

COMMITTEE ON PETITIONS

(NINTH LOK SABHA)

SÉCOND REPORT



[Presented to Lok Sabha on 8 January, 1991]

LOK SABHA SECRETARIAT
NEW DELHI

January 1991 / Pausa, 1912 (Saka)

Price: Rs. 23/-

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INTRODUCTION

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

- (i) Representation from Dr. A. T. Dudani formerly Additional Animal Husbandary Commissioner regarding his reversion from the post of Additional Animal Husbandary Commissioner by National Dairy Development Board.
- (ii) Action taken by government on the recommendations of the Committee on Petitions contained in their Tenth Report (Eighth Lok Sabha) on the representation regarding grievances of Nurses of Delhi Hospitals.
- (iii) Action taken by Government on the recommendations of the Committee on Petitions contained in their Eleventh Report (Eighth Lok Sabha) on the petition regarding revocation of Hindustan Tractors Limited (Acquisition and Transfer of Undertakings) Act, 1978.
- (iv) Representation regarding fees charged by lawyers from their clients.
- (v) Action taken by Government on the recommendations of the Committee on petitions contained in their Eighth Report (Eighth Lok Sabha) regarding regularisation of services of employees of National Seeds Corporation.

2. The Committee considered the above matters at their sittings held on 20 July, 1988 and 10 July and 2 August, 1989.

3. The Committee considered the draft Report at their sitting held on 3rd December, 1990 and adopted it.

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

NEW DELHI;
Dated 3 December, 1990.

LOKANATH CHOUDHARY
*Chairman,
Committee on Petitions*

deputating with NDDB-(National Dairy Development Board)-IDC-(Indian Dairy Corporation) and with dedication and distinction and selected through the UPSC.

- (3) On 1.07.77, I was appointed as an Addl. Anml. Husbandary Commissioner, on ad-hoc basis once again with the approval of the UPSC, to the newly created post in the Ministry of Agriculture, the senior most position of Dairy Professional.
- Dr. A.T. Dudani was appointed as Additional Animal Husbandary Commissioner in the Department of Agriculture and Cooperation on ad-hoc deputation basis from the after-noon of 30 June, 1977. As per the terms of his appointment, his ad-hoc appointment was for a period not exceeding one year or till the newly created post of Additional Animal Husbandary Commissioner was filled on regular basis, whichever is earlier. This ad-hoc appointment was not in consultation with the Union Public Service Commission, as it was only an ad-hoc appointment for a period upto one year.
- (4) During this period I had to deal with examination of a massive Rs. 485 crores project submitted by Shri V. Kurien, Chairman, NDDB with whom I had served on deputation from 1.1.1970 till 1.7.1977 with 2 years break when I served with FAO of the United Nations.
- The Ministry have no comments to offer.
- (5) In the technical position paper prepared by the Dairy Division we had examined all the pros & cons of the project proposed and put together the views of other Ministries including the
- No comments to offer.

Planning Commission. The paper was approved by the Secretary, Agriculture and given to NDDB for their comments and discussion at the next meeting of Public Investment Board.

- (6) Immediately on receipt of this document, which had basically supported the document but raised some queries, regarding the possible effect of heavy continued imports of gift products on indigenous milk production and self-sufficiency and self-reliance, the all powerful Chairman NDDB, a non-official reacted sharply and swiftly and wrote, direct on 1.5. 1978 to the Cabinet Secretary asking for my removal. This letter was officially given to me. In fact even the Secretary, Agriculture wrote to express his regret over this action to the Chairman, NDDB. But orders for my reversion were duly obtained from the Agriculture Minister on 19.5.1978.

- (7) Despite this, I was ordered to be reverted from 1978-July 1; obviously as a punishment, to my parent Department on the lower post without assigning any reasons.

This Ministry have no comments to offer.

The one year term of ad-hoc appointment of Dr. Dudani expired on 30 June, 1978. The Union Public Service Commission had not approved the Recruitment Rules for the post of Additional Animal Husbandary Commissioner by that time. Since the Appointments Committee of the Cabinet did not favour ad-hoc appointments on long-term basis and since the Recruitment Rule for the post was not finalised, a decision was

taken in the Ministry with the approval of the then Minister of Agriculture that such ad-hoc appointments need not be continued. Consequently, Dr. Dudani was reverted to his parent cadre in the ICAR w.e.f. the afternoon of 30 June, 1978. Further, a post of Joint Secretary was created in the Dairy Division, for implementation of the Operation Flood-II Projects, from 12 May, 1978. With the creation of a post of Joint Secretary to handle the dairy development work exclusively, it was not considered necessary to continue a post at the level of Additional Animal Husbandry Commissioner. Consequently, this post was kept in abeyance from 6 December, 1978.

- (8) I wished to represent against this unkind and unfair treatment of a motivated public servant. By a sheer chance, on 12.6.1978, I met Shri Motibhai Choudhery, New M.P. (of the ruling Janata Party) in the Consultative Committee in the Parliament House and told him I will be leaving the Ministry soon. Shri Motibhai, whom I had known for years as a Dairyman could not believe what I told him and asked me to meet him in the evening which I did and showed him copy of the above intemperate letter from Shri V. Kurién asking my removal, which I had made for representation to the Prime

This Ministry have no comments to offer.

Minister and Agriculture Minister etc. Shri Motibhai asked me to leave this copy of the letter with him and he promised to return the same to me.

