CB-I. No. 317 Vol. XVII

COMMITTEE ON PETITIONS

(THIRTEENTH LOK SABHA)

SEVENTEENTH REPORT

(Presented to Speaker on 24 August, 2002)
(Presented to Lok Sabha on .... 2002)

LOK SABHA SECRETARIAT
NEW DELHI

August, 2002/Sravana, 1924 (Saka)
Price Rs. 22.00

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4. Smt. Neera 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.

SEVENTEENTH 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 Seventeenth Report of the Committee to the House on the following matters:—

(i) Petition requesting for protection of the interest of the Small Investors.

(ii) Representation regarding non-payment of legitimate dues of enhanced Industrial Dearness Allowances and Interim Relief to the workers of the Refractory and Ceramic Units of M/s Burn Standard Company Ltd.

(iii) Representation requesting for extension of railway facilities to improve the Barabhum Railway Station.

(iv) Representation requesting for permission to reside on railway land plot No. 296, Madhabpur, Diamond Harbour, Kolkata.

2. The Committee considered and adopted the Seventeenth Report at their sitting held on 8th August, 2002.

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

BASUDEB ACHARIA,
Chairman,
Committee on Petitions.

NEW DELHI;
8 *August,* 2002
17 *Sravana,* 1924 *(Saka)*

CHAPTER I

PETITION REQUESTING FOR PROTECTION OF THE INTEREST OF THE SMALL INVESTORS

On 10th March, 2000, Shri Kirit Somaiya, M.P. presented to Lok Sabha a petition signed by Shri Shailesh Ghedia, General Secretary and Shri Bharat Kotecha, Joint Secretary of the Investor's Grievances Forum, Kathak Bhawan, Phalke Marg, Dadar, Mumbai-400 014 on the above subject (*See* Appendix-I).

1.2 In the petition, the petitioners put forth the following points:—

(i) They are the office bearers of various registered investor's associations working in various parts of India. They are recognised by the Securities Exchange Board of India which is responsible for regulating and protecting the small investors in the capital market. They are working to protect the interest of small investors throughout India;

(ii) The capital market and the number of small investors had increased rapidly during the last one decade. The number of small investors was only thirty lakhs in the 1980s. It had gone up to 6.30 crore in the year 2000. The opening up of the capital market through privatisation, liberalisation and globalisation had encouraged investors to invest in the share bazaar in equities and people had invested the savings of their life with the shares and equities of the various companies;

(iii) While opening the capital markets, the concerned authorities including the Government have not framed the rules to regulate the same. In India there is no machinery to protect the small investors. In the last seven years several security scams broke out in India, namely:—

1. Harshad Mehta Security Scam of 1992-93
2. Non-banking financial institutions (NBFCs) Scam
3. Plantation Companies Scam
4. Chain investment legal scams such as Ek-ka-double or double your money etc.;

(iv) More than Rs. 50,000 crores worth of savings of retired pensioners, women, widows and people of the salaried class were either looted or locked up in these scams. But there had been no action for the recovery of the money. Till today, a small investor had not got a single paise back. There had been no action

against all these unscrupulous scamsters. Justice delayed is justice denied; and

(v) They had used all the tools available under a democratic set up to protect the small investors. They had approached the State as well as the Central Government, the SEBI, the Reserve Bank of India, the Company Law Board, the Department of Company Affairs, the Stock Exchanges, but nothing had happened.

1.3 The petitioners, therefore, requested to urge upon the Ministry of Finance and the Union Government to take action to protect the interest of the small investors within a time-bound action plan.

1.4 The Ministry of Finance (Department of Economic Affairs) were requested on 13th March, 2000 to furnish their factual comments on the points raised in the petition. On 1 May, 2000 the following comments were received from Ministry of Finance (Department of Economic Affairs):—

"In the recent past, it was noticed that several companies, which tapped the capital market and collected funds from the public, had defaulted in their commitments made to the public while mobilizing funds. These companies fall within the regulatory jurisdiction of the Securities and Exchange Board of India (SEBI)/Reserve Bank of India (RBI)/Department of Company Affairs (DCA) depending on the nature of their activities in the capital market. Accordingly, action had been taken against such companies by these agencies under the respective Acts/regulations framed thereunder.

Action taken by the Securities & Exchange Board of India

Vanishing Companies

While there is no standard interpretation of the term 'vanishing company', SEBI had defined a 'vanishing' company as one which:—

(a) has not complied with listing requirement for a period of two years;

(b) no correspondence received by an exchange for a long time; and

(c) no office is located at the mentioned registered office address.

129 companies which had raised about Rs. 490 crores, had so far been identified as 'vanishing' companies. SEBI had issued orders to 57 companies and 214 promoters/directors of these companies, prohibiting them from associating with the capital market in any manner for a period of 5 years. Stock exchanges had also been instructed to have a separate cell to monitor the listing requirements and to take timely remedial action against defaulting companies.

Further, for initial public offer, SEBI had introduced requirements of a track record of distributable profits for at least three years out of the immediately preceding five years and pre-issue net worth of Rs. one crore in three out of the preceding five years. The minimum net worth has to be met during the immediately preceding two years. If a company does not

satisfy the requirement as stated above, it can make a public issue through appraisal route and the appraising agency has to participate to the extent of a minimum of 10% of the project cost by way of loan or equity.

In this connection, it may be mentioned that in a Writ Petition No. 659 (MB) of 1998 filed by Midas Touch Investors Association against SEBI in the Lucknow Bench of the Allahabad High Court, the Court dismissed the petition observing that the Court was satisfied with the action taken by SEBI.

Collective Investment Schemes

As regards Collective Investment Schemes (CIS), SEBI's regulations were Notified on 15th October, 1999. Henceforth, no person other than a Collective Investment Management Company which had obtained a certificate of registration under the regulations could carry on or sponsor or launch a collective investment scheme. Also, no existing collective investment scheme can launch any new scheme or raise money from investors even under the existing schemes unless a certificate of registration is granted to it under the said regulations.

As per information available with SEBI, there are 642 collective investment entities which have raised about Rs. 2681 crores from the market. Till end March 2000, 43 applications have been received for grant of registration.

Based on the information available with SEBI, a sum of about Rs. 185 crores has been repaid so far by 127 entities to the investors. M/s Golden Forests (I) Ltd. which alone constitutes over 37% of the total amount of Rs. 2681 crores raised by all the 642 entities has stated that it has paid approximately Rs. 600 crores to the investors. 5 entities, including M/s. Golden Forests, against whom SEBI has moved the courts by way of public interest litigations have reportedly raised over Rs. 1129 crores, which constitute about 42% of the total amount of Rs. 2681 crores raised by the 642 entities. Besides, 59 entities, which had reportedly collected about Rs. 376 crores have informed SEBI about their intention to repay and wind up their schemes in terms of the provisions of the regulations.

SEBI has moved the courts by way of public interest litigation against five entities, namely, Libra Plantations Ltd., Arrow Global Agrotech Ltd., SPG Green Gold Plantations Ltd., Okara Agro Industries Ltd. and Golden Forests India Ltd. and sought urgent relief against the companies and their promoters with a view to secure properties etc. and to ensure that there is no diversion of funds or alienation of assets.

In a Civil Writ Petition (CWP) filed in the Delhi High Court, the Court has directed all plantation companies, agro companies and other companies operating collective investment schemes to follow the directions issued by SEBI and has also directed them to get credit ratings from credit rating agencies approved by SEBI. The Court has also directed these companies

to furnish lists of their assets and liabilities and details of their directors. Further, the companies have been restrained from selling/disposing of their immovable properties. Further, the companies cannot float new schemes to raise further funds without the permission of the Court. The High Court further stated that its order will not come in the way of entities intending to refund the money to their investors. SEBI conducted a special audit of 55 collective investment scheme (CIS), which include plantation companies. These entities accounted for about 80 per cent of the total funds reported to have been mobilised. The major findings of the audit reports include: large scale diversion of funds to activities unrelated to the schemes' objectives; the lands/properties of the schemes are often not registered in the names of the entities/investors; a large portion of funds raised has been spend towards the cost of mobilisation of funds; existing investors are paid out of the money received from the subsequent investors and not from the profits/income from legitimate business activities; funds have been mobilised without obtaining credit rating. The deficiencies pointed out by the auditors pertaining to the Companies Act have been referred to the Deparment of Company Affairs. Further the DCA has been provided with a list of 60 entities so as to enable them to take appropriate action under the Companies Act. SEBI has issued show cause notices to 294 entities operating CIS which have contravened the directions of SEBI.

In December 1999, the Securities Contracts(Regulation) Act, 1956, was amended to *inter-alia* provide for the inclusion of the units of Collective Investment Schemes within the definition of "securities". This will enable SEBI to regulate such scheme. SEBI has also sought the assistance and cooperation of State Government to take action against defaulting entities.

Action Taken by Department of Company Affairs

DCA has also initiated action in terms of the provisions of the Companies Act, 1956 against several companies. Prosecution for non-filing of information in respect of 93 companies and prosecution under section 209A of the Companies Act in respect of 54 companies has been launched.

The Companies Act, 1956 was amended in May 1997 to make it mandatory for companies raising funds to furnish information on the unutilised funds in their balance sheets. Further measures are also being taken by DCA for making laws more stringent against the defaulting companies. A Bill has been introduced in Parliament proposing an amendment in the Companies Act, providing *inter-alia*, that every company which accepts deposits from small investors shall intimate to the Company Law Board any default made by it in repayment of such deposits; to hold directors of the company responsible for any contravention of the provisions of the Act; and to provide that the small shareholders will have a right to elect at least one director in public companies. This Bill is currently before Parliament.*

*The Companies (Amendment) Act, 2001 was enacted on 22.12.2001.

A Central Co-ordination and Monitoring Committee has been set up with representatives of the Department of Company Affairs (DCA) and the Securities and Exchange Board of India (SEBI). The Committee has also set up seven task forces with representatives of SEBI, DCA and the stock exchanges, which have been meeting regularly and examining cases brought to their notice to take action against the companies under the respective laws.

Action taken by Reserve Bank Of India

Non-Banking Finance Companies (NBFCs) come under the regulatory purview of the RBI. In order to safeguard the interests of depositors, the RBI Act was amended in January, 1997 vesting more powers with RBI. A new regulatory framework has been announced in January, 1998 to ensure that only financially sound and well run NBFCs are allowed to accept public deposits. These directions have been modified in December, 1998 on the recommendation of the Task Force on NBFCs. The amendment includes provisions for compulsory registration of all NBFCs with the RBI; powers to issue directions to NBFCs on prudential norms, *i.e.* ceiling on the quantum of deposits, interest rates, requirement of minimum investment grade credit rating, capital adequacy ratio, disclosure/ advertisement norms, provisioning for bad and doubtful debts, credit and investment concentration norms etc.; powers to issue directions to the auditors, to levy direct penalty on errant NBFCs, to seek winding up of errant NBFCs and to launch prosecution proceedings.

RBI has issued prohibitory orders to 107 NBFCs, launched prosecution proceedings against 24, filed winding up petitions against 11, filed police complaints against 10 companies and appointed special officers to monitor the repayment of deposits in 8 problematic companies.

A separate Act for NBFCs is being drafted mainly to give effect to the recommendations of the Task Force on NBFCs and to address the difficulties experienced while administering the existing statute. It is being contemplated to make fraudulent non-payment of deposits by NBFCs a cognizable offence.

The various measures initiated by RBI have yielded positive results; for instance in Maharashtra, the number of deposit taking companies which stood at 800 approximately in the pre-amendment years has come down to about 70 at present, due to repayment of public deposits by these companies.

Besides the above, there is a **High Level Committee on Capital Markets** comprising the Governor RBI, Chairman, SEBI and Secretary (Economic

Affairs), to periodically review and coordinate the policies and regulatory issues concerning the capital market.

1.5 The Committee decided to undertake an on-the-spot study visit to Kolkata and Mumbai to hold informal discussions with the petitioners and the representatives of the Kolkata Stock Exchange; the National Stock Exchange of India; the National Securities Depository Ltd.; the Reserve Bank of India and the Securities & Exchange Board of India on the various problems faced by the small investors. Accordingly, the Committee visited Kolkata and Mumbai from 26th to 29th June, 2000.

1.6 During the informal discussions, the petitioners who were the representatives of the Investors' Grievances Forum, Mumbai appeared before the Committee. The petitioners informed the Committee that the Capital and Financial market had grown multifold in the last decade and the law and its administration had not kept pace with it. The small investors had been cheated/duped in several scams and schemes. The investors had not recovered any of their investments.

1.7 Some of the main suggestions made in this regard were as follows:—

(a) Initial Public Offerings

(i) The issues should be genuine with a proven track record or with a backing from a reputed Financial Institution/Bank.

(ii) The issues should be priced reasonably.

(iii) Issues should be made accountable for utilisation of issues proceeds.

(iv) Investors should be fully informed.

(v) The disclosures made by companies should be in lines with international practices.

(vi) There should be thorough verification of promoter's contribution before allowing the public issue. It should be seen that promoters have brought in real money in the project and spent the same.

(b) Stock Exchange

(i) More powers to Stock Exchange should be given to enable them to see that such companies continue to remain listed so that they at least comply with listing agreement and declare their results etc. The promoters holding in such companies should be freezed.

(ii) Time limit should be imposed on disposal of complaints/cases. For cases/complaints below Rs. 5 lacs the time limit laid for disposals should be six months. For cases/complaints above Rs. 5 lacs the time limit of one year may be provided.

(c) Company Law Board

CLB should dispose off petition in a time bound manner. All the companies should implement CLB order. Breach of the order should be treated as contempt of court.

(d) Vanishing Companies

All schemes should be brought under purview of regulation. CBI, Police Authorities should be entrusted with time bound task to trace vanishing companies, their promoters and to take charge of their assets.

(e) Double Money Schemes

Police Authorities should take actions *suo-moto* on receipt of information about such schemes.

(f) NBFCs

A thorough investigation is required in tracing the end use of the funds wherever the companies have failed in their commitment of repayment.

1.8 The Committee also held informal discussion with the representatives of National Securities Depository Ltd. (NSDL). The representatives of NSDL informed the Committee that one of the major issues facing investors was the inordinate delay in the legal process in deciding on grievances and awarding compensation. Another problem faced by investors had been the problem of dealing in securities in the physical form. These problems included bad deliveries, transit loss of the shares that were sent for transfer, delay in transfer to title etc. NSDL was the first depository in India and it had substantially reduced such problems in the market.

1.9 During the informal discussions held with the representatives of Securities and Exchange Board of India (SEBI), the Committee were informed that one of the prime objectives of the Securities Legislation was the protection of interests of investors. As per the Statement of Objectives and Principles of International Organisation for Securities Commission (IOSCO), the investors should be protected from misleading, manipulative or fraudulent practices. Full disclosure of information material to investors for taking well informed investment decision was one of the important means for ensuring investor protection. Investor were thereby, better able to assess the potential risk and rewards of their investments and thus to protect their own interests. With the repeal of the Capital Issues (Control) Act, 1947 on 29th May, 1992, as specified in the Press Release dated 29th May, 1992 SEBI issued certain guidelines for due observance by the companies making public issue of capital. Indian companies were free to

make public issue of capital with or without any premium, after complying with these guidelines.

