had been permitted to contest election against posts reserved for Scheduled Tribes. However, in the year

1964 the 'Deswali Majhis' had been excluded from the status of "Tribe" by the Government without any justification in this regard."

6.7 In their action taken note, the Ministry of Tribal Affairs have stated that it contains observations of the Committee on the representation of the petitioner. In this connection it may be stated that there was no list of Scheduled Tribes prior to the adoption of Constitution of India in 1950. Deswali Majhi community has never been notified as Scheduled Tribes in relation to the State of West Bengal. There is no such term as Primitive Body recognised by the Government. Primitive Tribes were identified from out of the notified Scheduled Tribes from 1975-76. Therefore the question of Deswali Majhi being primitive tribes in 1964 does not arise. It is surprising how the members of Deswali Majhi community without being in the list of Scheduled Tribes were allowed to avail/receive grants meant for STs and contest election posts reserved for Scheduled Tribes.

6.8 In paras 4.15, 4.16 and 4.17 of their Twelfth Report the Committee has observed as follows:—

"One of the main demands of the petitioners is that the "Deswali Majhi" community which has a total population of 3 lakh 50 thousand in West Bengal should be recognised as a "Tribe". The petitioners have contended that the Deswali Majhi community has been a neglected community from the very primitive era. The Deswali Majhi community consisted of different entities viz. Deswali; Majhi, Deswali Majhi, Deswali Kharowar, Deswali Sut, Deswali Gunju and Deswali Santhal. They follow the rituals and social culture of the Santal Aborigines and are a primitive tribe. The economic condition of this community is very poor. The petitioners have, therefore, requested for inclusion of the Deswali Majhi community in the List of Scheduled Tribes of West Bengal."

(Para 4.15)

"In this context, the Committee are informed that the State Government of West Bengal in their communication dated 30th August, 1999 to Ministry of Tribal Affairs have recommended for inclusion of the 'Deswali Majhi' community in the list of Scheduled Tribes as a separate entity. The State Government has stated that Deswali Majhis might have some association with the Santals in the long past but now at present this community is passing through a transitional phase and it has established an independent identity of their own. The State Government has, clarified to the Ministry of Tribal Affairs that many of the little communities that separated

from their original group came nearer to the fold of culture and ultimately became a separate unit.”

(Para 4.16)

“The Committee note that the Government has approved on 15.06.1999 the “Modalities for inclusion, exclusion and other modifications in the Scheduled Castes and Scheduled Tribes Lists.” According to these modalities, cases favoured both by the State Governments and Registrar General of India (RGI) would be referred to be National Commission for Scheduled Castes and Scheduled Tribes for their opinion. As regards, the “Deswali Majhi” community, the recommendation of the State Government of West Bengal for inclusion of this community in the list of Scheduled Tribes has been sent to RGI for its opinion on 16th November, 2001 by the Ministry of Tribal Affairs.”

(Para 4.17)

6.9 The Committee recommended in Para 4.18 of their Twelfth Report as follows:—

“The Committee recommend that the Ministry of Tribal Affairs impress upon RGI to furnish its report, expeditiously on the matter. The Committee desire that the issue of inclusion of ‘Deswali Majhi’ community in the list of Scheduled Tribes may be examined within a specific time frame by the National Commission of Scheduled Castes and Scheduled Tribes and the ‘Deswali Majhi’ community be included in the list of Scheduled Tribes of West Bengal and an appropriate proposal may be placed before Cabinet in this regard.”

6.10 In their action taken note the Ministry of Tribal Affairs have stated that the Registrar General of India (RGI) has been requested to furnish his comments at the earliest. On receipt of the comments of RGI further action would be taken in accordance with the approved modalities in the matter.

Observation/Recommendation

6.11 The Committee recommend that the Ministry of Tribal Affairs may expedite getting the comments from the Registrar General of India (RGI) so that further action can be taken in accordance with the approved modalities in the matter.