- (9) Shri Motibhai, it appears, met Shri Kurien at Anand in order to defuse this situation which he told me was not in the best interest of dairy development. It appears Shri Kurien took this copy of his own letter against me and sent a complaint against me for having divulged "State Secrets". No comments to offer.
- (10) Under order from Minister (Agriculture) who is also ex-officio President, Indian Council of Agriculture Research, my explanation was sought on 21.8.1978 to which I truthfully replied and the Minister (Agriculture) as President imposed a minor penalty for this lapse on 28.11.1979. Thus after my first reversion as a punishment, this was the second punishment for the same offence. No Comments to offer.
- (11) In accordance with Rules, I represented on 5.1.1980 against this harsh and unjust punishment as the letter dated 1.5.1978 from Shri Kurien-non-official was in my possession officially and at no time it has been marked as 'Confidential' in accordance with standing orders in the Ministry. ICAR's comments are as follows: The fresh inquiry was held consequence to the representation made by Dr. A. Dudani where in he had interalia stated that the required procedure has not been followed while imposing the earlier penalty of 'Censure' on him. His representation was considered by the President, ICAR and the earlier order of imposition of the penalty was set-aside and fresh inquiry was ordered.

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- (12) However, contrary to all Rules, for an "offence" which I had readily and without any imbi-guity accepted on 12.9.78, and for which I had already been punished twice a fresh formal inquiry was ordered on the same admitted change on 18.3.80.
- (13) The Inquiry officer in his report of 17.6.82, in his findings clearly stated that the charge stood proved as before. He also clearly stated that there was no evidence whatsoever to indicate that the accused wanted to further his interest in service matters.
- (14) Despite this the Minister (Ag-riculture) who was the comp-lainant, the Judge and the Jury all rolled in one, decided, on inflicting 3 (major) punishment on the same charge, already admitted by me on 12..9.78, and I was compulsorily retired. In fact during the pendency of the Inquiry, despite clear Rules, my application for higher posts were not forwarded. In one case even though selected for equivalent job ICAR-HQ, I was not permitted to join. Thus I have been punished for atleast 4 times for this technical lapse on my part.
- ICAR's comments are as follows: It is incorrect that he was punished twice, Original penalty was set-aside and a regular in-quiry was ordered as per provi-sions of the CCS (CCA) Rules, 1965.
- ICAR's Comments are as fol-lows: The action was taken on the basis of the report of the In-quiry Officer wherein Dr. Du-dani was not absolved of the charge of lack of devotion to duty.
- ICAR's comments are as follows: The position as stated by Dr. Dudani is contrary to the facts. The President, ICAR was not the complainant, he was the Disciplinary authority and took action as per provisions of Ru-les and Regulations. It is a well known principle that during the pendency of a case, no promo-tional post at can be offered.
- The other issues regarding forwardal of application etc. have no bearing on the decision of the imposition of the penalty and therefore irrelevant in this context.
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- i) My representation to the Agriculture Minister & President, ICAR was rejected on 31.7.1982 without assigning any reasons.

ICAR's comments are as follows:

Shri Dudani's representation was examined as per provision of Rule 29-A of the CCS (CCA) Rules, 1965 which provides as follows:

"The President, may, at any time, either on his own motion or otherwise, review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought to his notice:

Provided that no order imposing or enhancing any, penalty shall be made by the President unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed or whether it is proposed to impose any of the major penalties specified in Rule 1 or to enhance the minor penalty imposed by the order sought to be reviewed to any of the major penalties and if an enquiry under Rule 14 has not already been held on the case, no such penalty shall be imposed except after inquiring in the manner laid down in Rule 14, subject to the provisions of Rule 19, and except after consultation with the Commission where such consultation is necessary."

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	<p>Since no new facts were brought out by Dr. Dudani, his request for reviewing the decision could not be agreed to as per provision of the said rules.</p>
<p>(16) My representations to the Agriculture Minister and the Prime Minister on 6.5.1982 and 19.7.82 respectively remains unreplied.</p>	<p>No comments to offer.</p>
<p>(17) On 27.1.1984 I once again represented to Minister (Agriculture) and President, Indian Council of Agriculture Research, bringing in totally new facts, namely use of letter dated 1.10.1980 forged and fabricated in my name, for which he (Mr. Kurien) had given a press interview to slander me in Indian Express of 21.12.1983 to seek my removal with the help of Prime Minister's Secretariat.</p>	<p>The ICAR has reported that they have no comments to offer.</p>
<p>(18) I had also pointed out that contrary to Rules of the Govt. specially since I entered service through UPSC and all Rules of Govt. <i>Mutatis mutandis</i> applied to ICAR—specially in the light to clear Supreme Court judgement on 16.12.1983 necessitate reference to UPSC and CVC before a major penalty was imposed on me.</p>	<p>ICAR's comments are as follows: The appointing authority in the case of Dr. Dudani was the President, ICAR and not President of India therefore, consultation with UPSC was not necessary. So far as reference to Central Vigilance Commission is concerned, it was a case of lack of devotion to duty and reference to the Commission of such administrative matter is not necessary.</p>
<p>(19) Despite this proof, on 18.2.1984 I was informed by the President, ICAR that my representation cannot be reconsidered as no new facts had been brought out by me.</p>	<p>ICAR has informed that their comments on this paragraph are the same as given on paragraph 15.</p>

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(20) My appeal to the late Prime Minister dated 15.3.1984 was acknowledged on 26.3.1984 and sent to the Agriculture Ministry.	Neither the ICAR nor this Ministry have any comments to offer.
(21) My subsequent last letter to the Prime Minister dated 21.9.1985 for remains unattended.	Neither the ICAR nor this Minister have any comments to offer.
(22) Similarly my letters to CVC and UPSC both dated 21.9.1985 intervention remain unacknowledged.	Neither the ICAR nor this Ministry have any comments to offer.
(23) My last letter to the Agriculture Minister dated 17.10.1985 likewise remains unattended.	<p>ICAR's comments are as follows: The letter dated 17.10.1985 was duly considered by the ICAR and as no new facts were brought out, no further action was called for on the same. This Ministry have no comments to offer.</p>