1.10 Subsequently, SEBI had laid down entry norms for entering into the capital market such as 3 years dividend paying track record or appraisal of the project by DFIs or Banks who should also have some stake upto 10% of the proposed issue. SEBI has also made amendments to the listing agreement to provide for disclosures of promises and performances in respect of money raised in the public issue and disclosures in the newspapers in case of deviation. Listing Agreements were also amended to provide for continuous disclosure and publication of quarterly unaudited results.

1.11 Further, the representatives of SEBI submitted that many companies after raising capital from the public were not traceable at their registered office or had failed to comply with listing agreements, such as failure to file returns/financial results with the concerned stock exchanges. These companies were treated as 'vanishing company' as they were suspected to have disappeared with the investors money and about 129 such companies were identified. There was no adequate legal provision for monitoring the resources raised from the public. There was no provision to help the investors to get back their money from such vanishing companies or promoters or take preventive or penal action against such persons/ companies.

1.12 During their information discussions with the representatives of National Stock Exchanges of India Ltd., the Committee were informed that the Exchange had in place a department for listing and compliance since its inception in November, 1994. The department had qualified and experienced personnel to monitor and administer the companies. Pursuant to the SEBI directive to have a seprate cell to monitor the listing requirements, the department was further strengthened with a special emphasis on compliance of the companies with the listing agreement and other statutory requirements. In order to further protect the interest of the investors, certain measures were suggested so as to provide an effective mechanism to provide protection to investors from the various financial scams as under:—

- Setting up a Listing Corporation of India (LCI)
- Setting up of Special Court for investor related matters

1.13 The Committee also held informal discussions with the representatives of Kolkata Stock Exchange Association Ltd. The representatives of Kolkata Stock Exchange informed the Committee that an unlisted company could not make a public issue of any security unless it complied with SEBI (Disclosure and Investors Protection) Guidelines, 2000.

1.14 The Committee desired to know the checks imposed to prevent the promoter and directors of an identified vanishing company from approaching the capital market for a period of five years. To this, the representatives of Kolkata Stock Exchange informed that a list of such disqualified directors and promoters had been made public by SEBI and also the same was available with this Exchange and by this way there had been a check to prevent the said identified directors and promoters from approaching the capital market for a period of five years. The representatives also stated that there was no fool proof mechanism to protect general investors. The exchange, however, within its limited authority took remedial action to protect small investors whenever any violation by listed companies were noticed.

1.15 The Committee also held informal discussion with the representatives of Reserve Bank of India as regards the Non-Banking Finance Companies (NBFCs). The Committee desired to know the steps taken by RBI to protect or safeguard the interest of the depositors and the impact of the new regulatory framework announced in January, 1998 as informed by the Ministry of Finance. To this, the representatives of RBI informed the Committee that a new regulatory framework had been announced in January, 1998 to ensure that only well run NBFCs were allowed to access public deposits. Reserve Bank of India had been taking various regulatory and supervisory measures to ensure a healthy growth of NBFC sector as also to provide reasonable safety to the depositor's money.

1.16 The Committee, thereafter, took the oral evidence of the representatives of the Ministry of Finance (Department of Economic Affairs); Securities and Exchange Board of India; and Reserve Bank of India on 18th December, 2001.

1.17 The Committee desired to know the objectives and decisions of the High Level Committee constituted by the Ministry of Finance. The representatives of the Ministry of Finance (Department of Economic Affairs) exaplained the genesis of the High Level Committee on Capital Markets as follows:—

> "In the wake of certain events in the early nineties relating to transactions in Government securities held by some of the banks and their repercussions on the stock market, a need was felt for greater co-ordination among the regulatory agencies in the financial and capital market. Accordingly, a High Level Co-ordination Committee on Financial and Capital markets was constituted in May, 1992 under the Chairmanship of Governor, RBI, with Chairman, SEBI and Secretary, Economic Affairs as Members. In October, 2000, Chairman, Insurance Regulatory and Development Authority was included as a Member of the Committee. The Committee meets at regular intervals to consider various matters/

policy issues which call for co-ordinated action by the regulatory agencies.

Secretary, Department of Company Affairs is also invited to attend its meeting as and when proposals which require inputs from Department of Company Affairs were considered by the Committee. Besides the High Level Co-ordination Committee on Financial and Capital Markets, Government had established a joint mechanism to tackle the issue of vanishing companies. A Co-ordination and Monitoring Committee (CMC) co-chaired by Chairman, SEBI and Secretary, DCA had been constituted. Further, 7 regional task forces comprising officials of DCA, SEBI and stock exchanges had been constituted to handle the operational activities".

He added:—

"The (High Power) Committee has an agenda that is put forth by the Capital Market Division. It is not specific to investors. Every issue that is before this Committee, in one way or the other, has an impact on investors.

The Overseas Corporate Bodies (OCBs) have come to some adverse light in terms of recent work done by SEBI's investigation team. In that context, OCBs are entities that are registered outside and they operate in India through the Portfolio Investment Scheme in the equity market. This is a scheme that has been notified under the Foreign Exchange Management Act by the Reserve Bank of India, but they are operating in the Stock Market. That means, the Securities and Exchange Board of India is the relevant regulator. As you can see, they are operating under some regulations issued by the Reserve Bank of India, but they are operating in a market, which is regulated by the Securities and Exchange Board of India. Now, this is an area where there are two regulators. The idea of this High Power Committee is to try and plug the loopholes so that such dual controls or overlapping do not happen. This Committee took a view. That was processed in the Ministry of Finance and, in consultation with the Reserve Bank of India, at the end of November this year the Portfolio Investment Scheme has been very drastically altered, that is to say, the OCBs are no longer allowed to invest through the Portfolio Investment Scheme in our Stock Markets.

So, similarly another very important piece of work, which was done about two years ago by this Committee was with regard to delineation of the regulatory responsibilities in the debt market. Now, in the securities Market, because of the fact that it is the Government Securities Market, the Reserve Bank of India is intimately involved. It is essentially regulated by RBI. But there are

certain issues that come under the purview of SEBI to the extent that such securities are treated on stock exchanges. because stock exchanges come under the regulatory purview of SEBI. So, this particular Committee, at the request of the CM Division took the initiative to clarify and completely delineate who is going to be responsible for which part of the debt market."

1.18 When the Committee desired to know the definition of 'vanishing companies' and the number of such companies identified by SEBI the representative of the Ministry of Finance (Department of Economic Affairs) stated as follows:—

"These were companies that SEBI had found were not complying with requirements of the listing agreement. They were also not available at their registered offices after making public issues. So, the process was started for identifying these vanishing companies in two phases. In the first phase, that is, 1997-98, SEBI initiated steps to verify compliance with the listing requirement and physical existence of the companies with a view to identifying the vanishing companies. In the second phase, that is from March, 1999 onwards, the Central Coordination and Monitoring Committee, comprising of SEBI and Department of Company Affairs, was constituted. Seven Task Forces were constituted region-wise at Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Bangalore and Hyderabad with regional Directors and Registrars of Companies as Convenors, and representatives of SEBI and stock exchanges as Members to identify these vanishing companies. Their task was coordinated by the Central Committee consisting of SEBI and Department of Company Affairs. As a result of this physical verification, 176 companies have been identified as vanishing companies as on 30th September, 2001."

1.19 In a subsequent written note dated 14th January, 2002, the Ministry of Finance (Department of Economic Affairs) stated as follows:—

"A total of 177 companies were identified as vanishing companies. One company complied with the legal and statutory requirements and hence its name was removed. As on 15.12.2001, the number of vanishing companies is 176. The amount mobilised by the 176 companies from the public through public issues is Rs. 958.90 crores.

SEBI has issued orders against 88 companies and 339 promoters/ directors prohibiting them from accessing capital markets and dealing in the capital markets for a period of 5 years *i.e.* under section 11B of the SEBI Act."

1.20 On the question of action taken against the promoters/directors of those vanishing companies which had not complied with the Prohibitory Orders, the Ministry of Finance (Department of Economic Affairs) in the written note stated as follows:—

> "Notice is given to public through press releases and SEBI website about the names and addresses of companies/promoters/directors against whom prohibitory orders have been passed. SEBI has intimated that they have not received any complaint that the promoters/directors/companies have not complied with the prohibitory orders. Violation of SEBI Act and the rules/regulations made thereunder and orders issued thereunder is an offence and is dealt with in terms of sections 24 and 27 of SEBI Act.
>
> Further, SEBI scrutinized the due diligence carried out by the Merchant Bankers of defaulting companies. Pursuant to the same, show cause notices were issued to 22 merchant bankers.
>
> Furthermore, the Co-ordination and Monitoring Committee is considering the matter of including authenticated photographs passport numbers, PAN, bank account number, driving license number etc. of the promoters/directors at the time of incorporation and in the prospectus while coming out with public/rights issues. The Committee is also examining the legal provisions regarding suggestions to freeze assets of promoters/directors of defaulting companies and disqualification of persons in default. At the CMC meeting, DCA has agreed to examine the establishment of suitable mechanism to monitor the utilisation of funds by the companies."

Further, the Ministry of Finance (Department of Economic Affairs) furnished the details of the action taken initiated against defaulting companies by the concerned regulatory bodies as given in Appendix II.

1.21 On a query about the number of investors who had received back their invested money from the defaulting or vanishing companies, the Ministry of Finance (Department of Economic Affairs) in their written note dated 6th March, 2002 stated as follows:—

> "Out of 88 companies which have resurfaced, 15 companies are under liquidation. Under the Companies Act, an investor can get back money invested in equity shares of a company only when the company is wound up."

1.22 As regards the Collective Investment Scheme, the representative of the Securities and Exchagne Board of India during the course of evidence informed as follows:—

> "Sir, now coming to the data aspect I would like to submit that after the Government notification dated 15th October , 1999 we asked the entities to file information with us so as to identify as to what are the total number of Collective Investment Schemes and

what was the total amount mobilised by such entities. With the result, 657 entities filed information with us saying that they had mobilised a sum of Rs. 2,677 crore. Pursuant to the notification of regulation, three more entities applied for registration and they had mobilised a sum of Rs. 12 crore. So, the total number of entities were 660 and the total amount mobilised by them was Rs. 2689 crore.

Sir, pursuant to the notification for regulation, 50 entities had applied for registration and out of that six entities were given provisional registration. Provisional registration does not entitle these entities to raise any fund either from the existing schemes or to launch any fresh schemes till they got registered. So, the investors did not lose a single penny as far as the regulatory efforts of SEBI was concerned and as far as CIS was concerned.

Now, 24 applications were rejected and 20 applications are under various stages of being processed including hearing before SEBI. Out of the remaining entities 49 of them filed information with SEBI with an auditor's certificate saying that they had repaid the investors a sum of Rs. 19 crore and two more filed information, duly certified by the auditors, saying that they had received the consent of investors to continue with their schemes without any regulatory purview of SEBI because these schemes were launched before the notification of regulation, that is before the regulatory purview of SEBI. Out of the remaining cases, in case of 16 entities, the courts have appointed liquidators or administrators or receivers. The amount involved is approximately Rs. 13 crore. To quote the exact figure, the total amount involved is Rs. 1351 crore.

Sir, pursuant to the notification of regulation, SEBI started taking various actions including passing of the direction under section 11 (b) of the SEBI Act. Under this direction, 560 entities, that had mobilised Rs. 857 crore, were directed to repay the money to the investors within one month. The entities whoever failed to repay to the investors in such 517 cases, the SEBI has referred them to the various State Governments. It is because the State Government have got different Acts in their respective States for taking action against the financial companies that are not registered with regulatory bodies. So, we have referred 517 cases that had mobilised a sum of Rs. 806 crore. Similarly, we had referred them to the Department of Company Affairs for initiating winding up action against entities to enable the investors to get their money back. We already have referred 42 cases for initiating criminal proceedings against those entities and more cases are being launched for prosecution. We have definite information from the companies either through public notifications or through the hearing before SEBI, that they have repaid an amount of Rs. 1300 crore to the

investors. Golden Forest has claimed that it had repaid Rs. 800 crore to the investors. That is the claim they have made in the public notices."

1.23 Subsequently, in the written note dated 6th March, 2002 the Ministry of Finance (Department of Economic Affairs) submitted the break-up of Rs. 1310 crores (approx.) that had been repaid by some Collective Investment Schemes (CIS) entities to investors based on the "Winding up and Repayment Reports/Auditors" Certificates/letters submitted by these entities to SEBI/submissions made by them during hearing before SEBI/public notice(s) issued by the entities/special Audit Report which is given at Appendix-III.

1.24 When the Committee desired to know the action initiated by SEBI against brokers and Stock Exchanges on a complaint made by the small investors; the representative of SEBI stated as follows:—

"To protect the interests of the investors and to ensure that if there is a default in the market that does not impact the investor, the SEBI has set up two sets of funds. One fund is the Settlement Guarantee Fund and the second is the Trade Guarantee Fund.

The Settlement Guarantee Fund function in such a way that if a broker has defaulted in meeting his obligation in the market, the Fund is utilised by the Stock Exchange to meet the main party's broker's rights. For instance, if on behalf of a seller, Broker 'A' sells certain share and Broker 'B', who buys it on behalf of another buyer, does not pay up, the money would be paid out of the Trade Guarantee Fund to the Broker 'A' so that the broker and eventually the seller gets his money. This type of a Fund is available in about 60 Stock Exchanges in India and the corpus of that fund as on 31st March, 2001, was Rs. 5,400 crore. The other Fund is the Investor Protection Fund, which is also called Customer Protection Fund.

1.25 In the written note dated 14th January, 2002 the Ministry of Finance (Department of Economic Affairs) also stated as follows:—

"The Ministry of Finance *vide* circular No. F14/4/SE/85 dated August 22, 1985 had advised all stock exchanges to set up customer protection fund (*i.e.* investor protection fund) to meet the legitimate investment claims of the investors which are not of a speculative nature. The investor of the defaulter member of the stock exchange can lodge a claim with the trustees of the fund within prescribed time period from the date of declaration of such member as a defaulter. In order to prevent/minimize the chains of misuse of the scheme, the claims of each investor was limited to a specified amount which was raised subsequently. In December, 1995, SEBI increased the amount of compensation against any single claim of an investor to Rs. 1 lakh in case of major stock

exchanges, Rs. 25,000/- in case of four smaller exchanges (Guwahati, Bhubaneshwar, Magadh and Madhya Pradesh) and Rs. 50,000/- in case of other exchanges. Subsequently, some exchanges have increased the limit on the amount of compensation to be meted out of the above fund. At present the upper limit of compensation in case of Mumbai Stock Exchange is Rs. 10 lakhs per client and Rs. 5 lakhs per client in case of National Stock Exchange. The total corpus of Investor Protection Fund of all 23 exchanges as on 31 March, 2001 was Rs. 222.5 crores."

1.26 In a subsequent written note dated 6th March, 2002 the Ministry of Finance (Department of Economic Affairs) informed that pursuant to the provisions of Section 205C of the Companies Act, 1956, the Central Government had notified the establishment of a fund called the Investor Education and Protection Fund w.e.f. 1.10.2001.