6.12 The Committee recommended in Para 4.19 of their Twelfth Report as follows:—

“The Committee are surprised to learn that around 970 proposals of inclusion of communities in the lists of Scheduled Tribes and Scheduled Castes are pending finalisation in various stages before the concerned Governmental Authorities. The Committee

recommend that necessary steps are taken to remove such deadlock in finalisation of the proposals of the State Government for inclusion of various communities in the lists of Scheduled Castes and Scheduled Tribes and an appropriate amending legislation is brought before Parliament without further loss of time.”

6.13 In their action taken note, the Ministry of Tribal Affairs have stated that all the 970 proposals received from various States and UTs for inclusion, exclusion and other modifications in Scheduled Tribes List are being processed in accordance with the approved modalities. Out of the above referred proposals, about 140 proposals have already been agreed to by the concerned State Governments, Registrar General of India and National Commission for Scheduled Castes and Scheduled Tribes and these are being processed for seeking approval of the Cabinet to introduce, and amending legislation, as required under Article 342 of the Constitution of India.

Observation/Recommendation

6.14 The Committee note that 140 proposals out of 970 received from various States, UTs for inclusion, exclusion and other modalities in Scheduled Tribes list are being processed for seeking approval of Cabinet to introduce an amending legislation under Article 342 of the Constitution of India. The Committee recommend that the remaining 830 proposals may be examined, expeditiously by the concerned Government authorities. The Committee recommend that the recommendation of the State Government of West Bengal for inclusion of Deswali Majhi community in the list of Scheduled Tribes should be verified by RGI and National Commission for Scheduled Castes and Scheduled Tribes within a specific time frame. The Committee desire that all such cases of inclusion of certain Communities in the lists of Scheduled Tribes may be examined at an early date and a final decision is taken in each case expeditiously. The Committee also desire that an amending legislation under Article 342 of the Constitution of India should be introduced within six months of the presentation of this report to the Parliament.

NEW DELHI;
30 April, 2002

10 Vaisakha, 1924 (Saka)

BASUDEB ACHARIA,
Chairman
Committee on Petitions.

LOK SABHA
PETITION NO. 11
(Presented to Lok Sabha on 29.11.2000)

To,

Lok Sabha,
New Delhi

The humble petition of S/Shri Pramod V. Shirwalkar, MLA and Anil Thakur, representative of Residents Association of Chembur Mumbai.

SHEWETH

We the undersigned residents of Chembur, Turbhe, Mahul, Mankhurd, Govandi and Tilaknagar—about 10 lac people are suffering from environmental problems for more than 10 years. The Government Companies mainly Rashtriya Chemicals and Fertilizers Ltd. (RCF), Hindustan Petroleum Corporation Ltd. (HPCL), Bharat Petroleum Corporation Ltd. (BPCL), Indian Oil Corporation (IOC) and Bhabha Atomic Research Centre (BARC) are the real cause of this pollution. They have not installed proper machinery to stop this pollution. All these companies are using gas and are also polluting air.

In the early morning hours if a person comes to Chembur, he will feel the real problem. It is affecting the life of common man particularly children and old people. The diseases like Asthma are very common in Chembur area.

Inspite of repeated requests and agitation, no major measures are being taken. The local Environmental Board also seems to be helpless.

We, therefore, submit this petition before you with an earnest request to urge the concerned companies, public sector undertakings and Environment Ministry to stop this pollution and to take strict action against these polluting units and to make Chembur, Turbhe, Mahul, Mankhurd, Govandi and Tilaknagar a pollution free area.

and your petitioners as in duty bound will ever pray.

Name	Address	Signature
Shri Pramod Shirwalkar	42/1495, Tilaknagar, Near Police Station Chembur, Mumbai-89	Sd/-
Shri Anil Thakur	G.N.Thakur House, Ghatla Village, Chembur, Mumbai-71	Sd/-

Countersigned by Shri Kirit Somaiya, M.P.