C. Comments of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training)

1.4. In their O.M. dated 29 April, 1987, the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) have informed as follows:—

“The representation of Dr. A.T. Dudani forwarded with the Lok Sabha Secretariat U.O. NO. 53/CI/86/R-47 dated 28 April, 1986, primarily concerns the Department of Agriculture under whom Dr. Dudani served. It has been intimated by the Department of Agriculture that they have sent a reply to the Lok Sabha Secretariat in May, 1986. So far as this Department is concerned, the representation dated 17.10.1985 addressed to the Minister (Public Grievances) (referred to in S.No. 24 of Shri Dudani's representation dated 28.3.1986) was forwarded to Department of Agriculture on 4 December, 1985. This Department have no further comments on the representation of Dr. Dudani.”

1.5 The Committee on Petitions considered the replies furnished by the Ministry of Agriculture (Department of Agriculture and Cooperation)/ Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), on the various points raised in the representation, at their sitting held on 20.7.1988. The Committee felt that the enquiry had been made against the petitioner under the relevant rules and the petitioner having already crossed over 60 years of age, no fruitful result would be achieved even if the Committee decided to pursue his case further. In view of this, the Committee decided to report this matter to the House in their next report.

D. Observation of the Committee

1.6 The Committee note from the replies furnished by the Ministry of Agriculture (Department of Agriculture and Cooperation) that the enquiry had been made against the petitioner under the relevant rules and petitioner having already crossed over 60 years of age, no fruitful result would be achieved even if the Committee decided to pursue his case further.

1.7 The Committee feel that in view of the position stated by the Ministry of Agriculture (Department of Agriculture and Cooperation), there is no cause for their intervention.

1.8 However, after the perusal of the facts of the case, the Committee have got an impression that the reversion of the petitioner was linked with his views expressed on paper prepared by the Dairy Division and approved by the Secretary, Ministry of Agriculture in which he had expressed divergent views on the possible effect of heavy continued imports of gift products on indigenous milk production and self-sufficiency and self-reliance. The Committee cannot but express their unhappiness at this because in their view this type of action will prove a dampener to all those honest and forthright officers who express their views frankly and without fear. The Committee, therefore, recommend that Government may take necessary steps to ensure that in the national interest such type of incidents are not allowed to recur.

II

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR TENTH REPORT (EIGHTH LOK SABHA) ON THE REPRESENTATION REGARDING GRIEVANCES OF NURSES OF DELHI HOSPITALS

2.1 In their Tenth Report, presented to Lok Sabha on 9 May, 1989, the Committee on Petitions considered a representation dated 5 December, 1986 from Delhi Hospital Nurses Joint Action Committee, New Delhi regarding grievances of Nurses of Delhi Hospitals and made certain observations/recommendations.

2.2 The Ministry of Health and Family Welfare who are concerned in the matter, have furnished action taken replies *vide* their O.M. dated 12 December, 1989. The recommendations made by the Committee and the replies furnished by the Government are given below seriatum:—

<i>Recommendation (Paragraph 2.18)</i>	<i>Reply of the Government</i>
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<p>The Delhi Hospital Nurses Joint Action Committee, New Delhi through a representation submitted to the Committee in December, 1986 listed a number of grievances/complaints regarding their conditions of service. At the instance of the Committee, the representation was forwarded to the Ministry of Health and Family Welfare to ascertain the factual position in regard to various points raised in the representation. The Committee have been informed that in the light of the representation of the Nurses, Government had taken certain positive steps and revised the rates of a number of allowance admissible to the nurses. These include enhancement of uniform allowance from Rs. 300 to Rs. 1500 p.m., raising of washing allowance from Rs. 25 p.m. to Rs. 75 p.m., increasing the rate of stipend of student nurses to Rs. 500 p.m. uniformly for all the three years and granting of a new Nursing Allowance at the rate of Rs. 150 p.m. It is a matter of satisfaction that some of the demands made by the nurses have been adequately met by raising the rates of different types of allowances.</p>	<p>No Comments.</p>

Reply of the Government

Government have since reviewed the above orders. It has now been decided that where the nurses are posted in such special units/wards/theatres without previous specialised training for that purpose, the period of first 3 months of such posting may be treated as the period of in-service training and the special pay should be paid from the commencement of the 4th month of their posting. Where previous training has already been given, the special pay would be admissible from the date of posting.

Recommendation (Paragraph 2.21)

The Committee note with satisfaction that it has been decided in principle to grant two increments for approved qualifications. The Committee desire that the details and modalities about the implementation of this scheme should be worked out early. The Committee also note that it has been decided that as and when the general scheme for the grant of extra work allowance was finalised, the same would be considered by the Ministry of Health for being made applicable to nurses also. The Committee expect that early action would be taken in the matter.

The details and modalities regarding grant of two increments for approved qualifications is as under:-

(a) One increment (Not absorbable) will be granted to the Nursing Personnel holding the following Post Certificates Diploma of 10 months duration or any other 10 months.

Diploma course designed and approved by the Indian Nursing Council from time to time:-

- (i) Diploma in Nursing Education and Nursing Admn.
- (ii) Diploma in Psychiatric Nursing.
- (iii) Diploma in Paediatric Nursing.
- (iv) Diploma in public Health Nursing.

This will take effect from:-

- (a) 1.10.1986 to Nursing staff in service who passes any of these Diplomas.