The Ministry further submitted the brief details of the objectives and action plan of this Investors' Protection Fund as follows:—

"The Investor Education & Protection Fund shall be utilised for promotion of investor awareness and protection of the interests of investors in accordance with the Investor Education and Protection Fund Rules, 2001. The Rules prescribe the modalities of the Fund *i.e.* how the companies shall credit their unclaimed amounts to the Fund; furnish details to the concerned Registrar of Companies; the manner of account of the money received; constitution and functions of the Committee established to administer the fund; expenses of the Committee and audit of its accounts; the powers of the Committee; matters relating to meetings and how the Committee will register various voluntary agencies of Non-Government Organisations engaged in activities relating to investor awareness and education and recommend to them the utilisation of fund for education programmes, organising seminars and conducting projects for investor protection including research activity."

1.27 On a query regarding the action taken by SEBI in cases of complaints from clients as regards absconding of the sub-broker; the Ministry of Finance (Department of Economic Affairs) informed in the written note as follows:—

"SEBI has mandated that all the sub-brokers should be registered. In the case of complaint against registered sub-broker, the complaint is followed up with the exchange and the broker of the exchange for the acts of its sub-broker. Further, SEBI has prescribed the format of the agreement between the broker and the sub-broker which *inter-alia* defines the role and responsibility of broker *vis-a-vis* the sub-broker and its clients. In the case of a complaint against the absconding registered sub-broker, the

complaint is pursued with the broker in the same manner as if the complaint is against the broker. The investor have been advised by SEBI and exchanges from time to time to deal with only registered sub-brokers.

Sub-brokers are required to abide by the code of conduct given under Schedule II of SEBI (Stock-Brokers and Sub-Brokers) Regulations, 1992. The code of conduct includes general duties such as maintenance of high standards of integrity, exercise of due skill and care, compliance with statutory requirements and specific duties to investors such as fairness in execution of orders, issuance of contract note and fairness to clients etc. SEBI has powers, *inter-alia,* to do inspection of sub-brokers to ensure that the provisions of the Act, Rules and Regulations are being complied with or to investigate into the complaints received from investors. Based on the findings of the inspection report, SEBI may call upon the stock-broker to take such measures as are necessary in the interest of securities market and for due compliance of the Act and provisions of Rules and Regulations. In case the sub-broker does not comply with the law or fails to resolve the complaints of investors, SEBI can, after following the due process, can impose a penalty of suspension or cancellation of registration of the sub-broker. Further, SEBI also has powers to issue directions to sub-brokers as may be appropriate in the interests of investors and the securities market."

1.28 When the Committee desired to know as to how is it ensured that a broker signs "a contract note" with the investor; the Ministry of Finance (Department of Economic Affairs) in the written note stated as follows:—

"It is the requirement under the bye-laws of the stock exchange that only the authorised person duly notified to the exchange shall sign the contract note to be issued to the client. During the course of inspection of the brokers by the exchanges and also by SEBI, this is being verified. If the broker is found guilty of not issuing the contract note within the prescribed time of 24 hours from the execution of trade, appropriate action is taken against the broker.

According to the code of conduct prescribed under Schedule II of SEBI (Stock-Broker and Sub-brokers) Regulations, 1992, the brokers are required to comply with statutory requirements and specific duties to investors such as fairness in execution of orders issuance of contract note and fairness to clients etc. This requirement is enforced through inspections of stock-brokers conducted by stock exchanges and by SEBI as compliance with statutory requirements is one of the major focus of these inspections."

1.29 As regards the maintenance of "client code" by the stock exchange; the Ministry of Finance (Department of Economic Affairs) informed in the written note stated as follows:—

> "In order to help in establishing the identity of buyers and sellers of securities for improving and facilitating market surveillance, the client code was made mandatory at the broker's level operating on all stock exchanges. SEBI has mandated that the client code should be entered at the time of order entry itself which is built into the system of the stock exchanges. Further, SEBI has prescribed the policy of uniform client code from 3 September, 2001 which is being implemented."

1.30 When the Committee desired to know as to whether SEBI or the Department of Company Affairs had verified the 'Z' category list of 974 companies made by the Mumbai Stock Exchange, the representative of SEBI stated as follows:—

> "The 'Z' category companies of Mumbai Stock Exchange are those companies, which are not complying with the listing requirements. Those companies are transferred for the purpose of trading. This exercise has been done by the Mumbai Stock Exchange. During this exercise only, the companies which are not complying with the listing requirements, which are not responding to the grievances of the investors, and which are not resolving the complaints of the investors, are transferred to 'Z' category. The trading facility for these companies is available and these companies are getting trade also from the Stock Exchange. But once somebody puts an order for buying and selling of the script, a message comes in the screen that these come under 'z' category and these are not resolving the complaints of the small investors, and it asks whether you want to trade in this scrip still. So, they have to again press the button and say, 'Okay, I want to deal in this scrip."

1.31 The Committee desired to know as to why these 974 companies listed by Mumbai Stock Exchange were not considered as 'Vanishing Companies' by enlarging the definition of a 'Vanishing Company' given by SEBI. To this, the representative of SEBI stated as follows:—

> "We will refer this matter to the Co-ordination and Monitoring Committee to enlarge the definition. Currently the criterion that we are following is this. The companies are not available at the registered office address. We have to follow some criterion to identify the vanishing companies. This is the criterion. If it has to be enlarged further, we can refer it to the Coordination and Monitoring Committee. As I said, the criterion adopted currently is this. When the company is responding, the Coordination and Monitoring Committee felt that they would not refer it within the definition of vanishing company because the company is in

correspondence. We will discuss this in co-ordination with the monitoring Committee."

At this point, the representative of the Ministry of Finance (Department of Economic Affairs) added:—

"If I may respond at this juncture, initially, as I identified, there were two phases in which the vanishing companies were identified. This was from 1997-98 onwards. Now, there are, as we have heard, 900-odd companies on the Mumbai Stock Exchange not responding to small investors. Our duty is really to protect the small investors. So, this matter could be reviewed and if the definition needs to be expanded, I think, the SEBI would be considering it. This is what they are saying."

1.32 The Committee pointed out that SEBI had insisted on a separate Investor Protection Act and the Mitra Committee sponsored by RBI and SEBI also supported for this new legislation. However, the Department of Company Affairs felt no necessity for this piece of legislation. The Committee then desired to know as to how the interest of the investors could be protected. The representative of Ministry of Finance (Department of Economic Affairs) stated as follows:—

"What I would submit is that the regulations have been framed by SEBI, then by RBI. Even the Department of Company Affairs have been framing the regulations in the light of the experience and these are aimed at prevention. The system of operation of the Stock Exchanges has been made more transparent. These are steps in the right direction. It is in the light of the experience that these measures are being taken. These we expect would prevent systemic risks in future. Insofar as taking action against those companies which have cheated the investors is concerned, certain efforts have been made by SEBI, especially regarding Collective Investment Scheme Companies.

Prof. Mitra gave his report. It was sponsored by the RBI and the SEBI, in the sense that all costs were defrayed by these two organisations. After taking into account the comments of the Department of Company Affairs and of SEBI, the Government came to the conclusion that it is better to perhaps amend the SEBI Act and incorporate whatever was being thought of as a separate Investor Protection Act. In this context, the Government has answered a number of parliamentary questions saying that the Government felt that it is better to incorporate it in the SEBI Act, rather than having another piece of legislation.

In this context, a lot of work has already been done in the Government, it is at the very advanced stage and the next step is to seek the Cabinet approval, after which it will be put forward before Parliament to amend the Act."

OBSERVATIONS/RECOMMENDATIONS

1.33 The Committee express their deep concern over the fact that the Indian Capital Market has been plagued by a plethora of financial irregularities and scams involving huge amounts of public money. Earlier in 1992-93, a Parliamentary Joint Committee to Enquire into Irregularities in Securities and Banking Transactions appointed in August, 1992 also examined in-detail the ill effects of such scams. Unfortunately, many unscrupulous Companies/Schemes/ Financial Institutions continue to shatter the faith of the investors by dishonouring their commitments made to the innocent investors.

1.34 The petitioners who are the representatives of the Investors Grievances Forum, Mumbai have contended that more than Rs. 50,000/- crore of savings of retired pensioners, women and salaried-class people have been locked-up in the various securities scams in the capital market. The petitioners have also stated that the Indian Capital & Financial Market has grown many fold during the last decade but its law and administration has not been able to keep pace with it. Further, there has been no action for the recoveries of the dues of the small investors whose monies have got blocked in the various securities scams. While expressing their apprehension that justice delayed may prove to be justice denied, the petitioners have requested to protect the interests of the small investors within a time-bound action plan.

1.35 In order to rectify the misgivings of the capital market, the petitioners have briefly suggested that:—

(a) Investors may be fully informed in all aspects of the market at the time of floating Initial Public Offerings;

(b) the disclosures made by companies should be inline with International practices;

(c) time limit should be imposed for final disposal of complaints received by stock exchanges;

(d) Company Law Boards (CLB) should dispose off petitions in a time-bound manner and consider the breach of CLB Order as contempt of court;

(e) end-use of funds collected by companies should be traced by a Regulatory Body; and

(f) all schemes should be brought under purview of regulation. Police Authorities should be entrusted with time-bound task to trace 'Vanishing Companies', their promoters and to take charge of their assets.

In view of above, the Committee desire that the measures taken/ suggestions given by the petitioners to safeguard the investments of

small investors may be examined by the Government/Regulatory Bodies and implemented with a positive perspective in mind.

1.36 The Committee are informed that a High Level Committee on Capital Markets has been set up to periodically review and coordinate the policies and regulatory issues concerning the capital market. The High Level Committee has taken certain important and effective decisions to plug the loop holes in the regulatory mechanism of the capital market. The Committee are, however, amazed to learn that the terms of reference of this High Level Committee is not specific towards the protection of investors. The Committee are unhappy to note that the High Level Committee has not gone a long way to curtail the deliberate misuse of public funds by various companies which collect money through public issues in the capital market. The Committee hardly need to emphasize that companies collect money through public issues in the capital market as it is the easiest and cheapest source of finance. Hence, the Committee recommend that Government should ensure that the deliberate and criminal misuse of public money by various companies is not allowed to take place.

1.37 While stringent eligibility norms have been prescribed by SEBI for companies which access the capital market, the Committee are distressed to learn that a large number of 'Vanishing Companies' and 'Z' Category Companies have come to the fore in the stock exchanges. The Committee, therefore, cannot but eonclude that there is an apparent need to modify the rules and regulations so as to discourage illegal siphoning of funds by companies through issues raised in capital market. The Committee recommend that concerted efforts should be made by SEBI and the Department of Company Affairs in coordination with the stock exchanges for timely detection of fraudulent, misleading and manipulative practices of companies, if necessary, with the help of police authorities and by laying down clear-cut criteria for abiding by the Objectives and Principles of International Organisation for Securities Commission (IOSCO).

1.38 The Committee note that around 974 companies have been listed under the 'Z' category by the Mumbai Stock Exchange, however, they have not been put in the category of 'Vanishing Companies'. Although these 'Z' category of companies are virtually those companies which do not comply with the listing requirements of the stock exchange, such companies are allowed the normal trading facilities. At the time of buying and selling of scrips, it is notified on a screen that the company is in 'Z' category and does not resolve the complaints from the small investors. In this regard, the Committee are, not fully convinced that investors are restrained from investing in the 'Z' category of companies. During the course of the oral evidence of the representatives of the Ministry of Finance & other Regulatory Bodies, it has been assured to the Committee that for consideration of enlarging the definition of a 'Vanishing Company' the matter wouid be placed before the Co-ordination and Monitoring Committee (CMC) set up with representatives of SEBI and Department of

Company Affairs. The Committee, therefore, recommend that suitable steps should be taken to enlarge the definition of the 'Vanishing Company' and put the 'Z' category companies in the list of 'Vanishing' Companies in due course.

1.39 The Committee note that the Co-ordination and Monitoring Committee had set up seven Task Forces to regulate operational activities in the capital market and identify the 'Vanishing Companies'. As a result of their physical verification, 176 companies had been identified as 'Vanishing Companies' as on 15.12.2001. The amount mobilized by these companies from public through public issues was to the tune of Rs. 958.90 crores. Prohibitory Orders had been issued by SEBI against 88 such companies and 339 promoters/directors from accessing the capital market for a period of 5 years. Out of these 88 companies only 15 companies were under liquidation. The Committee are deeply perturbed to note that more than Rs. 958.90 crores have been blocked in these 'Vanishing Companies'. The Committee would like to know the steps taken by the Department of Company Affairs and SEBI for the recovery of the invested monies of the investors from these companies.

1.40 As per the Companies Act, an investor can get back money invested in equity shares of a company only when the company is wound up. The Committee, therefore, recommend that the concerned Regulatory Body should initiate winding-up proceedings against these fraudulent companies within a specific time frame so as to save the investments of the investors, if necessary, by amending the laid down legal provisions in this regard.

1.41 The Committee are informed that the Co-ordination and Monitoring Committee have examined the legal provisions to freeze the assets of the promoters/directors of defaulting companies and disqualification of persons in default in the capital market. Also, the Department of Company Affairs have agreed to examine the establishment of a suitable mechanism to monitor the utilization of funds by companies. The Committee desire the Government to take effective measures to freeze the assets of the defaultees and the defaulting companies and verify the end-use of the funds collected by various companies through public issues.

1.42 In regard to the activities of the brokers and sub-brokers, the Committee note that the brokers are required to abide by the Code of Conduct under SEBI (Stock Brokers and sub-Brokers) Regulations, 1992. SEBI have got the powers to call upon a stock broker to take such measures as are necessary in the interest of the securities market and keep compliance with the governing rules and regulations. The Committee recommend that a time-bound action plan may be chalked out and followed by SEBI to take punitive action against the Brokers and Sub-Brokers who do not maintain the code of conduct given in SEBI's Regulations.

1.43 The Committee note that in order to establish the identity of buyers and sellers of securities and facilitating market surveillance; a 'Client Code'

has been made mandatory by SEBI at the broker's level in all stock exchanges. Further, SEBI has prescribed the policy of uniform 'client-code' w.e.f. 3rd September, 2001. The Committee desire that stock exchanges and SEBI should take effective measures to ensure the maintenance of the 'Client Code' by the brokers operating in all the stock exchanges. The Committee also recommend that the Brokers and sub-Brokers which do not comply with this 'Client Code' should be black listed from trading in capital market.

1.44 The Committee note with satisfaction the establishment of the investor Education & Protection Fund on 1.10.2001. As on 31st March, 2001 the total corpus of the Investor Protection Fund had been to the tune of Rs. 222.5 crore. The Committee, however, desire that the Investor Education & Protection Fund should be strengthened so as to improve investor's awareness and initiate proper compensation to the investors whose monies have been locked-up in various fraudulent companies.

1.45 On the question of a separate Investor Protection Act, the Committee note that the Department of Company Affairs have felt no necessity for this piece of legislation. Instead of a new Investor Protection Act, the Government have decided to amend the SEBI Act incorporating the points which may be proposed in the separate investor Protection Act. The Committee, therefore, recommend that an appropriate amending legislation should be brought before Parliament in the interest of the investors, expeditiously. The Committee hope that specific legal provisions would be made so as to ensure good management of the monies of the investors.