Action taken by MPCB and the compliance status**I. M/s Bharat Petroleum Corporation Ltd:****a. Notices issued/ Action taken:**

1. Letter dt. 28.08.1996 by the Member Secretary (MS), MPCB to the unit for proper handling and management of the Hazardous Waste.
2. Letter dt. 20.04.1998 by the Regional Officer, MPCB, Mumbai to caution the industry for smell nuisance in Chembur area. The unit was asked to take necessary precautions.
3. Letter to the industry by the SRO, MPCB, Mumbai, dt. 24.07.1999 for taking review of Hazardous Waste Generation Storage, Transport and disposal.
4. Letter to industry by SRO, MPCB, Mumbai, dt. 30.07.1999 regarding discrepancies in the plant in general found in the application submitted to MPCB.

b. Equipments installed/ compliance:

1. Yearwise compliance made by the industry for abatement of pollution is given in Appendix-I. The unit has also obtained ISO-14001 which is a certificate for environmental matters covering the progress made by the unit from time to time, including aspects such as improvement in house-keeping, improvement in the air pollution control system for avoiding leakages, smell, timely supervision of storage areas, and enhancement of tree plantation within and outside the premises.

II. M/s Hindustan Petroleum Corporation Ltd:**a. Notices issued/ Action taken:**

1. Letter issued by the Sub Regional Officer (SRO), Mumbai on dt. 20.04.1998 for improper operation of ETP.
2. Letter from the Regional Officer (RO), MPCB, Mumbai dt. 18.05.1999 regarding smell nuisance, and treatment and disposal of effluent, and cautioning the unit to take necessary precautions.
3. Proposed Directions were issued by the Chairman, MPCB on dt. 12.06.1999 for sub-standard discharge, bad housekeeping, improper sludge disposal, etc.
4. Again letter issued to the unit on 13.08.1999 for discrepancies found during the visit of the Regional Officer, Mumbai, for poor operation

and maintenance of ETP and poor house-keeping, discharge of effluent into nallah.

5. The industry's representatives were called for personal hearing before Chairman, MPCB and after taking the Action Plan from the unit, interim Directions were issued on dt. 13.12.1999.

b. Equipments installed /compliance

Yearwise compliance made by industry for abatement of pollution is given in Appendix-II. Industry submitted compliance report dt. 13.03.2000 stating the improvement measures taken, such as improvement in the operation and maintenance of ETP, cleaning of Oil Catchers and skimmers and exhaustive monitoring programme carried out for 20 days. The unit *vide* letter dt. 13.03.2000 informed that Action Plan has been completed.

III. M/s Tata Electric Company Ltd:

a. Notices issued / Action taken:

1. RO, MPCB, Mumbai's letter dt. 08.07.1993 mentioning discrepancies, such as improper operation and maintenance of ETP and inadequacy of ETP.
2. M/s. MPCB issued letter dt. 07.10.1997 to the unit with reference to manufacturing, storage and import of Hazardous Chemicals and compliance thereof.
3. RO, Mumbai issued letter dated 07.11.1997 cautioning the industry to take care of operation and maintenance of ETP, and temperature of outgoing effluent.
4. RO, Mumbai's letter dt. 20.04.1998 cautioning industry to take care of pollution control measures taken. This was with respect of smell compliance in the area.

b. Equipment installed / compliance:

1. The unit has provided air pollution control system in the form of Electrostatic Precipitator (ESP), Flue Gas Desulphurisation unit (FGD), Low Nox Burners.
2. The industry has done extensive tree plantation in and around their premises.
3. The unit has provided ETP for D.M. Water Plant, Cooling Tower and Cooling Water Effluent is recycled to the extent possible.