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(b) the date of appointment to those who passes the diploma who are recruited after 1.10.1986, and

(c) the date of publication of results of the post-certificate diploma in Nursing for those in service who acquire the post certificate diploma qualification after 1.10.1986.

2. Two increments (not absorbable) will be granted to the Nursing staff possessing the following qualifications:-

(i) B.Sc. Nursing/Post Basic/Post certificate B.Sc. Nursing.

(ii) Post graduate degree in Nursing i.e. Master in Nursing (M.Sc. in Nursing). This will take effect from:-

(a) 1.10.1986 to those Nursing staff in service who possess the degree/post graduate degree in Nursing as on that date.

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(b) the date of appointment to those who possess the degree/post graduate degree in Nursing qualification, who are recruited after 1.10.1986.

(c) the date of publication of result of the degree/post graduate degree in Nursing for those in service who acquire the degree/post graduate degree qualification after 1.10.86.

3. only two additional non-absorbable increments will be admissible to a particular grade where possession of such qualifications are not required as per Recruitment Rules.

4. These increments will be granted subject to the condition that the concerned Nursing staff are not required to possess Diploma/Degree/Post Graduate Degree in Nursing indicated in paras 1 and 2 above, as a condition of their employment and also that they had not been allowed a higher initial pay on account of their possessing these qualification prior to or on or

after 1-10-1986. The order have already been issued *vide* this Ministry's letter No. Z.28016/8/87-PMB dated the 23rd March 1988.

As regards grant of Extra Work allowance to the Nurses, the general scheme is yet to be formulated by the Department of Personnel & Training. Action will be taken to consider adoption of the general scheme for the grant of Extra Work Allowance to the Nurses.

Recommendation (Paragraph 2.22)

The Committee note that the need for cadre review of nurses was another major demand of the nurses. A Committee has reportedly been set up for looking into restructuring of the cadre of nurses. The Committee would like that the work allocated to this particular Committee should be finalised quickly so that a long outstanding grievance of the nurses is removed. The Committee should be given a time bound schedule for completing its work.

Recommendation (Paragraph 2.23)

The Committee find that residential accommodation is not provided to the nurses. Only unmarried nurses are being provided with quarters. Keeping in view the fact that nurses are required to work at odd hours, the Government should as a matter of policy ensure that residential quarters are made available to all the nurses near the hospitals where they have to serve. Till residential accommodation is provided, arrangements for providing travelling facilities to the nurses from their places of stay to the hospitals should be provided. The Committee desire that this aspect of the matter may be examined in depth for granting relief to the nurses.

Reply of the Government

The Committee set up to review the Cadre of Nurses has submitted its report. Its recommendations are being processed. As soon as a decision is taken, orders will be issued accordingly.

Reply of the Government

Due to over financial constraints, it is not possible to indicate any time bound programme for providing accommodation near the hospitals to all nurses. It has not been possible to meet the demand of transport for nurses living in various and spread out parts of the

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Recommendation (Paragraph 2.24)

The Committee are concerned to note that there is a general shortage of nurses in the country. It was explained that at present there are about one Lakh fifty thousand nurses and by 2,000 A.D. the requirement of nurses may well exceed the figure of five lakhs. The patient-nurse ratio is particularly very low. Even in place like Delhi the patient-nurse ratio ranges from one nurse to ten beds to one nurse for 18 beds. The Committee would like the Department to look into this aspect and take necessary steps for making the nursing profession more attractive so that a large number of nurses are able to join this profession and meet the future requirements of the country. In this connection, the Committee would like the Government to give priority to post adequate number of nurses in the health centres in tribal and remote areas where there is acute shortage. The Committee would also like that facilities for training of nurses should be substantially increased so that a larger number of nurses become available for working in different parts of the country.

Recommendation (Paragraph 2.25)

The Committee would like that facilities for training of nurses should be substantially increased or expanded with the help of voluntary organisations so that a large number of nurses become available for posting against the total requirements. While expanding such facilities it may be kept in view that a large number of nurses migrate to middle-east and other countries every year thereby creating shortage of personnel for being posted in various hospitals in the country. It will have, therefore, to be ensured that the training facilities are of such a

city. However duties are adjusted in the Hospitals so that nurses are able to travel by local transport.

Reply of the Government

The Central Government constituted the High Powered Committee under the Chairmanship of Smt. Sarojini Varadappan to review the conditions of service, status and allied matters pertaining to the nursing profession in the country in July, 1987. The Committee has submitted its report to Government on 9.8.1989. Action will be taken on the various recommendations made by the Committee.

Reply of the Government

The Government is aware of the shortage of nurses in the country. There are 347 Schools of Nursing as per information available with Indian Nursing Council. The State-wise Schools of Nursing and out-turn of nurses from these schools every year approximately are given below:—

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magnitude that the total requirement of nurses is adequately met. It hardly needs to be emphasised that better service to the patient can be provided only when the burden on the nursing staff is reduced by ensuring better nurse-patient ratio. There is, therefore, need for a very substantial increase in the training facilities. The Committee expect that Government will give due attention to this aspect of the matter.

S. No.	Name of the State Council	No. of Schools	Out turn of nurses
1.	Andhra Pradesh	27	495
2.	Assam	20	240
3.	Bihar	20	331
4.	Gujarat	16	719
5.	Haryana	5	200
6.	Himachal Pradesh	3	7
7.	Kerala	50	1066
8.	Mahakoshal	17	150
9.	Maharashtra	46	943
10.	Madras	21	731
11.	Karnataka	24	753
12.	Orissa	5	201
13.	Punjab (Delhi included)	25	608
14.	Rajasthan	9	109
15.	Uttar Pradesh	21	384
16.	West Bengal	22	501

**EXAMINING
BOARDS**

17.	Mid India Board	8	78
18.	South India Board	20	273
19.	A.F.M.S. Board	8	353

Total	347	8208
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The State Government are primarily responsible for the training of Nurses. Some State Governments have increased seats in the Schools of Nursing as per their requirement.