CHAPTER II

REPRESENTATION REGARDING NON-PAYMENT OF LEGITIMATE DUES OF ENHANCED INDUSTRIAL DEARNESS ALLOWANCE AND INTERIM RELIEF TO THE WORKERS OF THE REFRACTORY AND CERAMIC UNITS OF M/S. BURN STANDARD COMPANY LIMITED

Shri Vivek Choudhury, Joint Secretary of Refractory and Ceramic Worker's Union, Girjapara, P.O. Raniganj-713347 (Burdwan), West Bengal submitted a representation regarding non payment of legtimate dues of enhanced Industrial Dearness Allowance and Interim Relief to the Workers of the Refractory and Ceramic Units of M/s. Burn Standard Company Ltd. (A subsidiary of the Bharat Bhari Udyog Nigam Ltd. Government of India Undertaking).

2.2 In the representation, the petitioners submitted the following points:—

(i) Burn & Company Ltd. and the Indian Standard Co. Ltd. were taken over in 1973 and nationalised in 1976. After nationalisation of the two companies, it was known as Burn Standard Company Ltd. and it has Refractory & Ceramic Works at Raniganj, Durgapur, Andal (West Bengal), Gulfarbari (Bihar), Jabalpur and Niwar (Madhya Pradesh) and Salem (Tamil Nadu). The company has its Engineering Works at Howrah and Burnpur, manufacturing rail wagon etc.;

(ii) They are the ex-employees of the Raniganj group of work who have been forced by the management of M/s. Burn Standard Co. Ltd., to accept Voluntary Retirement Scheme (VRS) under a veiled threat of closure and depriving them financially if they did not accept VRS offered by the company;

(iii) On the demand of the employees of the Public Sector Enterprises on Industrial Dearness Allowance (DA) pattern governed by wage settlement, the Joint Advisor (Finance) of Bureau of Public Sector Enterprises, Ministry of Industry the Government of India issued a notification of 8.9.1987 and authorised the management of Public Sector Enterprises to sanction Interim relief *w.e.f.* 1.1.1986. In the terms of the notification dated 8.9.1987, the management of Burn Standard Company Ltd., was also authorised as a Public Sector Enterprise to sanction the Interim Relief to the Employees. The Ministry of Industry, Government of India, further directed the management of Burn Standard Co. Ltd. *vide* letter dated 17.9.1987,

to take necessary action in the matter for granting of Interim Relief to the employees at the rate specified in their letter. The management of Burn Standard Co. Ltd. implemented the instructions and directions issued by the Government of India in respect of all similarly placed employees of the company including all the Executives, Head Office staff and employees, employees of the Salem Refractory Unit and the executives of the Raniganj Group of Refractory and Ceramic (R&C) Works. However, the management refused to implement the same directors in respect of the workers of the Raniganj Group of works and few of the R&C Units located elsewhere in India for reasons best known to them. The group of R&C works denied the benefits to the workers who are equally entitled to the benefits granted to other similarly placed employees of the Company in the matter of granting of Interim Relief.

2.3 The petitioners, therefore, requested that Burn Standard Company Ltd. may be directed through the Ministry of Heavy Industries & Public Enterprises to ensure the immediate implementation of Government notification dated 8.9.1987, thereby, granting Interim Relief to the workers of Refractory & Ceramic Works of Raniganj Group of works of the Burn Standard Company Ltd.

2.4 The representation was forwarded to the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) on 12 June, 2002 for furnishing their comments on the issues raised by the petitioners. In response, the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) *vide* their communication dated 5 July, 2002 in a background note on the inception of the Burn Standard Company informed as follows:—

"M/s Burn Standard Company Ltd. (BSCL), Kolkata was incorporated as a Government Company on 1.12.76 by vesting of the assets of two erstwhile Companies *i.e.* Burn Standard and Company Ltd. and Indian Standard Wagon Company Ltd. taken over by the Central Government on 19.12.73 which were subsequently nationalised *w.e.f.* 1.4.75. BSCL has 7 units under its control located in 4 States manufacturing a variety of engineering and refractory products. Two Engineering Units are located at Howarah and Burnpur and five Refractory and Cermic Units are located in Raniganj, Gulfarbari, Jabalpur, Niwar and Salem. The Raniganj Group consists of Lalkoti, Raniganj No. 2, Durgapur and Andal Works. BSCL was losing until 1981-82. It turned the corner in 1982-83 by making marginal profits on the strength of the performance of the Engineering Units. However, the Refractory Units have been incurring losses and eating into the profitability of the Engineering Units. Raniganj Group of Works consisting of 4 Units *viz.*, Lalkoti, Raniganj 2, Durgapur and Andal have been consistently making

losses due to low productivity as the existing plant and machinery are incapable of giving the quality required by modern steel plants. In the light of the above position, the Board of Directors of BSCL, Kolkata in its meeting held on 29.3.84 decided to close down Raniganj No. 2 and Durgapur works of Raniganj Group of works owing to their incompetitive position. However, the aforesaid decision could not be given effect to as the labour unions challenged the closure notice before the Hon'ble High Court at Kolkata and the Court restrained the management from implementing the decision of the closure. Both the Writ Petitions filed by the Refractory and Ceramic Workers Union in September, 1985 and 1988 were disposed off by the Hon'ble High Court in the month of November and December, 1998 and the Stay orders on the notice of closure of Raniganj Works No. 2 and Durgapur Works stood vacated. In the meanwhile, the revival package for BSCL, as approved by the BIFR, also excluded all these loss making refractory Units (except Salem). The Raniganj Group was closed along with other loss making Refractory Units in December, 2000."

2.5 On the issue regarding non payment of Interim Relief to the workers of the Refractory & Ceramic Works in Raniganj, the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) submitted as follows:—

"The workers of Raniganj Group of Refractories were being paid Variable Dearness Allowance (VDA) on Asansol Consumer Price Index as per their wage settlement dated 24.10.1979. The wages and fringe benefits of workers are decided through bipartite and tripartite settlements in line with the guidelines provided and an authorization by the Government of India, depending on the Units capacity to absorb the increased labour cost. The Department of Public Enterprises letter dated 12 April, 1993 (*See* Appendix IV) only provided a guideline to PSUs and was not mandatory. The guidelines further laid down that this enhanced rate of VDA would constitute one of the elements of future wage revision. Therefore, when the wages were revised in respect of workers of Howrah Works and Burnpur Works (both Engineering Units) through State level Industry-wise tripartite settlement, they were allowed the enhanced rate of neutralization of DA of Rs. 2/- per point only from 1.2.1997 and not from 1.1.1989. This was, however, paid to officers and non unionised supervisors *w.e.f.* 1.1.1989 as they were not bargainable employees and their pay and allowances are governed by Government policy decisions as are conveyed by Department of Public Enterprises from time to time.

In the letter dated 11.6.1993 of the Director (Personnel), the reasons for non-implementation of enhanced rate of VDA were:—

(i) Persistently dismal performance of Raniganj Group of Refractory and Ceramic works since nationalisation in April, 1975 leading to corrosion of capital base of the Group;

(ii) Mounting accumulated losses rendering the Group unviable and their sickness was beyond redemption as was opined by the Experts in their Study Report;

(iii) Increasing accumulated losses with their irreversible loss making performance year after year rendered the Management unable to effect any Wage revision from January, 1983;

(iv) Closure Notice issued in May, 1985 in respect of Raniganj No. 2 and Durgapur Works and pendency of the case before the Kolkata High Court;

(v) As per DPE's O.M. dated 12 April, 1993, neutralization rate of D.A. would be an element of wage revision. But because of chronical sickness, wage revision for the employees of R&C Group would not be offered since 1983 nor the same was contemplated in the foreseable future;

(vi) With the huge financial losses mounting with the passage of time, the Company's ability to absorb higher labour cost completely was eroded; and

(vii) Implementation of enhanced VDA would have, therefore, resulted in violation of the conditions stipulated in DPE's O.M. dated 12.4.1993.

2.6 The Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) in their communication also furnished a statement of financial result of Raniganj Group from 1976, *i.e.* the year of Nationalisation to the year 2000, when these R&C Units were closed as follows:—

Rs. in lacs.

Year	Amount of Loss	Year	Amount of Loss
1	2	3	4
1.12.76 to 31.3.77	−28.09	1988-89	−437.60
1977-78	−110.58	1989-90	−513.99
1978-79	−130.52	1990-91	−545.27
1979-80	−178.16	1991-92	−547.35
1980-81	−186.12	1992-93	−712.12
1981-82	−170.48	1993-94	−3747.01
1982-83	−224.86	1994-95	−3257.45

1	2	3	4
1983-84	−299.51	1995-96	−2159.46
1984-85	−276.77	1996-97	−2471.40
1985-86	−305.10	1997-98	−2716.32
1986-87	−278.35	1998-99	−580.34
1987-88	−320.46	1999-2000	−397.41
		Cum.upto 1999-2000	−20593.72

2.7 In their communication, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry) clarified that:—

> "Other Units of the Company (Except Loss making Refractory Units) were in a position to generate adequate resources to absorb the higher labour cost on implementation of enhanced VDA. The Workers of Engineering Units were paid Interim Relief and Variable Dearness Allowance (IR & VDA) as it was possible to meet this liability from their internal generation. The salary and wages of the employees of sick R&C Units were being paid partly by the surplus funds diverted from the two engineering units and Salem Works. But in course of time, these units ceased to generate adequate surplus for funding the needs of R&C group after meeting their own fund requirement."

2.8 The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry) further stated that the Burn Standard Company was referred to BIFR in 1994. The BIFR sanctioned Rehabilitation Scheme in April, 1999. The Scheme did not support continuance of the loss making R&C Units. As a result, the Units were closed in December, 2000. Before the closure, the management had offered the benefits of voluntary retirement (VR) to the employees and those who opted for voluntary retirement were paid compensaion at the last drawn rate. Since the enhanced rate of neutralisation of VDA was not implemented, the same could not be taken as the basis for calculation of compensation. However, the last drawn basis plus VDA as per their subsisting wage settlement which was increased upto the time of release on VR was taken into account for calculation of compensation. The Rehabilitation Scheme sanctioned by BIFR on 16.4.1999 provided for a grant-in-aid from National Renewal Fund (NRF) for effecting VR and also a non-plan refundable loan of Rs. 18 crores only for the years 1998-99 and 1999-2000 for meeting the salary/wages of the employees of R&C Group not being revived. The provision for payment of the dues to the employees of R&C Group as made in the Rehabilitation Scheme was on the basis of pay and DA

prevailing at the time of retirement, but did not include any additional benefit like IR/enhanced utilization of VDA.

However, the Refractory Units at Raniganj, Durgapur Andal, Gulfarbari, Jabalpur & Niwar were closed on 31.12.2000 with the approval of the Ministry of Labour, Government of India. It is a fact that the BPE authorised the PSEs on IDA to pay interim Relief at specified rate. The Circular of BPE dated 8.9.87 was only a guideline, but was not a direction. As such it was not mandatory for the Management to implement the guideline. (*See* Appendix II).

Interim Relief was not paid to any worker or staff except those of Niwar Works from March, 1994 to April, 1995. Although other operating units like Howrah Works, Burnpur Works, Salem Works etc. were in a position to meet the additional liability arising out of fresh wage settlement from their own internal generation the Interim Relief was not paid to the workers and staff of these Units.

2.9 The Committee, thereafter, took oral evidence of the representatives of the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) on 17 July, 2002 in the matter. During the course of evidence, the Committee pointed out to the witness that Ministry of Industry *vide* their Notification dated 8.9.1987 had authorised the management of public sector enterprises to sanction the Interim Relief with effect from 1.1.1986. In terms of this Notification, the management of Burn Standard Company Ltd. was also authorised to sanction Interim Relief to its employees. Also, the Ministry of Heavy Industries & Public Enterprises (Department of Public Enterprises) *vide* their letter dated 17.9.1987 (*See* Appendix III) had also directed the company to grant interim relief of Rs. 100/- per month to the employees with basic pay upto Rs. 700/- and Rs. 120/- per month to the employees with basic pay between Rs. 701/- and Rs. 1000/-. For those drawing basic pay above Rs. 1000/-, the rate of interest relief payable per month will be the same, slab-wise, as notified for executives. Subsequently, the company implemented directions of the Ministry of Heavy Industries and Public Enterprises in respect of all executives, head of Staff and employees. However, the interim relief was not extended to the workers of Refractory and Ceramic Units at Raniganj, West Bengal. The Committee then desired to know the reasons behind not extending the benefit of interim relief to R&C workers at Raniganj. At this, the witnesses stated at follows:—

> "The first reason is, according to them (the BSCL), as per the Circular dated 8.9.1987, the Interim Relief released from 1.1.1986 was to be absorbed in the new wage settlements being negotiated. However, in the case of Raniganj Group, no new wage settlement was contemplated due to continual losses as well as inadequate internal generation and the fact that two of these units, namely Raniganj-II and Durgapur Works were to be closed down. The

second reasons is, these units were not generating enough surplus and were incurring continual losses and so they did not have resources. The third reason is, the Order dated 4.12.1993 of the Trial Judge in a Writ Petition filed by the Workers directing for payment of Interim Relief was set aside by the Appellate Court on 1.12.1995 with certain observations and the same were complied with by the company. The fourth reason is that the officers were paid Interim Relief as they were not part of collective bargaining and belonged to a Centrally established single cadre. They were transferable and their service conditions were different from those of the workers. So, basically, on these four grounds, the Board of Directors of the Company did not approve the payment of Interim Relief to these unionised workers. The workers' contention in the case of payment of variable dearness allowance is that while the officers of the BSCL and staff of other units had been given the enhanced DA from 1.1.1989, the same was denied to them. The reasons for non-payment of variable DA were similar to those indicated above in the case of interim relief.

It is said that the Department's guidelines of 12 April, 1993 were not basically mandatory and they laid down that this enhanced rate of DA would constitute one of the elements for future wage revision. As indicated above, because of the chronic sickness, wage revision for the employees of Refractory and Ceramic Unit was neither offered since 1983 nor contemplated in the foreseable future.

These are the reasons indicated drawing a distinction between the officers who formed a separate service and cadre. They were transferable from these units to other units while the workers belonged to unionised category. In their case, it was not a question for revision of interim relief but a negotiated wage settlement."

At this point, the CMD of Bharat Bhari Udyog Nigam Limited added:—

"Burn Standard was taken over by the Government of India on 19th July, 1973 along with six units by merging two companies Standard Wagon and Burn Howrah. With Standard Wagon, also came these seven sick Ceramic Units. Out of them four were in the Raniganj group. One was in the Gulfarbari and the other near Jabalpur. Subsequently, this was nationalised two years later in the year 1975. Now, after that a review was taken of the performance of these companies and the Board in 1983 came to the conclusion by 1983-84 the cash losses incurred by these four group of companies were around Rs. 13 crore and view emerged that these companies are not viable. A study group was appointed and the Board took a decision on 29.3.1984 to close these down, including

Raniganj and Durgapur units. It took about a year to complete the formalities and the formal closure notice was issued by the Company in May, 1985.