IV. M/s Rashtriya Chemicals and Fertilizers Ltd:**a. Notices issued/Actions taken:**

1. SRO, Mumbai's letter dt. 15.4.1995 to the unit regarding provision of ETP including Ammonia stripping, connection of effluent to BMC drain, modelling of ground concentration of Ammonia, Nox, and SPM, preparation and implementation of proposal for mitigating smell nuisance, and tree plantation.
2. RO, Mumbai's letter dt. 20.04.1998 cautioning the industry for smell nuisance. The unit was asked to take necessary precautions.
3. Industry was cautioned for the sample results collected on 20.04.1999 and 30.06.1999 for proper operation and maintenance of ETP.

b. Equipments installed/Compliance:

The details are given in Appendix-III

V. M/s Indian Oil Blending Ltd:**a. Notices issued. Actions taken:**

1. Notice issued on 03.07.1999 for non-provision of adequate ETP and disposal arrangements, discharge of oily water into nallah. The industry replied on 12.07.1999 stating improvement measures taken for the points raised in the notice.
2. Interim Directions were issued on 19.09.1999 for making improvement of ETP and house-keeping. The industry had submitted reply on 06.10.1999 and communicated compliance of the same.

b. Equipments installed/compliance:

The industry has provided Physico-Chemical treatment for industrial effluent and air pollution control system, (chimney of adequate height).

VI. M/s Apar Ltd:**a. Notices issued Action taken:**

1. SRO, Mumbai's letter dated 24.05.1999 cautioning the industry for proper handling and management of Hazardous Waste.

b. Equipments installed/compliance:

1. The unit has provided primary and secondary treatment plant in the year 1999-2000. The industry has further provided tertiary treatment comprising of Sand Filter and Carbon Filter and the treated effluent is discharged into BMC drain. Further they have installed Reverse Osmosis System and have started reuse of treated effluent to the tune of 150 m³/day.

2. The industry has also done modification in the scrubber in the year 1998-1999. The unit has also increased height of the chimney in the year 1999 from 30 metres to 36.7 metres.

VII. M/s. Pepsico India Holding Ltd:

a. Notices issued/Actions taken:

1. Show Cause Notice issued to the unit on 16.08.1999 for effluent not meeting the consent conditions. The industry had applied that the plant was under commissioning and was not fully stabilised.

b. Equipments installed/compliance:

1. The unit has provided primary and secondary treatment plant since beginning and tertiary treatment has been provided in the year 1999-2000, which is comprising of chloring doser followed by Sand Filter, Carbon Filter and Ion Exchange system. Recycling of treated effluent is done to the tune of 100 m³/day, for cooling 50 m³/day, for gardening 350 m³/day and remaining disposed into BMC sewer.
2. For air pollution control, Chimney of adequate height is provided.

VIII. M/s. Balmer & Lawrie Ltd:

a. Notices issued/Action taken:

1. Show Cause Notice issued on 11.10.1999 for discharge of sub-standard effluent and poor housekeeping.

b. Equipments installed/compliance:

1. The industry has replied stating the compliance done by them. They have provided Physico-Chemical Treatment and the treated effluent is recycled.
2. Two scrubbers have been provided for electroplating and pickling sections and the same has been verified by MPCB staff.

IX. M/s. Bombay Paints:

a. Notices issued/Action taken:

—

b. Equipments installed/compliance:

1. The industrial effluent is Nil.
2. For air pollution control, the chimney of adequate height is provided.

APPENDIX-III

(See para 4.7 of the report)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION WRIT PETITION
NO. 1429 OF 1991**

Air India Hostesses Association & Anr.

...Petitioners

Versus

Air India & Anr.

...Respondents

- (A) Air India submits that the cadres of air hostesses and flight pursers are separate and distinct classes as set out in detail in its written Submissions (annexed hereto as "Exhibit A") and thus the two cannot be compared. Air India submits that no reliefs as claimed in the above Writ Petition and Writ Petition Nos. 1689 of 1992, 1698 of 1992, 1705 of 1992, 804 of 1997, 708 of 1998, 1538 of 1998, 1163 of 2000 and 2419 of 2000 ought to be granted.
- (B) Without prejudice to its rights and contentions Air India submits that if this Hon'ble Court holds that the air hostesses should fly till the age of 58 years, then the same should be made subject to the following safeguards:
- (1) The order (that may be passed) shall apply to only such members of the cabin crew of both sexes recruited prior to March 1996.
 - (2) There will be total inter changeability of job functions on board the Aircraft and flexibility of working position shall be at the discretion of the management.
 - (3) There should be complete parity/merger between the two cadres of air hostesses and Flight Pursers and all vestiges of distinctions should be brought to an end.
 - (4) The *inter-se* seniority arising out of the merger will be worked out as under.
 - (a) The merger of male and female cabin crew will be as per their date of joining.