Recommendations/Observations of the Committee

2.3 The Committee are happy to note that the Government is keen to solve the problems being faced by nurses of Delhi Hospitals and with this end in view, the Ministry of Health and Family Welfare have identified some more specialised areas in addition to the existing ones and nurses posted in these specialised areas would also be granted a special pay of Rs. 60/- p.m.

2.4 The Committee would, however, like that efforts be made to impart in-service training to as many nurses as possible so that adequate number of trained nurses are available for being posted in special wards/units, etc. where the patients need utmost care and nursing. The Committee would like the Ministry to consider providing some incentive to attract more and more nurses to under go in-service training.

2.5 The Committee regret that the general scheme for grant of extra work allowance has not yet been finalised by the Department of Personnel and Training. The Committee is of the view that delay in taking action on such an important issue should have been avoided as far as possible as it affect the morale of the nurses serving the suffering humanity. The Committee desire that the Ministry of Health and Family Welfare should pursue the matter actively with the Department to get the scheme finalised and take steps for its implementation insofar as nurses are concerned.

2.6 The Committee find that the recommendations made by the Committee set up to review the Cadre of Nurses are still in the processing stage. The Committee would like to reiterate that the recommendations be processed and necessary orders issued urgently so that a major grievance of nurses for restructuring of their Cadre is removed.

2.7 The Committee note that due to financial constraints, it is not possible for the Government to provide accommodation to all the nurses near the hospital where they work nor it is practicable to provide travelling facilities to the nurses from their place of stay to the hospital. In view of the fact that nurses are required to work at odd hours, it should be Government's constant endeavour to provide accommodation to as many nurses as possible nearer to the hospital. Till then, Government should seriously consider constructing dormitories within the precincts of the hospital—as is done by the Telephone Department for its staff—so that nurses whose duties are on or off at odd hours could stay/sleep there during off duty hours.

2.8 The Committee would like to be apprised of the action taken in this regard.

2.9 The Committee are happy to know that Government is vigilant in regard to the problems of nurses and appointed a Committee under the Chairmanship of Shrimati Sarojini Varadappan to review the conditions of service, status and other matters pertaining to nursing profession and that the Committee has submitted its report.

2.10 The Committee would like to be apprised of the recommendations of Varadappan Committee and the action taken by the Government to implement the recommendations at an early date.

2.11 The Committee would also like to reiterate that facilities for training of Nurses should be substantially increased so that the increasing demand for nurses could be met. To achieve this objective, State Governments should be persuaded to increase the number of seats in the Schools of Nursing.

2.12 The Committee would like to stress that efforts need to be made to make nursing an attractive & prestigious profession providing additional funds and facilities as are called for the nobility of their profession and their service to the suffering humanity may be highlighted through electronic media.

2.13 The Committee would also like to point out that while the Government spends considerable sums on training of nurses, a large number of them migrate to middle east countries in search of employment/better emoluments. The Committee would urge upon the Ministry to study the reasons for their migration and take suitable steps to check it so that the money spent on their training does not go waste.

III

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR ELEVENTH REPORT (EIGHTH LOK SABHA) ON THE PETITION REGARDING REVOCATION OF HINDUSTAN TRACTORS LTD (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT 13 OF 1978.

3.1 In their Eleventh Report (Eighth Lok Sabha), presented to Lok Sabha on 31 July, 1989, the Committee on Petitions considered the petition regarding revocation of Hindustan Tractors Ltd. (Acquisition and Transfer of Undertakings) Act 13 of 1978 and made certain observations/recommendations. These recommendations were taken up for implementation with the Ministry of Industry (Department of Industrial Development). The Ministry of Industry (Department of Industrial Development) have furnished the action taken replies vide their communication dated 14 June, 1990. The recommendations made by the Committee and the replies furnished by the Government are given below seriatim :—

<i>Recommendation of the Committee</i>	<i>Reply of the Government</i>
1	2

Para No. 1.20

The Committee note that the Government of Indian assumed the management of Hindustan Tractors Ltd., Baroda in March, 1973 under the provisions of Section 18(A) of Industries (Development and Regulation) Act, 1951 and appointed the Gujarat Agro Industries Corporation as its authorised controller for a period of 5 years. After the expiry of 5 years, the Government decided to nationalise the undertaking by bringing forward necessary legislation in the form of Hindustan Tractors (Acquisition and Transfer of Undertakings) Act, 1978. Following nationalisation, the management of the undertakings was handed over to the Gujarat State Government, who formed a State Undertakings called Gujarat Tractor Corporation Ltd. for carrying on the Activities of the nationalised undertaking.

It is submitted that only factual position has been stated and no point of action is involved.

Para No. 1.21

The takeover of the company under IDAR Act was stated to have become necessary due to the steep fall in the production of tractors by Hindustan Tractors Ltd. A Committee which was appointed under Section 15 of IDR Act, 1951 for making a full and complete investigation into the affairs of the undertakings, reported in October 1971 that the main causes of unsatisfactory state of affairs inter-alia were inadequate production and financial planning by the management of the company and the unremunerative selling prices for their tractors. In pursuance of the recommendations of the Committee, the selling price of the tractors was revised by the Government in February 1972. However, despite the increase in the selling price of the tractors, the company continued to run in losses. At the time of actual take over of the management in March 1973, the total liabilities of the company were of the order of Rs. 587 lakhs.