In between what happened in 1979 was that a wage settlement was arrived with the Ceramic Workers Union and it was valid for three years. Since it was decided to close the unit, the management took a conscience decision that it will not be possible for the company to go on granting a wage increase while the unit is going to be closed. When we issued a closure notice in 1985, against that the union went to the court and the court granted a stay order on the closure. As a result the closure could not be implemented and this stay order continued for a longer period till 1998.

When finally the closer order was vacated and the action was initiated, in between in April, 1987, the Government of India issued a circular granting interim relief to the Executives and non-unionised supervisory staff. Subsequently, the trade unions all over the country represented to the Government of India at various levels. They said, "When the wage settlement has not taken place or are getting delayed or likely to be taken in the near future, they also should be given the interim relief. In the light of this a second circular dated 8th September, 1997 was issued but this circular has certain stipulations that this interim relief has to be absorbed in the coming wage settlement. So, management at that time took every conscience decision that we have no intention of doing any new wage settlement in view of the closure decision and the matter is subjudice. Therefore, they decided that we will not implement it in the case of Raniganj group of workers.

Subsequently, in 1988, the union went to the court after the management did not give this interim relief and challenged the decision of the management. Initially, the Kolkata High Court passed the order that management should pay the interim relief against which again the management went in for an appeal and subsequently in appeal, the case of the union was dismissed by the Kolkata High Court. The management was permitted not to pay the interim relief.

Thereafter, the matter eneded and the union did not take up the issue further and the matter settled. Subsequently, in 1994, the company was referred to BIFR. A detailed study was conducted and the BIFR came to the conclusion that the unit needs to be closed in case the Burn Standard has to be viable unit and BIFR ratified the closure of these units."

2.10 The Committee pointed out that there was closure order of the Refractory and Ceramic Units of Raniganj in September, 1985, but there was a "Stay Order" of Kolkata High Court and the management continued

to pay the wages to the workers. The Committee desired to know if there was any legal bar on the management in paying interim relief to the workers. To this, the witnesses clarified:—

> "There was no legal bar. Actually, as per the circular that was issued by the Government on 8th September, 1987, which we are talking about, it was written that the interim relief is purely interim in nature and is to be absorbed in wage settlements being negotiated under the wage policy. This was not increased and it was only an interim relief. The management's decision was not to have any wage increase and wage negotiation in these units in view of the closure decision."

2.11 When the Committee desired to know as to whether the wages of executives had been revised during the period between 1985 and 1998, the witnesses stated as follows:—

> "No Sir, the wages of the executives were revised with retrospective effect from 1987 when a separate Government guideline was issued in September, 1989 or 1990. So, it was a retrospective revision and in that revision, whatever interim relief that was given, that was absorbed."

2.12 When the Committee pointed out that the workers of Refractory and Ceramic Units, Raniganj have been meted with discriminatory treatment by not getting the interim relief as given to the executives, the witnesses explained:—

> "No, this is not a discrimination from two points of view. Firstly, the revision in the executives' pay scales came earlier from the Government. It was in April, 1987. There are two reasons for giving interim relief to the officers and non-unionised supervisors posted in these units. The workmen are the negotiable, bargainable assets. This differentiation has been continuing not now but even right from the inception of the company."

2.13 When the Committee desired to know the amount of money required for payment of interim relief by the Company, the witnesses stated as follows:—

> "The Interim relief would be Rs. 5.77 crore and the VDA would be Rs. 16.84 crore. Together it would come to Rs. 22.61 crore. Sir, in case interim relief is to be paid and the VDA is also to be paid, then the financial implication of that decision would be over and above what we have paid. If interim relief which they (the workers) are claiming is given and VDA which they are claiming is given, the total financial implication would be Rs. 22.61 crore. Then, it will be more because even the VRS, etc. which has been given will get revised. So, altogether that will require a revision because on the basis of these revised wages, there VRS will be finalised and

revised. Then, the total implication will come to Rs. 35 crore."

2.14 On a query about the amount of money already paid to the employees i.e including the executives of Raniganj R&C Works of the Company, the witness informed that Rs. 30 Crores have been paid.

2.15 When the Committee desired to know the number of employees of the company who did not accept the VRS; the witnesses informed as follows:—

"About 3500 workers were involved. They were supposed to get interim relief if this would have been implemented. A total of 161 officers and non-executives were there. They were posted in these seven units."

Observations/Recommendations

2.16 The Committee note that the Burn Standard Company Ltd. (BSCL), Kolkata had been incorporated on 1st December, 1976. BSCL has seven units under its control located in four States which are manufacturing Engineering and Refractory products. Two Engineering Units are located at Howrah and Burnpur in West Bengal. Five Refractory and Ceramic Units are located in Raniganj, Gulfarbari, Jabalpur, Niwar and Salem. The Raniganj Group consists of four units *viz.* Lalkoti, Raniganj No. 2, Durgapur and Andal works. On 29th March, 1984 the Board of Directors of BSCL, Kolkata decided to close down Raniganj No. 2 and the Durgapur Works owing to their loss making and incompetitive position. The Company had been referred to BIFR in 1994. The BIFR sanctioned a Rehabilitation Scheme in April, 1999 and this scheme did not suport the continuance of the loss making Refractory and Ceramic Units. Finally, the Refractory Units at Raniganj, Durgapur, Andal, Gulfarbari, Jabalpur and Niwar had been closed on 31.12.2000 with the approval of the Ministry of Labour in this regard.

2.17 The main contention of the petitioners is that the Bureau of Public Enterprises, Ministry of Industry *vide* Notification dated 8.9.1987 authorised the managements of the Public Sector Enterprises to sanction Interim Relief to its employees w.e.f. 1.1.1986. On 17.9.1987, the Ministry of Industry also directed the management of BSCL to grant Interim Relief to its employees. The management of BSCL implemented the direction of the Ministry for granting Interim Relief in respect of all employees of Salem Refractory Unit and executives of the Raniganj Group of Works but the workers of the Raniganj Group have been denied the benefits of the Interim Relief. Hence, the workers of the Raniganj Group have been meted with discriminatory treatment by the management of BSCL vis-a-vis other employees of the Company.

2.18 As regards, the sanction of Interim Relief & Variable Dearness Allowance (IR&VDA) to the workers of the Engineering Units of BSCL, the

Ministry of Heavy Industries & Public Enterprises have clarified that in the Engineering Units it had been possible to meet this financial liability from their internal generation. The Ministry have stated that the Notifications of Bureau of Public Enterprises (BPE) dated 8.9.1987 regarding sanction of Interim Relief to all employees of the Public Sector Enterprises was only a guideline and it was not mandatory for the management of the company to implement the guideline. The Ministry have also stated that the workers of Raniganj Group of Refractories were being paid Variable Dearness Allowance (VDA) on Asansol Consumer Price Index as per their wage settlement on 24.10.1979. The BPE Notifications dated 8.9.1987 for release of Interim Relief w.e.f. 1.1.1986 had to be absorbed in new wage settlements. The Committee are also informed that the Department of Public Enterprises O.M. dated 12th April, 1993 envisaged that the neutralization rate of Dearness Allowance would be an element of wage revision. However, because of chronicle sickness, the wage revision for the employees of Refractory & Ceramic Group had not been offered a wage revision since 1983. On the other hand, the workers of Engineering Units at Howrah and Burnpur of BSCL had been allowed the enhanced rate of neutralization of Dearness Allowance (DA) from 1.2.1997. Further, The officers and non-unionised supervisors of these Engineering Units were paid the enhanced rate of DA w.e.f. 1.1.1989. In this respect, the Committee cannot express their deep displeasure that while awaiting a wage settlement the workers of the R&C Units of Raniganj Group have not been extended the benefits of Interim Relief similar to the workers of the Engineering Units.

2.19 As regards the workers of R&C works, the Committee note that Interim Relief has not been paid to any worker or staff except those of Niwar works from March, 1994 to April, 1995. The Committee, however, find it hard to comprehend that the executive category of employees in the Engineering and R&C Units of BSCL had been offered the Interim Relief as they were not bargainable employees whereas salary and wages of the workers of the R&C Unit of Raniganj Group were governed by wage settlement through bipartite or tripartite settlements. Had the payment of Interim Relief been linked to the profitability of the Units of BSCL then the executive category of employees of R&C works would also have been excluded from the payment of Interim Relief. The Committee are, therefore, of the firm view that the denial of the benefits of Interim Relief to the R&C Works of Raniganj Group of Works amounted to partisan treatment by the management of BSCL towards the workers of R&C Units. The Committee recommend that appropriate steps may be taken with a judicious approach for extending the financial benefits of Interim Relief and other fringe benefits to the workers of Raniganj Group of R&C Units of BSCL.

CHAPTER III

REPRESENTATION REQUESTING FOR EXTENSION OF RAILWAY FACILITIES TO IMPROVE THE BARABHUM RAILWAY STATION

Shri Hrishi Kesh Mondal, Secretary, Balarampur Nagarik Committee, P.O. Rangadih, District Purulia, West Bengal and others submitted a representation requesting for extension of railway facilities to improve the Barabhum Railway Station.

3.2 The petitioners, in their representation *inter-alia* stated as follows:—

(i) The residents and business organisation at Balarampur near the Barabhum Railway Station have not been extended the railway facilities as given in Purulia. They have no touch with the railway facilities at the Purulia Railway Junction and have been isolated;

(ii) Barabhum Railway Station is serving more than six lakh people covering a hinterland of Balarampur, Baghmundih, Barabazar, Bandwan Panchayat Samiti area and some adjacent areas of Singhbhum district of Jharkhand State.

(iii) Balarampur is famous for lac production and exports of lac products;

(iv) The base Railway connection of Ajodhya Hill which is a tourist place in Purulia district and nearby to Hydro Electric Project near Barabhum Railway Station;

(v) The students do not get the train facility for moving up and down to Burdwan for attending Burdwan University Courses;

(vi) No train services are available in the morning from Barabhum Railway Station to Purulia unabling them to avail the Express trains. The direct trains reach to Bankura from Barabhum Railway Station in the morning and residents of the area are hard pressed to avail the medical facilities at Bankura Medical College; and

(vii) Minimum facilities of water, light, waiting rooms proper platform and Foot-over-Bridge are not available at Barabhum Railway Station.

3.3 The petitioners, therefore, placed the following demands for consideration by the Committee of India with a sympathetic attitude:—

(i) The platform at the Barabhum Railway Station should be uplifted;

(ii) Light and water should be provided at the station;

(iii) The Rain shed on both sides of this Railway platform should be extended;

(iv) Minimum amenities of waiting rooms should be given;

(v) A new Foot-over-Bridge covering all the side lines at the station should be provided;

(vi) As the Purushottam Express is passing through the Barabhum Railway Station, a stoppage at Barabhum Station may be allowed for boosting foreign and other travellers;

(vii) Purulia-Howrah Express; Rupansi Bangla and Burdwan-Purulia MEMU passenger trains may be extended to cover Barabhum Station: and

(viii) A MEMU passenger train from Bankura to Tata and a reverse train "Tata Dhanbad Express" starting from Tata Nagar in the morning may be introduced.

3.4 The representation was referred to the Ministry of Railways (Railway Board) on 21 September, 2001 for obtaining their comments on the various points raised in the representation. In response, the Ministry of Railways (Railway Board) vide their O.M. No. 2001/LMB/15/20 dated 21 December, 2001 submitted as follows:—

"Amenities at Barabhum Station.

Barabhum is an "E" category station and the number of passengers dealt per day and at a time are 609 and 100, respectively. Following amenities are available at the station:—

S. No.	Amenity	As per norm	Available
1.	Waiting hall	63 sqm.	150 sqm.
2.	Platform shelter	28 sqm.	279 sqm.
3.	Drinking water (taps)	4 nos.	8 nos.
4.	Lavatories	1 no.	4 no.
5.	Setting arrangement	18 seats	198 seats
6.	Platform level	Rail level	Low level

In addition, one Foot-Over-Bridge, one booking window, public address system, pucca platform surface and 22 nos. shady trees are also provided. Further the station is electrified with necessary provisions of lights.

As regard providing of Foot Over Bridge (FOB) across the newly constructed siding, it is stated that railways provide FOB at station

premises for accessing platforms for use of bonafide railway passengers subject to importance of the station and the volume of passenger traffic handled and need for the FOB thereby. For crossing the railway tracks, etc. from one side to other, railway do not provide FOBs. Such FOBs can, however, be constructed, if such works are sponsored by Municipal Bodies/State Governments at their cost. The existing passenger amenities are adequate and the condition of the Station is good and further provision will be made as and when required and justified based on growth in traffic.

Stoppage of 2801/2802 Puri-New Delhi Purushottam Express at Barabhum

Barabhum station is being served by 8 pairs of trains including 4 pairs of mail/Express trains. These are considered adequate for the level of traffic offering at Barabhum. 2801/2802 Puri-New Delhi Purushottam Express is a long distance super fast train primarily serving the through passenger. Provision of stoppage of 2801/2802 Puri-New Delhi Purushottam Express at Barabhum will create similar demands from other stations of equal or more importance which will be difficult to resist. This will not only decelerate the train but also cause overcrowding therein, which will not be in the overall interest of the through passengers. However, passengers of Barabhum desirous of travelling by above said trains can do so with a change over at Purulia, where 422 Chakradharpur-Gomoh passenger connects 2801 Purushottam Express at Purulia.

Extension of 8017/8018 Howrah-Purulia Express, 8023/8024 Howrah-Purulia Rupasi Bangla Express and Purulia-Barddhaman MEMU upto Barabhum.

Extension of 8017/8018 Howrah-Purulia Express, 8023/8024 Howrah-Purulia Rupasi Bangla Express and Purulia-Barddhaman MEMU upto Barabhum is not feasible due to operational constrainsts. Besides this will be resented by the passengers of Purulia who would be deprived of available originating/terminating facilities.

Introduction of trains from Bankura to Tatanagar

Following connections are available at Adra for the Tata bound passengers of Bankura and *vice versa:*—

433				**446**
0805	Dep.	Bankura	Arr.	1450
0935	Arr.	Adra	Dep.	1350
439				**440**
1000	Dep.	Adra	Arr.	1200
1335	Arr.	Tata	Dep.	0825

Introduction of train from Bankura to Tata has been examined but not found feasible due to operational and resource constraints besides above introduction is also not commercially viable.

Introduction of train between Tata and Dhanbad Ex-Tata in the Morning

3301/3302 Tata-Dhanbad Suvarnarekha Express is available between Tata and Dhanbad Ex-Dhanbad in the Morning. Introduction of train between Tata and Dhanbad ex-Tata in the Morning is not feasible due to operational and resource constraints."

3.5 The Committee, undertook an on-the-spot study visit to Kolkata, Asansol and Diamond Harbour from 5th to 8th November, 2001 together first hand information in the matter. The Committee held informal discussion with the petitioners at Adra on 7th November, 2001 on the representation.