- (b) Within a grade if the female cabin crew is senior to a male cabin crew even though her date of entry into Air India is later than that of the male cabin crew, then the grade and basic salary of the female cabin crew will be frozen till such time as the male cabin crew catches up with her and is placed senior to her as per his date of joining.
 - (c) In the event that a male cabin crew is in a lower grade than a female cabin crew despite the male cabin crew having joined Air India at an earlier date, then the grade and basic salary of the female cabin crew will be frozen till such time as the male cabin crew is promoted and becomes senior to the female cabin crew as per his date of joining.
 - (d) In the cases covered by clauses (b) and (c) above, the basic salary and grade of the female cabin crew shall remain frozen till such time as the male cabin crew becomes senior to the female cabin crew or for a period of four years whichever is less.
 - (e) In situations where the female cabin crew is senior to the male cabin crew, where the date of joining is the same, the existing relative seniority will remain undisturbed.
 - (f) Male/female cabin crew who have been downgraded due to disciplinary action, will continue with the handicap.
 - (g) Male/female cabin crew who have been refused promotions will also continue with the handicap.
 - (h) Male/female cabin crew who are on leave without pay; the number of days will be deducted whilst fixing their seniority;
 - (i) The above will be applicable to those Air Hostesses (both workmen and executive) who are in service.
- (5) The hierarchy on board the Aircraft will be based on seniority irrespective of sex.
- (6) Special benefits which are given to Air Hostesses at present, like early retirement and all benefits arising out of early retirement shall no longer be granted.
- (7) The bar loss compensation will be paid to only such cabin crew (both workmen and executive) as are at present in receipt of the same and to no other cabin crew.

- (8) All cabin crew (both workmen and executive) shall have to undergo annual medical examination after the age of 35 years and shall also be subject to weight checks at all times irrespective of sex. Provided further that in the case of air Hostesses who have been grounded they shall have to undergo medical tests, weight checks, safety and refresher training.
- (9) All air hostesses shall have to exercise a one time irrevocable option within one month of the date of the Order passed by this Hon'ble Court to decide whether they wish to retire at the age of 50 years or to continue to work in Air India and fly as air hostesses till the retirement age of 58 years. To achieve parity, a similar option will also be offered to the male cabin crew as a one time exercise. No cabin crew will be eligible for ground jobs.
- (10) Nothing contained herein should come in the way of the implementation of Air India's assurance given before the Committee on Petitions—Lok Sabha that all Cabin crew recruited after March 1996, will be allowed flying duties till the age of 50 years only.
- (11) All Awards and all Settlements entered into by Air India with any union shall stand modified to the extent that they conflict with the provisions of these terms.
- (12) Air India shall take all steps to lay down the seniority of the cabin crew on the merger of the cadres of Air Hostesses and Pursers including all executives cabin crew, within a period of 24 weeks from the date of the order to be passed by this Hon'ble Court. Air India shall comply with all the other terms mentioned herein with a period of eight weeks from the date of the order to be passed by this Hon'ble Court.
- (13) In the event that all the above safeguards are provided to Air India, then Air India undertakes that it shall not challenge the Order that may be passed by filing any Appeal in respect thereof. The Petitioners in all the Petitions shall give a similar undertakings.
- (14) In the event that any other party files any appeal or other proceedings against or arising out of the Order then and in that event Air India will be entitled to pursue its contentions as stated in (A) above.