Para No. 1.22

The Committee find that during the five years i.e. from 1973-74 to 1977-78 when the company was run by Gujarat Agro Industries Corporation Ltd. as authorised controller, the working results achieved were no better. The Company incurred losses to the tune of Rs. 95 lakhs during the first 4 years (1973-74 to 1976-77) and only during the last year i.e. 1977-78, it registered a nominal profit of Rs. 1.25 lakhs. This was despite the fact that within six months of the takeover in March, 1973, the price control, which had almost crippled the financial position of the company, was lifted and the prices of the tractors produced by the company had been hiked up by as much as 76 per cent. Thus the new management totally failed, in improving the financial health of the company and the very objective of its takeover was defeated.

It is submitted that only factual position has been stated and no point of action is involved.

These are the observations of the Committee on the working of the company during the period it was run by the Gujarat Agro Industries Corpn. Limited, Ahmedabad, as Authorised Controller. While no point of action is involved, certain clarifications given by the Govt. of Gujarat are summarised below for the kind information of the Committee.

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(a) The management takeover ensured the continuance of the unit, which would have, perhaps, gone out of production in 1972-73 itself.

(b) Apart from a four-fold increase in production, the management takeover not only resulted in implementation of wage Board recommendations for the labour, leading to almost 100% increase in the wages, but also payment of about Rs. 4.73 crores to Government of India and local authorities by way of levies.

(c) There has been only a 19% increase in the price of HWD-50 tractor between February 1972 and March 1974, not an increase of 76%, within 6 months of takeover as mentioned in the Report.

Para No. 1.23

The Committee note with dismay that even after nationalisation in 1978, the performance of the Company showed no improvement. Except for the first two years *i.e.* 1978-79 and 1979-80 when the working results showed nominal profit, the overall working results during the years 1980-81 to 1988 (Calendar year) revealed cumulative losses to the tune of Rs. 26.03 crores and declining production. Thus none of the twin

These are the observations of the Committee on the performance of the unit during the post-nationalisation period and do not contain any point of action. However, the explanation given by the Gov-

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<p>objectives of takeover and nationalisation namely arresting the fall in production and reduction in losses of the company have been achieved. On the other hand the exchequer has been burdened with a sick unit which refuses to come out of the red.</p>	<p>ernment of Gujarat for the poor performance of the company is summarised below:—</p>

(a) Poor performance in the post-nationalisation period cannot be attributed purely to management failure.

(b) The unit could not withstand the recession in the tractor industry during the earlier 80's because of its dependence on one model of high horse-power tractor and low volume of production.

(c) Government of India and NABARD/RBI's policies with regard to financing of tractors of higher horse-power category.

Para No. 1.24

Nationalisation of sick unit could perhaps be justified on the ground that the interests of the employees have to be safeguarded by providing them continuous employment. Even this limited objective has not been achieved. The Committee are disheartened to find that the direct employment which had gone up to 1250 persons in 1977-78 and 1306 persons in 1985, was not being reduced to about 810 persons through a voluntary retirement scheme.

This para is the observation of the Committee about the level of direct employment and no point of action is involved. However, Government of Gujarat have reported that such employees who left the employment did so in their own interest.

Para No. 1.25

Considering the larger stakes of public financial institutions in the enterprise, the Committee are not in favour of handing over the unit back to its original owners or to someone else in the private sector. The Committee understand that efforts are on to transfer or merge the Gujarat Tractor Corporation Ltd. with another Gujarat State Government Undertaking. Although such a move was initiated in April, 1987 till date no final decision seems to have been taken either way. The Committee desire that this uncertainty should be ended and the Memorandum of Understanding proposed to be entered into with GNFC should be finalised at the earliest and all necessary steps be taken to put the undertaking back on the rails in the interests of the workers as also in the larger national interest. Considering the growing demand for tractors particularly in the 20-35 H.P. range, the Committee see no reason why the unit should not be able to augment production thereof, achieve economies of scale and wipe out the losses within a given time frame.

The Government of Gujarat have reported action taken as under:-

The proposal for handing over the unit to GNFC has been dropped because the GNFC has expressed their inability to go ahead with the management takeover due to the difficulties experienced by them in the take-over of the "GIRNAR SCOOTERS" (Previously State Government Undertaking) and other financial restriction stipulated by IDBI.

However, a revival proposal envisaging equity participation of GSFC, GNFC, GAIC, and GSIL and financial assistance from the IRBI, IDBI and SBI has been cleared by the IRBI and would be taken up for implementation after it is consented to by the Government of Gujarat.

The Government of Gujarat, however, would very much like to retain its option to consider the revival of the unit, in the event of a more cost effective, attractive and viable proposal being received from any source, even if it may lead to change in the equity base of the company fully or partially.

Observations/Recommendations of the Committee

3.2 The Committee note that the proposal for handing over the unit to GNFC has been dropped because the GNFC has expressed their inability to go ahead with the management takeover due to the difficulties experienced by them in the takeover of the "GIRNAR SCOOTERS" (previously a State Government Undertaking) and other financial restrictions stipulated by IDBI.

3.3 However, a revival proposal envisaging equity participation of GSFC, GNFC, GAIC and GSIL and financial assistance from the IRBI, IDBI and SBI has been cleared by the IRBI and would be taken up for implementation after it is consented to by the Government of Gujarat.

3.4 The Committee trust that the proposal for the revival of the unit which has already been cleared by the IRBI would soon be consented to and would be taken up for implementation by the State Government of Gujarat. The Committee also trust that considering the growing demand for tractors particularly in the 20-35 H.P. range, the unit would soon be able to start production, achieve economies of scale and wipe out the losses within a given time frame.