3.6 The Committee were informed by the petitioners that the earnings from Barabhum Railway Station amounted to about Rs. 5 lakh which included Rs. 2.5 lakh from sale of ticket and Rs. 2.5 lakh from goods and parcels cargo. About Rs. 2.00 lakh are collected by ticket checking bringing the grand total earnings of Barabhum Railway Station to Rs. 7 lakh approx. Ten trains are passing through the Barabhum Railway Station but none of them have a stoppage at this Station. There are around 150 large scale lac industries in Balarampur and a number of foreigners come to trade but they have to travel by car from Purulia to reach Balarampur. Even, there is no bus services during night time. The waiting hall at Barabhum Railway Station is in the worst condition. Moreover, the Foot-over-Bridge at the Station is damaged and the station has poor lighting arrangements.

The petitioners further demanded that all morning time trains upto Purulia should be extended upto Barabhum Station so as to obtain railway services of all the train connections from Purulia. Their first priority is extension of Burdhwan-Purulia MEMU upto Chandil. Their second priority is extension of Rupasi-Bangla Express upto Barabhum. Introduction of a new MEMU train from Bankura to Tata which would help to avail Medical and Educational facilities in Bankura and the labour class.

3.7 Subsequently, in a written note dated 21st November, 2001 the petitioners informed the Committee that the Barabhum Railway Station is proving isolated because the first train which can be availed at Barabhum Railway Station in the morning to go to Purulia is at about 7.10 a.m. reaching Purulia at 8.00 a.m. The average number of passengers travelling between Purulia-Barabhum-Chandil are 60,000 per month. Other Mode of transport available on this route is "Bus Service", which is also very scarce. The terminal points of the trains passing through Barabhum area are Tatanagar, Chakradharpur Gomoh, Howrah, Puri, New Delhi,

Chennai, Guwahati, Danapur, Katihar, Dhanbad and Asansol. There is no rail route connecting all these areas. Due to non-extension of railway facility to Barabhum Railway Station, the growth of lac industry has come to a halt. As such the tribal people of the area who are mainly engaged in the productions/cultivation of lac are badly effected. The lac industry is losing nearly Rs. 10 crores per annum and railway is in loss freight of nearly Rs. 50 lakh, per annum. The extension of new train facilities would bring new avenues to the people of this locality. The passenger traffic will grow enormously as the Barabhum station is a central point linked by road to Barabazar, Bandwan, Baghmundi and some places of Singhbhum District of Jharkhand State.

3.8 The Committee, thereafter, took the oral evidence of the representative of the Ministry of Railways (Railway Board) on 8 February, 2002. During the course of evidence, the Committee desired to know as to whether the Government of India had prepared any plan to increase passenger amentities and facilities and provide passenger sheds in both up and down platforms and other facilities at Barabhum Railway Station. The representatives of the Ministry of Railways (Railway Board) stated as under:—

> "As per the figures available with us, the number of passenger dealt per day is only 609. As you know, we have divided the various stations as per the number of passengers dealt with into 'A' 'B', 'C', 'D', and 'E' categories. We have provided norms as to what should be the norm for every station. Since the number of passengers is only 609, it falls under 'E' category. As per the norm for 'E' category, the facilities like waiting hall, drinking water, lavatories, sitting arrangement and platform level are all as per the norm. In fact, instead of high level, it has been said that it is low level. I have noted your point. In addition to this, one foot over-bridge, one booking window, public address system, pucca platform surface has also been provided. The station is electrified with lights and all that. So, these facilities are as per the norms.
>
> However, I have noted your concern for the station especially on two points. One is the condition of the platform and the other is the condition of the foot over-bridge as also the increasing importance of the Station. So, what I will do is that we will tell the South-Eastern Railway to take care of these and that it should be made respectable. It must be repaired. Once you have said, I believe that it must not be up to the mark. I will tell them that they must repair the platform and the foot over-bridge and do the white washing. They should improve the station. It should be respectable and well maintained station. Sir, of course, it is developing. We will keep a

watch over it as and when the development takes place. We shall take care of other parts to see what can be done. As far as stoppage of trains is concerned, our Director (Coaching) is there who have examined it."

The witness further added:—

"Regarding additional train facilities that are required at Barabhum, there are basically three demands. One is regarding stoppage of Puri-New Delhi Purshottam Express at Barabhum. We have examined this demand in detail. Purshottam Express presently is a super fast Mail Express running with an average speed of 55 KMPH. Basically, this is meant for the people of Orissa."

3.9 The Committee pointed out that if the Burdwan-Purulia-Memu train was introduced then the people could go to Purulia and catch that train and come to Delhi. At this, the witness stated as under:—

"That was the second demand. That was for the extension of Howrah-Purulia, and Howrah-Rupasi Bangla Express as well as Purulia-Burdwan-Memu. In recent years, we have extended one Memu to Barabhum Station. But we find that the extension of Memu that has been asked for in the petition, they are basically of two natures. In one case the lie over at Purulia is of about 50 minutes. This is 1 PA which comes from Purulia-Asansol and which goes back as 018 Memu. This has a lie over from 1320 hours to 1450 at Purulia."

Observations/Recommendations

3.10 The Committee note that certain amenities required by the passengers from Balarampur area in Purulia district have not been provided by the Railways at the Barabhum Railway Station. In this respect, the petitioners have raised certain demands, *viz.* raising of the platform level at the Barabhum Railway Station; adequate light and water provision at the station; extension of the rain shed on both sides of the platform; construction of waiting rooms, and construction renovation the Foot-over-Bridge at the platform which should cover all the side lines at the station. They have requested to provide these facilities at Barabhum.

3.11 The petitioners have also contended that around ten trains pass through the Barabhum Railway Station without any of them having a stoppage at this Station. More than six lakh residents of Balarampur, Baghmundih, Barabazar, Bardwan and Singbhum areas utilise the Barabhum Railways Station for rail services. This station also provides rail terminus for reaching the Ajodhya Hills and the nearby Hydro Electric Projects. Balarampur is known for lac exports and production. Around 150 units of lac industry exist in Balarampur.

Due to non-extension of railway facility to Barabhum Railway Station, the growth of lac industry has come to a halt. Even the residents of Balarampur

area are unable to obtain the medical facilities at Bankura Medical College as direct trains to Bankura from Barabhum Railway Station move only in the morning. Students do not get train facilities to reach Burdwan for attending Burdwan University courses. Other mode of transport between Purulia-Barabhum-Chandil is bus service which is also very scarce. The petitioners have, therefore, requested for stoppage of Purushottam Express at Barabhum Railway Station, extension of Purulia-Howrah Express and Rupasi Bangal-Burdwan-Purulia, MEMU trains to cover Barabhum and introduce an MEMU train from Tatanagar to Bankura.

3.12 As regards the passenger amenities at Barabhum Railway Station, the Committee are informed by the Ministry of Railways (Railway Board) that Barabhum is an "E" category station. A 150 sqm. Waiting Hall; 279 sqm. platform shelter; 8 number of water taps; 4 numbers of lavatories; 198 seats and low-level platform are presently available in Barabhum Railway Station. The Committee are, however, not fully satisfied by the amenities provided at Barabhum Railway Station. Although as per norms the Barabhum Station has to be provided with a Rail level platform, the Committee are unhappy to learn that it has been provided with only a low level platform. The Committee recommend that a thorough review may be carried out regarding the actual requirements of the various amenities of waiting rooms, drinking water lighting arrangement, etc. at the Barabhum Railway Station. The Committee also recommend that all required passenger amenities at the Barabhum Railway Station may be provided and the platform may be raised to Rail level within two months.

3.13 As regards the construction of a Foot-over-Bridge (FOB) covering all side lines at the Barabhum Railway Station, the Committee are informed that Railways do not provide FOBs for crossing the railway tracks, etc. from one side to another. Such FOBs could be constructed, if such works are sponsored by Municipal Bodies/State Government. During the on-the-spot study visit of the Committee to Adra on 7th November, 2001, the petitioners apprised the Committee that the Existing Foot-over-Bridge at the Station is damaged. The Committee strongly urge that the Ministry of Railways (Railway Board) should examine the condition of the existing Foot-over-Bridge at Barabhum station and do the needful repair work at the FOB. The Committee also recommend that the State Government of West Bengal should be consulted for the extension of the FOB across the newly constructed sidings at the Barabhum Railway Station and Railways renovate should extend this FOB with a positive perspective in mind.

3.14 The Ministry of Railways (Railway Board) have informed the Committee that Barabhum Station is being served by 8 pairs of trains including 4 pairs of Mail/Express trains. Provision of stoppage of long distance trains such as Puri-New Delhi-Purushottam Express at Barabhum will decelerate the train and cause overcrowding therein. Further, the extension of Purulia bound Express/MEMU trains to Barabhum would be resented by the passengers of Purulia who would be deprived of available

originating/terminating facilities. The Committee, however, note that Balarampur is famous for lac production and the Ajodhya Hills of Purulia district which is a tourist attraction is adjacent to Balarampur. The Barabhum Railway Station also provides a railway connection to Ajodhya Hills and its nearby Hydro Electric Projects.

The Committee are, therefore, of the firm view that Barabhum Railway Station should not be isolated from the various train facilities which are available at Purulia Railway Junction. The Committee desire that a fresh survey should be carried out by Railways to access the number of potential passengers utilizing Barabhum Railway Station. The Committee recommend that additional train facilities at Barabhum Railway Station should be provided in the morning as well as evening hours for the benefit of the passengers of Balarampur. The Committee also recommend that the time schedules of stoppage of trains at Barabhum Railway Station should be made convenient for the students going to Burdwan University the people visiting Bankura Medical College from Barabhum and the traders/ foreigners/tourists coming to Balarampur from Purulia stoppage of Puri New Delhi Purushottam Express be provided.

CHAPTER IV

REPRESENTATION REQUESTING FOR PERMISSION TO RESIDE ON RAILWAY LAND PLOT NO. 296, MADHABPUR, DIAMOND HARBOUR, KOLKATA

Shri Anil Halder, President and Shri Rabindra Nath Ganguly, Secretary, Rabindra Nagar Unnayan Samity, Rabindra Nagar, Diamond Harbour, 24 Parganas (S) submitted a representation requesting for permission to reside on Railway land Plot No. 296, Madhabpur, Diamond Harbour, Kolkata.

4.2 The petitioners, in their representation had stated that they have been residing on Railway land Plot No. 296, L. R. Khatian No. 499 area 09.21.J.L. No. 146 Madhabpur, consisting of Rabindra Nagar and Hochminh Nagar Colony, Diamond Harbour, South 24 Parganas for the last 32 years. The Divisional Railway Manager (DRM) Eastern Railway, Sealdah has served them notice to quit and vacate their Rabindra Nagar Colony within fifteen days failing which legal action will be taken against them. The petitioners *inter-alia* further submitted as follows:—

(i) They settled in this place from 1971 as a result of partition of India and Pakistan (Now Bangladesh);

(ii) That 80% of the occupants of the area are displaced persons from East Bengal and the rest of the people are landless or homeless persons of State of West Bengal;

(iii) That total number of holdings is about 975 with a population of above 6000;

(iv) That about 80% of the population in the area are persons below the poverty line and the rest belong to the lower middle class;

(v) That State Government of West Bengal had already spent a lot of money for the all-round development of this locality. Many of the occupants have built one storey and two storeyed buildings by taking loan from different sources;

(vi) They have paid panchayat taxes and the municipal taxes for their holdings from the very beginning of their occupation; and

(vii) They have been enjoying all Municipal facilities like Bituminous roads, brick paved roads, concrete roads, tap waters tubewell, electric connections and even Telephone connections.

4.3 The petitioners, therefore, requested that necessary directions may be issued for non-eviction of the Railway land occupied by them in Diamond Harbour, West Bengal.

4.4 The Ministry of Railways (Railway Board) were requested on 18 July, 2001 to furnish their comments on the points raised in the representation. In response, the Ministry of Railways (Railway Board) *vide* their O.M. dated 20th September, 2001 stated as follows:—

> "In order to free their land from encroachment Railways are engaged in a continuour drive against the encroachers. A number of instructions for removal of encrochments from Railway land have been issued by the Ministry of Railways. While implementing the process of removal of encroachments from Railway land, the provisions contained in various Central Acts, *i.e.* Acts passed by the Parliament are followed. These are Railways Act, 1989 and the Public Premises Eviction Act, 1971. These Acts do not provide for any facility of Removal & Rehabilitation of the encroachers. In fact, to the best of knowledge of this Ministry, there is no Act/Rule, or Court's orders for R&R of encroachers of public land. The process of removal of encroachements, sometimes leads to a law and order problem, and political interferences. This slows down the process of removal. Railways have, therefore, to depend upon the State Government machinery for carrying out such eviction drives. Such help from the State Government by way of providing Police/ Magistrates, is not readily forthcoming leading to the addition of more encroachments on railway area. Railways, therefore, cannot be held responsible for long stay of unauthorised persons on its land or for its inability to free its land from encroachments.
>
> The directions to remove encroachments are contained in PPE Act, 1971; Indian Railway Act, 1989; Para 1049 of the Engineering Code for the Railways; and Para 814 of the Indian Railways Works Manual (2000 edition). Removal of encroachments is also done routinely by the State Governments, Municipal Bodies, Defence Establishments etc."

4.5 On the question of rehabilitation of the people occupying these railway lands; the Ministry of Railways (Railway Board) in their reply clarified as follows:—

> "Housing and rehabilitation is a State subject and it is the duty of the concerned Municipal/State Authority to provide means for settlement and residence to the people. Railways cannot and do not take on this responsibility, as their primary duty is towards transportation of passengers and goods from one part of the country to another. It may be appreciated that it is for the State Government to take up the rehabilitation of persons in need of a

dwelling. However, if any request is received from the concerned State Government for relinquishment of some railway land to the State Government and the same is surplus to the Railway's requirement, the request can be considered at the market value prevailing at the time of transfer in accordance with the rules in this regard.

When Railways acquire land they pay market value+some 30% (as worked out by State Government) as solatium. Railways pay for the acquired land out of public money. Since land is not given to Railways for free they do not acquire land more than their requirement. Railways acquire land for specific purpose. As such there is no surplus or spare land. The land acquired for a specific purpose may lie vacant till that purpose is met. At the time of creation of Bangladesh refugee camps were set up all over the country and the State Government ensured that the process of rehabilitation was completed. Many of the unauthorised occupants have built even two storyed buildings and they are paying various taxes. People who are in possession of two storeyed buildings and telephones cannot belong to the lowest economic strata of the society."

4.6 After perusing the comments furnished by the Ministry of Railways (Railway Board), the Committee undertook on-the-spot study visit to Kolkata, Asansol and Diamond Harbour from 5 to 8 November, 2001 to get first hand information in the matter. The Committee held discussion with the petitioners at Diamond Harbour on 8th November, 2001 on their representation.

4.7 During the discussions with the petitioners, the Committee were informed by the petitioners that they are residents of Rabindra Nagar, Madhabpur and Hochi Minh Nagar, residing in a completely unhealthy atmosphere. The State Government through the local bodies and Diamond Harbour Gram Panchayat No. 7 had done the development works in their area. Now, the Diamond Harbour Municipality provided them drinking water, sanitation, sewarage and housing. They are all bonafide citizens of India and having their name in the voters list. They have been issued ration cards by the State Government and provided with electricity connection by State Electricity Board. All the 975 plot holders are paying taxes to the local Government. They are paying Housing Tax since 1975 to Diamond Harbour Gram Panchayat No. 7.

4.8 In a subsequent written note, the petitioners contended that the residents of Rabindra Nagar, Madhabpur and Hochi Minh Nagar received the eviction notices on 22nd and 24th May, 2001 only like 'Bolt from the Blue'. So far as the knowledge goes the Railway Authority never carried out any eviction drive because there was no need of the land for the activities related to the Railways Department. The State Government of

West Bengal through the Diamond Harbour Municipality has provided shelters to the poor people under different schemes namely, IAY, IBD, SFS, SGSRY etc. The Municipality and the District Magistrate & Collector approached the Railway Authorities on different occasions in relation to their problem. The Diamond Harbour Municipality even proposed to the Railway Authorities that they are in a position to pay the lease amount to Railways but obviously this amount should not be charged on commercial basis.

4.9 The Committee, thereafter, took oral evidence of the representatives of the Ministry of Railways (Railway Board) on 17th July, 2002. The Committee desired to know whether these petitioners have been residing in the Railway lands for the last 32 years without the notice of the Railway Authorities. To this, the representatives of the Ministry of Railways (Railway Board) stated as follows:—

> "The total area under encroachment with these people is about 30 acres. To the best of our knowledge, the State Government has not applied for any permission for carrying out various development works on the Railway land. The Ministry of Railways has come under severe criticism from various Standing Committees of Parliament also for not taking proper action about encroachments. So, we are not very sure as to when these people constructed the houses. But very often, the encroachments take place on Railway land. The help of Police is sought. But that does not come with the result encroachments keep on multiplying. Even now, the people are not allowed to do any survey because of the sentiments. The Railway people are not even able to enter that area to carry out the survey.
>
> As per the law, we have to take action against the encroachments and the encroachers. Therefore, the notices were issued in 2001. But to mitigate the problems of the petitioners, we also had a meeting with the Diamond Harbour Autorities. As a special case, we are prepared to give some land to the Diamond Harbour Authorities or the State Government for rehabilitation.
>
> I must also bring to your kind notice that rehabilitation of the people is a responsibility of the State Government. As per rules, these people are unauthorised occupants of our land. We have no alternative but to issue necessary notice and take action. Their circumstances may be very geniune but then we have to take action as per the law. We can assist the State Government. As I said earlier, we had made an offer that we can part with some land for rehabilitation of these people and that land can be given on the market rent as per rules."

4.10 On a query as to whether the State Government of West Bengal have requested the Railway Authorities for relinquishment of certain Railway lands in Diamond Harbour, the witnesses replied:—

> "Railway took the initiative. We have never received any request from the State Government. In fact, we asked them to make a request asking for land, but no request came from the Diamond Harbour Authorities or the State Government."

4.11 When the Committee enquired as to whether the Railway land at Plot No. 296, Diamond Harbour is required by the Railway for development purposes, the witnesses stated as follows:—

> "There was a loco-shed here. It was subsequently dismantled. Immediately this land is not required for operational considerations, but whenever we acquire the land, we acquire it on the market value of the land. The year of acquisition will have to be collected. We do not require the land at the movement for operational consideration. But Railways is short of resources and we have got the instructions from the Government that until we require the land for operational purposes, we use it for commercial purposes. We have got the permission from the Government. Therefore, we have got carried out a survey for property development and our agencies have informed us that it can be developed into a tourist resort. Therefore, until we require it for operational purposes, we plan to use it as a tourist resort."

4.12 As regards the year of acquisition of the land at Diamond Harbour, 24 Parganas, Kolkata, the Committee were informed that this land had been acquired by the Railways in the year 1881.

4.13 The Committee pointed out to the witnesses that the land had been acquired for the purposes of Railways operations, however, the Loco Shed had been dismantled. With this analogy, this land is actually no longer required for the purposes of Railways development. The Committee then enquired whether this unused Railway land could be transferred back, automatically to the State Government of West Bengal. To this, the witnesses stated as follows:—

> "We have already got the permission from the Government to do proper development on all our vacant land, on all our surplus land. We have got that permission from the Government. Secondly, there is no provision that when the Railways do not need the land, it automatically goes to the State Government. As far as we know, there is no such provision."

Observations/Recommendations

4.14 The Committee note that the land at Diamond Harbour, 24 Parganas in Kolkata had been acquired by the Indian Railways around the year 1881. The land acquired by the Railways initially for the purpose

of development of Railway transport/network has remained vacant for more than 70 years. The Railway Authorities have neither carried out any development works at this land in Diamond Harbour nor have they relinquished back such vacant or unused land to the State Government of West Bengal for the utility of the public at large.

4.15 The petitioners who are the occupants of the Railway land in Diamond Harbour have stated that they have been residing in the Plot No. 296, Madhabpur for the last 32 years. Their residential complex consists of Rabindra Nagar and Hochiminh Nagar colonies in the said Railway lands. They have settled in this place from 1971. Most of the occupants of the area are displaced persons from East Bengal (now Bangladesh) and the rest of the people are landless or homeless persons of West Bengal. The total number of residential holdings in these Railway lands is about 975 with a population of above 6000. The residents of the Rabindra Nagar and Hochi Minh Nagar Colonies on the Railway lands have been enjoying all the municipal facilities like Bituminous/brick/concrete roads and water supply. The residents have been paying the regular Housing Tax to Diamond Harbour Gram Panchayat and the municipal Tax to the Diamond Harbour Municipal Body. They have been issued ration cards by the State Government of West Bengal and provided with electricity connection by the State Electricity Board. Also, they are all the bonafied citizens of India and enlisted in the voters list.

The main contention of the petitioners is that the Divisional Railway Manager (DRM), Eastern Railway, Sealdah has served them eviction notices on 22nd and 24th May, 2001 as a 'Bolt from the Blue'. Prior to May, 2001, the Railway Authorities did not carry out any eviction drives. Moreover, the Diamond Harbour Municipality have proposed the Railway Authorities to allow for payment of due lease amount to the Railways by the Municipality. Also, the District Magistrate & Collector has approached the Railway Authorities in relation to the problems of Rabindra Nagar and Hochi Minh Nagar, however, the Railway Authorities have not responded to such request. The petitioners have, therefore, requested that they may not be evicted from the Railway lands occupied by them.

4.16 In this regard, the Ministry of Railways (Railway Board) have stated that if any request is received from the State Government for relinquishment of some Railway lands to the State Government and the same is surplus to the Railway's requirement, the request can be considered at the market value prevailing at the time of transfer in accordance with the governing rules. During the course of oral evidence of the officials of the Ministry of Railways (Railway Board) before the Committee, the officials of the Ministry informed that the Railways have not received any request for relinquishment of the land from Diamond Harbour Authorities or the State Government of West Bengal. The officials of the Ministry of Railways (Railway Boards) also assured that as a special case, the Railways are prepared to give some land to the Diamond Harbour Authorities or the

State Government of West Bengal for rehabilitation purposes. The Committee, therefore, recommend that a conclusive decision should be taken by proper consensus between the State Government of West Bengal, Ministry of Railways and the Diamond Harbour Authorities so as to give the Railway lands at Plot No. 296, Madhabpur for rehabilitation purposes.

4.17 The Committee are informed that the loco-shed at Diamond Harbour had been dismantled by the Railways and the land at Plot No. 296 is not required for operational purposes by the Railways. Hence, the Railways have floated a proposal to use this land for construction and development of a tourist resort. The Committee, therefore, derive the conclusion that virtually the Railway land at Plot No. 296, Madhabpur in Diamond Harbour, Kolkata is surplus, presently. The Committee are of the firm view that the land acquired by the Railways almost 111 years back in 1881 and which has not been used for development of Railways till 2002, should be transferred back to the State Government of West Bengal. The Committee desire that the Railways should bequeath the present commercial value of the unused/surplus Railway land in Diamond Harbour at the time of the transfer of land to the State Government of West Bengal. The Committee also recommend that the occupants of the Railways lands at Plot No. 296, Diamond Harbour may not be deprived of their basic need of housing and shelter.

NEW DELHI;
8 *August*, 2002

17 *Sravana*, 1924 (*Saka*)

BASUDEB ACHARIA,
Chairman,
Committee on Petitions.

APPENDIX I

(*See* para 1.1 of the Report)

LOK SABHA

PETITION NO. 3

(Presented to Lok Sabha on 10.3.2000)

To

Lok Sabha,
New Delhi

The humble petition of Shri Sailesh Ghedia, General Secretary, Investors Grievances Forum, Andheri, Mumbai and others.

SHEWETH

We the undersigned petitioners are office bearers of various registered investors' association working in various parts of India. We are also recognised by the Securities Exchange Board of India which is responsible for regulating and protecting the small investors in the capital market. We are working to protect the interest of small investors throughout India.

The Capital market and the number of small investors has increased rapidly during the last one decade. The number of small investors was only thirty lakhs in the 1980s. It has now gone up to 6.30 crore in the year 2000. Opening up of the capital market through privatisation, liberalisation and globalisation encouraged investors to invest in the share bazar, in equities and people invested the savings of their life with the shares and equities of the various companies.

But while opening the capital markets, the concerned authorities, including the Government, have not framed the rules to regulate the same. In India there is no machinery to protect the small investors. In the last seven years several security scams broke out in India, namely:—

1. Harshad Mehta Security Scam of 1992-93.
2. Non-banking financial institutions (NBFCs) Scam.
3. Plantation Companies Scam.
4. Chain Investment Legal Scams such as Ek Ka Double or Double your money etc.

It is felt that more than 50,000 crores worth of savings of retired pensioners, women, widows and people of the salaried class were either

looted or locked up in these scams. But there has been no action for the recovery of the Money. Till today, a small investor has not got a single paisa back. There has been no action against all these unscrupulous scamsters. Justice delayed is justice denied.

We have used all the tools available under a democratic set up, that is, we have approached the State as well as the Central Governments, the SEBI, the Reserve Bank of India, the Company Law Board, the Department of Company Affairs, the Securities Exchanges, but nothing has happened.

We, therefore, submit this petition before you and request you to urge upon the Ministry of Finance and the Union Government to take action to protect the interest of the small investors and also to come out with a time-bound action plan.

And your petitioners as in duty bound shall ever pray.

Name	Address	Signature
Shri Shailesh Ghedia, *General Secretary, IGF*	Andheri, Mumbai	-Sd/-
Shri Bharat Kotecha, *Joint Secretary, IGF*	Matunga, Mumbai	-Sd/-

Countersigned by Shri Kirit Somaiya, M.P.

APPENDIX II

(*See* para 1.20 of the Report)

VANISHING COMPANIES

ACTION TAKEN AS ON 15.12.2001

Table 1: Number of vanishing companies

	No.	Amount raised in public issue Rs. in crores
Companies identified as vanishing companies	177	960.71
Orders revoked as legal provisions complied with	1	1.81
Vanishing companies as on 31.8.01	176	958.9
1) Less:— Companies under liquidation (12 companies which are already debarred and 15 companies which have responded)	27	338.11
2) Less show cause notice issued and companies responded	75	326.92
Net Vanishing companies	74	293.87

Table 2: Action taken by SEBI against vanishing companies

Description	No.	Amount in Rs. Cr.
Orders issued u/s 11B of SEBI Act and in force—Debarred companies	88	377.77
Show cause notices issued and in correspondence. All these companies have responded and task force is making further verifications.	73	292.392
Companies under liquidation	15	290.62
Total	176	960.71

Table 3: Action taken by SEBI against promoters/Directors

Description	No.
Orders issued u/s 11B of SEBI Act and in force-Debarred directors	339
Show cause notices issued and hearings in progress	167
Show cause notices issued, replies received and in correspondence	301
Total	807

Action by SEBI against Plantation Companies having Collective Investment Schemes

The SEBI (Collective Investment Schemes) Regulations, 1999 were notified on October 15, 1999. Since then, no person other than a Collective Investment Management Company which has obtained a certificate of registration under the SEBI (Collective Investment Schemes) Regulations, 1999 can carry on or sponsor or launch a Collective Investment Scheme. Also, no existing Collective Investment Scheme can launch any new scheme or raise money from the investors even under the existing schemes, unless a certificate of registration is granted to it under the said Regulations. All CIS entities, which had failed to file applications for registration with SEBI, have been asked to wind up their schemes to repay their investors.

SEBI had received information from 660 entities which had reportedly mobilised about Rs. 2690 crores. 517 entities and their promoters/directors etc. have been debarred from operating in the capital market for a period of five years. They have also been referred to State Government for initiation of civil/criminal proceedings; and to the Department of Company Affairs for initiating for winding up proceedings. SEBI is also in the process of launching prosecution under section 24 of the SEBI Act, 1992 which prescribes imprisonment for a term which may extend to one year, or fine, or both against these entities/their promoters/directors etc.

Status of repayment to investors

48 entities which had mobilised about Rs. 17 crores have submitted the report to SEBI intimating repayment of about Rs. 19 crores to their investors. 35 entities have informed by way of public advertisement/letters/during hearing before SEBI that they have repaid over Rs. 1075 crores to their investors. 8 entities (other than the above) where liquidators/administrators/receivers have been appointed have mobilized about Rs. 199 crores.

VANISHING COMPANIES

Table 4: Action taken by DCA

As per the information received, the DCA/ROC has initiated the following actions:—

Type of Action	86 Debarred	90 resurfaced
Prosecution	24	23
Prosecution and Police complaint	13	2
Prosecution and Action u/s 209A of Companies Act	30	17
Prosecution, Police complaint & action u/s 209A	3	3
Police complaint	1	
Inspection u/s 209A	2	14
Liquidation	12	15

Action taken by RBI

The Reserve Bank of India has taken various steps to deal with unscrupulous elements in the NBFC sector.

The Bank has initiated adverse action against errant NBFCs for various defaults and contraventions of provisions of RBI Act and directions issued thereunder. Adverse action against NBFCs involves issuing prohibitory orders prohibiting them from accepting further deposits from alienation of assets, filing winding up petitions, launching criminal proceedings against NBFCs and their management for serious violation of the provisions of RBI Act, etc. The Bank also files complaints with the Economic Offences Wings (EOW) of the State Police Authorities for curbing unauthorised acceptance of public deposits. In several cases, the courts have appointed Provisional Liquidators and have also restrained the NBFCs from disposing of their assets in any manner.