REPRESENTATION REGARDING FEES CHARGED BY DIFFERENT LAWYERS FROM THEIR CLIENTS

4.1 On 18 November, 1988 Shri Sundararaman Iyer, Special Executive Magistrate, Govind Nagar, Borivili (West) Bombay-400092, submitted a representation regarding high fees charged by lawyers from their clients. The main points submitted by the petitioner in his representation were as follows:—

- “(i) In the absence of a proper machinery to regulate the fees received by lawyers from their clients, the lawyers charge fees as per their whims and in most of the cases the poor and relatively poor find it difficult to get justice from Courts.
- (ii) Besides, the lawyers get an opportunity to exploit their clients and are able to drag on the case and in most cases do not issue receipts (stamped etc.) to their clients. Thus, they can conceal their income and avoid paying taxes which is a loss to the national exchequer.
- (iii) In a socialist government the people should have easy and affordable access to courts to get justice. Lawyers are also a service profession and they should not be allowed to fleece and exploit the people by charging exorbitant fees and place the public at their mercy.”

The petitioner, therefore, prayed that:—

“A provision may be introduced in law by which all lawyer-client transactions are registered and regulated by the Law Ministry/ Department, i.e. fees are not directly paid to lawyers but all lawyers shall have to get their fees from the government and they may only take up cases registered with the Government.”

4.2 The Ministry of Law and Justice (Department of Legal Affairs) in their comments dated 8 March, 1989, stated as follows:—

- “(1) An advocate in the Supreme Court/High Court/Subordinate Court, charges fees depending upon his standing and reputation at the Bar. As a matter of fact, some advocates do charge very high fees depending upon the importance of the cases and stakes involved in the matter.
- (2) The fees payable by clients to advocate depends on the agreement between an advocate and his client.
- (3) The rules of the Supreme Court and the High Court generally contain a table of fees for advocate.

- (4) It is open to a common man to engage only such advocates for defending his interests in litigation who charge a reasonable fee.
- (5) Income-tax Department is expected to take action for tax evasion by the advocates."

4.3 At their sitting held on 10 July, 1989, the Committee considered the replies furnished by the Ministry. The Committee noted that the Ministry agreed with the views of the petitioner that some advocates do charge very high fees. The Committee, therefore, decided to take oral evidence of the petitioner and the representatives of the Ministry of Law and Justice (Department of Legal Affairs) in the matter.

4.4 During evidence on 2 August, 1989, the Committee asked the petitioner whether in his view it was feasible to regulate the fees charged by lawyers from their clients. To this the petitioner replied:—

"I think, it is possible to regulate the fees charged by lawyers from their clients if a separate machinery or a cell is created through which all transactions are routed. At present, the advocates charge fees as they like. They do not issue any receipts, and the poor people are not aware of the rules. If a cell is created which will have powers to monitor all the cases, it will certainly be useful to the poor. They can approach the cell in case of any problems and the cell can take up the matter with the advocate, if required."

4.5 Clarifying the position regarding creation of a separate cell, he stated:—

"What I mean to say is that a client need not approach the cell. He can go to the advocate and it will be the duty of the advocate to bring it to the notice of the Cell that he has undertaken so and so case. The Cell should maintain a list of fees that can be charged by a lawyer according to his standing at the Bar."

4.6 When the Committee enquired as to what would happen in case a Counsel refused to accept a case on the plea that he was very busy, the witness stated:—

"The Cell in that case will suggest a different lawyer on merit basis."

4.7 Asked as to whether there was any scope for a third party, the Government or any other machinery, to mediate in all the cases that were going on throughout the country, the petitioner stated:—

"No doubt it is a professional fight between an advocate and a client but every person is entitled to get justice. It is not a business. It is something by which people are affected. Therefore, Government should approach and regulate it so that people are not deprived of justice. People should be able to get justice without being cheated. In Britain there is a Legal Aid System."

4.8 When the Committee pointed out that in India also some such system prevailed, the petitioner stated:—

“Even if it is so, its scope is limited and it may not be so effective.”

4.9 Asked whether by seeking to regulate the fees of lawyers Government would not be encroaching upon the fundamental rights of citizens. The petitioner, in reply stated:—

“I think on all the professions having the aspect of justice or human consideration, we should have some regulation on them. Wherever justice is involved, the Government should give a thought to them. In medical profession also, the Government should give some thought because here human consideration is involved. In my humble opinion, they should give justice on human consideration, wherever it is required. So, there should be a regulatory machanism.”

4.10 The Committee drew the attention of the petitioner to the Ministry's comments that an advocate in the Supreme Court etc. charged fees depending upon his standing and reputation at the Bar and the importance of the case. Asked about his comments on the above statement, the petitioner stated:—

“The advocates are supposed to have some limits in the bar. But really speaking this never happens. A client cannot compel any advocate to accept his case and also there is no way to ensure that advocates charge fees consistent with their standing in the Bar. They not only charge an initial amount but keep on asking for more during the progress of the case. There should be some cell for regulating all these things. The Government should take care to see that these are safeguarded and regulated. If a client feels cheated or something like that, he hardly has any means where he can go and complain. So, a cell can fill that gap.”

4.11 On his attention being invited to the Ministry's reply to the effect that it was open to a common man to engage only such advocates for defending his interests in litigation who charged a reasonable fee, the petitioner stated:—

“A machinery should be there to regulate the fees received from the clients by the lawyers. A man may be poor. He may not find an advocate within his means. Any ordinary advocate can charge a high fee. There are advocates who are charging more fees and there are advocates who charge less fees also. It depends upon the reputation. If a man wants to approach a good lawyer, he may charge a very high fee. So, the client cannot do anything. Because of high fees, he has to go to the other advocate.”