Table 5

I.	Prohibitory orders issued	215
II.	Winding up petitions filed in respective High Courts	36
	Total deposits Rs. 1653.80 crore	
III.	Prosecution proceedings launched	33
IV.	Police complaints for cheating under section 420 of IPC	13
V.	Appointment of Special Observer	9

APPENDIX III

(*See* para 1.23 of the Report)

Repayments claimed to have been made to investors by CIS entities

Sl. No.	Name of the entity	Amount claimed to have been repaid to investors (in Rs. Crores)
1	2	3
1.	Aastha Resorts & Plantations India Ltd.	0.03
2.	Advantage Agro India Ltd.	1.97
3.	Adventure Orchards Ltd.	19.13
4.	Agri Gold Farms Ltd.	81.65
5.	Agriotek India Ltd.	0.96
6.	Agrogold Plantations & Resorts Ltd.	0.72
7.	Alfavision Plantations Ltd.	0.06
8.	Al-Hilal Orchards Ltd.	0.01
9.	Amar Jyoti Plantations Ltd.	0.03
10.	Amroha Trade Fin. Plantation Ltd.	0.07
11.	Anubhav Plantations Ltd.	6.16
12.	Arrow Global Agrotech Ltd.	0.69
13.	Araya Plantations & Farm Developers Ltd.	0.57
14.	Asadeep Evergreen Plantations Ltd.	0.01
15.	Ashoka Teak Vanams Pvt. Ltd.	0.03
16.	Aswathi Rubber Plantations (Mumbai) Pvt. Ltd.	0.37
17.	Auroshree Agro Industries Ltd.	0.02
18.	Avani Plantations Ltd.	0.10
19.	Basundhara Agro-Environment Development Ltd.	0.05
20.	B.P. Plantations Ltd.	0.04
21.	Bhawna Agro Ltd.	0.34
22.	Bliss Plantations & Hill Resorts Pvt. Ltd.	0.06
23.	Champaran Greenland Pvt. Limited	0.01
24.	Chamunda Forests Ltd.	0.02
25.	Chotanagpur Herbal Agro Pvt. Ltd.	0.03
26.	Coastal Plantations & Farms Pvt. Ltd.	0.031

1	2	3
27.	Crystal Biotech Industries Ltd.	0.45
28.	Colourful Cultivators & Irrigations Ltd.	0.09
29.	Dairyland Plantations (I) Ltd.	1.17
30.	Dhruv Greenfields Ltd.	2.21
31.	Elegant Plantation Pvt. Ltd.	0.05
32.	Emerald Green Forest Ltd.	0.03
33.	ENBEE Plantations Ltd.	59.95
34.	ERA UBD Agrotech Corporation	0.03
35.	Esskayjay Plantation Ltd.	0.06
36.	Extol Plantation & Agrotech Ltd.	2.27
37.	Five Star Forests Ltd.	0.10
38.	Four Season Farms Ltd.	7.75
39.	Gaekwad Plantations Ltd.	0.95
40.	Gaurav Krishi Bagh Vikash Pvt. Limited	0.01
41.	George Maijo Agro Products Ltd.	0.65
42.	Glitter Gold Plantations Ltd.	0.09
43.	Golden Forest (India) Ltd.	800.00
44.	Golden Plantations	0.08
45.	Goldenland Development (India) Ltd.	9.80
46.	Goodearth Developers Ltd.	0.03
47.	Great Green Plantations	0.06
48.	Greenage Agrotech Ltd.	0.01
49.	Green City Plantations Pvt. Ltd,	0.06
50.	Green Country Agro Foods Ltd.	0.29
51.	Green Country Biotec. Ltd.	0.06
52.	Greenedge Plantations Ltd.	0.10
53.	Green Gold Agro Development Ltd.	10.82
54.	Green Gold Forestry Ltd.	1.75
55.	Green Gold Horticulture Ltd.	31.11
56.	Grindlay Forestry (India) Ltd.	0.90
57.	Growgreen Forest (India) Ltd.	7.63
58.	Guru Teak Investments (Mysore) P. Ltd.	0.19
59.	Haryana Forest Ltd.	0.25
60.	HP Agriculture Farms & Forests Ltd.	0.25
61.	Himgiri Plantations Ltd.	2.07
62.	ION Exchange Enviro Farms Ltd.	1.99
63.	Itex Agrotech (I) Ltd.	0.10
64.	Jhaveri High-Tech Agro Pvt. Ltd.	1.02
65.	Jibanbikash Plantations Ltd.	0.02

1	2	3
66.	Johnsons Greengrain Projects Ltd.	0.97
67.	Kasturchand Raka Plantations Ltd.	0.46
68.	Kalinga Land Development Ltd.	0.03
69.	Kalptaru Agro (India) Ltd.	0.46
70.	Kapil Ganga Agro & Farm Developers Ltd.	1.52
71.	Keffel Finance Ltd.	0.50
72	Kriex Global Plantations Ltd.	1.65
73.	Katyayani Agrotech Ltd.	0.01
74.	Kuber Planters Ltd.	0.01
75.	La Mark Farms Ltd.	0.60
76.	Life Guard Forestry Pvt. Ltd.	0.08
77.	MPS Greenery Developers Ltd.	0.21
78.	Mahamaham Teak Plantations Pvt. Ltd.	0.01
79.	Maharashtra Agritech Ltd.	0.20
80.	Marigold Forests Pvt. Ltd.	0.15
81.	M.K.B. Agro Private Ltd.	0.01
82.	Moolchand Exports Ltd.	1.14
83.	Moulik Harvest Pvt. Ltd.	0.02
84.	M.P.S. Greenery Developers Ltd.	0.20
85.	N.P. Agro (India) Ltd.	0.96
86.	Natural Plantations India Ltd.	0.01
87.	Nisarga Forests (I) Ltd.	4.20
88.	Ocean Agro Farms Ltd.	2.62
89.	Okara Leasing & Investment Ltd.	0.40
90.	Om Pruthvi Green Rich Pvt. Ltd.	0.12
91.	Oriental Housing Development Finance Corp. Ltd.	0.89
92.	Pacific Agro Farms & Housing Pvt. Ltd.	0.37
93.	Padmavathi Garden Ltd.	0.05
94.	Pagoda Forests Ltd.	33.10
95.	Paragon Finlease Agro Forest Ltd.	1.04
96.	Parasrampuria Plantations Ltd.	66.68
97.	Parasrampuria Herbal Products Ltd.	0.05
98.	Parmar Farms Ltd.	0.13
99.	Pashudhan Agrotec. Ltd.	0.07
100.	Phenomenal Plantations Ltd.	0.66
101.	PPL Floriculture Ltd.	0.03
102.	Prakruthi Creative Estates P. Ltd.	0.02
103.	Prehari Plantations & Resorts Ltd.	0.40
104.	Prince Agro Industries Pvt. Ltd.	0.17
105.	Purva Harvest Pvt. Ltd.	0.01
106	Pushpak Forests (India) Ltd.	0.03
107.	Rajmudra Agro-Tech (I) Ltd.	0.23
108.	Rio Plantations Pvt. Ltd.	0.01

1	2	3
109.	Rose Valley Resorts and Plantations Ltd.	1.32
110.	SPG Green Gold Plantations Ltd.	2.90
111.	Shakti Forests (India) Ltd.	0.12
112.	Shalimar Forests (India) Ltd.	4.40
113.	Sheen Agro & Plantations Ltd.	5.49
114.	Shivaji Estate Livestock & Farm Pvt. Ltd.	19.43
115.	Shivalik Agrarians and Orchards Ltd.	0.02
116.	Simbak Agro-Products (I) Ltd.	0.02
117.	Simhapuri Sheep Farms Pvt. Ltd.	0.05
118.	Simon Tech. (I) Ltd.	0.17
119.	Soham Plantations Ltd.	0.01
120.	Sonali Agro Industries and Resorts Ltd.	0.29
121.	Sooper Trust	0.08
122.	Southern Udhyans Ltd.	1.85
123.	Sri Raksha Plantations Pvt. Ltd.	0.01
124.	Sri Vijetha Horticulture Pvt. Ltd.	1.44
125.	Suman Motels Ltd.	20.72
126.	Sun-Plant Agro Finance Ltd.	0.27
127.	Surabhi Plantation & Services Pvt. Ltd.	0.09
128.	Surbhi Forests (I) Ltd.	8.45
129.	Surakshya Green Gold (P.) Ltd.	1.68
130.	Swarnbhumi Forest (India) Ltd.	9.29
131.	Swarn Plantation (India) Ltd.	0.07
132.	Top Agro Products India Ltd.	0.11
133.	Toubro Agro Industries Ltd.	0.19
134.	Trichy Teak & Farms Pvt. Ltd.	0.06
135.	Tropical Landscapes Pvt. Ltd.	0.06
136.	Twinkle Plants and Projects Ltd.	5.24
137.	U-Grow Farm Forestry Ltd.	0.40
138.	Unique Farms & Holidays Ltd.	0.05
139.	VGP Evergreen Plantation Ltd.	0.38
140.	Vasundhara Marine Products Ltd.	0.31
141.	Veerbhumi Plantations (I) Ltd.	30.33
142.	Victory Farms (India) Pvt. Ltd.	0.10
143.	Vijayalaxmi Plantation Pvt. Ltd.	0.01
144.	Vishwas Teak & Plantations (India) Ltd.	0.01
145.	Wealth Agro Plantation India Ltd.	1.95
146.	Wimco Greens	14.66
147.	Yogi Plantations Pvt. Ltd.	0.42
	Total	1310.82

APPENDIX IV

(*See* para 2.5 of the Report)

No. 1 (3)/86-DPE(WC)
GOVERNMENT OF INDIA
MINISTRY OF INDUSTRY
DEPARTMENT OF PUBLIC ENTERPRISES

Block No. 14, CGO Complex,
Lodhi Road, New Delhi.
Dtd. the 12th April, 1993.

OFFICE MEMORANDUM

SUBJECT:—*Wage Policy, for the 5th round of wage negotiations in Public Sector Enterprises.*

The Wage negotiations for the 5th round of wage settlements had been banned, *vide* Deptt. of Public Enterprises D.C. No. 2 (3)/91-DPE(WC), dated 17th October, 1991. The Government has since decided to withdraw the ban for the 5th round of wage negotiations. The Managements of Public Sector Enterprises may commence their wage negotiations with the Trade Unions/Associations.

2. Under the new wage policy the Managements are free to negotiate the wage structure keeping in view and consistent with the generation of resources/profits by the individual enterprises/units. The Government will not provide any budgetary supports for the wage increases and the respective managements will have to find the requisite resources from within their own internal generation. For certain PSEs which are monopolies or near monopolies or having an administered price structure, it must be ensured that increase in wages after negotiations do not result in an automatic increase in administered prices of their goods and services.

3. It has also been decided that the period of wage settlements shall be for 5 years and the revisions shall be subject to the condition that there shall be no increase in labour cost per unit of output.

4. The IDA scheme will continue and the present rate of neutralisation under the IDA scheme would constitute one of the elements of the future wage settlements.

5. The wage settlements should be negotiated by the PSEs in accordance with the above parameters. The administrative Ministries/Departments are

requested to issue suitable instructions to the public sector enterprises under their administrative control on the above lines under intimation to this Department.

Sd/—
(T.S. Narasimhan)
Joint Secretary to the
Government of India

APPENDIX V

(*See* para 2.8 of the Report)

No. 2(30)/87-BPE(WC)

GOVERNMENT OF INDIA
MINISTRY OF INDUSTRY
BUREAU OF PUBLIC ENTERPRISES

14, CGO Complex, Lodi Road,
New Delhi-110 003.

8th September, 1987.

SUBJECT: *Grant of Interim Relief to employees governed by wage settlements in public sector enterprises on Industrial Dearness Allowance*

The employees in public sector enterprises on Industrial DA pattern governed by wage settlements have raised a demand for payment of interim relief consequent to the sanction of ad-hoc relief to executives in BPE's O.M. 2(50)/86-BPE(WC), dated 1.4.1987. After careful examination of the demand Government have decided to authorise managements of public sector enterprises on Industrial DA to sanction interim relief w.e.f. 1.1.86 in enterprises where the period of validity of wage settlements has expired or is to expire shortly. Interim relief will be paid at the rate of Rs. 100/— per month in respect of those drawing a basic pay upto Rs. 700/-. For those drawing basic pay between Rs. 701 and Rs. 1,000, interim relief will be paid at the rate of Rs. 120/- per month. For those drawing basic pay above Rs. 1,000/- the rates of interim relief payable per month will be the same, slab-wise, as notified for executives.

2. The relief given is purely interim in nature and is to be absorbed in wage settlements being negotiated under the wage policy and guidelines issued in this regard. The interim relief should be taken into account when observing the guidelines already laid down for wage settlements. Wage settlements where they are already due or are due shortly should be finalised immediately and well in time.

3. As the interim relief is to be absorbed in the wage settlements to be finalised, it will not count for any other purpose.

4. The interim relief will not be payable in public sector enterprises where settlements have already been finalised at levels beyond the guidelines issued in January 1987, or those governed by Tripartite Engineering settlement in West Bengal or in enterprises where wage

agreements are finalised on the recommendations of Wage Boards as in the case of cement, jute and taxtile units etc.

5. The modalities of payment of interim relief should be finalised by the concerned managements of public sector enterprises at the unit level.

6. Ministry of Energy, Ministry of Steel & Mines etc. are requested to bring the contents of this O.M. to the notice of all the managements of public sector enterprises under their administrative control for necessary action. Department of Public Enterprises may be consulted for any clarifications on the decision to pay the interim relief.

Sd/-
(A.K. Roychowdhury)
Joint Adviser (Finance)

To

Secretaries of all administrative Ministries.

Copy to:

Secretary (Labour)
Secretary (Ministry of Law & Justice)
Secretary to the Prime Minister
Cabinet Secretary
All F.As. to the Administrative Ministries.

APPENDIX VI

(*See* para 2.9 of the Report)

No. 7(3)/87-DE-III

GOVERNMENT OF INDIA
MINISTRY OF INDUSTRY
DEPARTMENT OF PUBLIC ENTERPRISES

New Delhi, the 17th September, 1987.

To

Managing Director,
Braithwaits & Co. Ltd.,
Calcutta.

Managing Director,
Burn Standard Co. Ltd.,
Calcutta.

Managing Director,
Jessop & Co. Ltd.,
Calcutta.

Managing Director,
Bharat Wagon & Bagg. Co. Ltd.,
Patna.

SUBJECT: *Grant of Interim relief to employees governed by wage settlements in public sector Enterprises on Industrial Dearness Allowances.*

Sir,

I am directed to say that Government have decided that Managements of public sector enterprises on Industrial DA may be authorised to sanction interim relief *w.e.f.* 1.1.86 in enterprises where the period of validity of wage settlements has expired or is to expire shortly. Interim relief will be paid at the rate of Rs. 100/- per month in respect of these drawing a basic pay upto Rs. 700/- for those drawing basic pay between Rs. 701/- and Rs. 1,000/-, interim relief will be paid at the rate of Rs. 120/- per month. For those drawing basic pay above Rs. 1,000/- the rate of interim relief payable per month will be the same, slab-wise, as notified for executives.

2. The relief given is purely interim in nature and is to be absorbed in wage settlements being negotiated under the wage policy and guidances issued in this regard. The interim relief should be taken into account when observing the guidelines already laid down for wage settlements. Wage settlements where they are already due or are due shortly should be finalised immediately and well in time.

3. As the interim relief is to be absorbed in the wage settlements to be finalised, it will not count for any other purpose.

4. The interim relief will not be payable in public sector enterprise where settlements have already been finalised at levels beyond the guidelines issued in January, 1987, or those governed by Triparte Engineering settlement in West Bengal or in enterprises where Wage Boards as in the case of cement, Jute and textile units, etc.

5. You are requested to take necessary action in the matter keeping in view the above instruction.

Yours faithfully,

Sd/—
(C.S Bothyal)
Under Secretary to the Govt. of India.