4.12 The Committee pointed out that there was no dearth of lawyers in the country and it was not possible under the present circumstances to force a capable lawyers to plead a particular case at a fee fixed by the

Government. The Committee further pointed out that the lawyers were interested in taking up the cases on contract and not on specific rates. Moreover, out of the amount received by the party as relief, a certain percentage was also given to the lawyer. Giving his views on this aspect of the matter, the witness stated as under:—

“So far, I am not aware of such a system. This kind of a contractual relationship between an advocate and a client, according to me, is not permissible.”

4.13 When the Committee asked the petitioner to elucidate his suggestion that all lawyer-client transactions should be registered and regulated by the Law Ministry, he stated as under:—

“The courts should entertain only cases which have been okeyed by the Cell. Secondly, it should be ensured that advocates furnish all relevant evidences before the court as given by the client. In some cases, advocates may not provide all evidences. Hence, the Cell can keep an eye on this aspect also. Thirdly, it should be ensured that an official receipt is issued by the advocates to their clients. It should be supported by a certificate given by the client in a separate form. The certificate should contain the details such as nature of fees, full part or balance etc., paid or payable by the client. The courts should not entertain cases without the receipt and the declaration. The third point is very important. I would like to elucidate this point. Suppose one has paid Rs. 4000 in the beginning to his advocate. And as the case progresses, the advocate may charge more as there is no receipt for the initial payment.”

4.14 When the Committee pointed out that lawyers charged their clients according to their standing at the Bar, and normally they issued receipts against the money they charged, the witness stated:—

“Many lawyers do not issue receipts. Even if they issue receipts, they will give receipts only for part amount only.”

4.15 On being asked to comment on the Ministry's reply that the rules of Supreme Court and High Court generally contained a table of fees for advocates, the witness stated:—

“I am not aware of that. And most of the people do not know that there is a table of fees, if it is there, it should be displayed so that people should know of it.”

4.16 Asked to give his suggestions which could be helpful in prevention of tax evasion by the advocates, the petitioner drew the Committee's attention to page 4, item No. 7 of the clarificatory memorandum submitted

by him to the Committee wherein he had stated:—

“Maintain a master roster to keep records of every advocates’ case transactions indicating the number, nature of cases and fees charged and supply an annual statement to the Income Tax authorities. A professional service file with all these details, dealings with clients etc., should be maintained by the Cell.”

4.17 Asked to explain the main features of Lok Adalats, the petitioner stated:—

“Regarding Lok Adalats, I am not fully aware of how they operate. I think they have got very limited approach. That is why I have suggested for the formation of Cell. The benefits of Lok Adalats are very limited.”

He added:

“This scheme has got its own limitations. If it is further widened, it will become helpful. Then it will be beneficial to some more sections of the people.”

4.18 During oral evidence of the representatives of the Ministry of Law & Justice (Department of Legal Affairs) on the subject on 2 August, 1989, the Committee enquired whether it was feasible to introduce a provision in the law by which all lawyer-client transactions could be registered and regulated by the Law Ministry and the lawyers were made to get their fees from the Government. The Special Secretary of the Ministry of Law and Justice replied:—

“The various High Courts and the Supreme Court had framed rules regarding the fee chargeable by the lawyers. So, the transactions between the parties and the lawyers are within the ambit of those rules. The Supreme Court under Article 145 had framed rules according to which the fees has been regulated. In addition to that, probably the grievance of the petitioner is, the lawyers are charging more than the prescribed fee. In this connection, my submission is that this view engaged the attention of the Government and the matter was referred to the Law Commission. The Law Commission in its Report made certain remarks about these aspects. They also felt that the lawyers are charging more. So, they suggested that certain administrative machinery has to be established so that the fee between the clients and the lawyers may be regulated.”

4.19 Asked whether it was practicable to introduce such a legislation for regulating the relationship between the client and the advocate and if so, what arrangement the Law Commission had suggested, the representative of the Ministry stated:—

“Actually, the Government has no direct dealings with the lawyers. The lawyers come under private sector. The agreement between the party and the lawyers has been included in the rules framed by the Bar Council. The Bar Council has to regulate the fee also. The Government

will not come into the picture directly. In that connection, we have referred the matter to the Law Commission. These views have been sent to the Bar Council also and we await the reply. Fee is purely private on which the Government has no control."

4.20 The Committee enquired whether Legal Advice Boards were functioning in all the States and whether it was possible to engage competent lawyers under the scheme with comparatively lower fees being given by the Government, the representative of the Ministry replied as follows:—

"Every State has got a State Legal Advice Board. They are maintaining a panel of lawyers for whom fee also has been prescribed at the State level, district level and taluk level. The States have made budget provisions also for these bodies. In addition to that, a Central Committee called Committee for implementing legal Aid Schemes is also there for which our Chief Justice of India is the Patron-in-Chief and Justice Ranganath Misra is the Executive Chairman. The Attorney General of India and Justice Ratnam are also members of the Committee. They are also providing funds. With these aids, the claims of SC, ST, women etc., are met. So, with the help of the lawyers who are on the panel, we pay and get the necessary advice. These are the two aspects of giving legal aid and conducting case in the courts with the help of the funds given by these Boards."

4.21 The Committee enquired whether in case the recommendations of the Law Commission were accepted by the Bar Council and some kind of a regulatory provision on the fees charged by the different advocates was made, the Government would enact a law or leave it to the Bar Council to frame its own Code of Conduct to deal with such cases. The witness replied:—

"Unless we get the views of the Bar Council, we cannot commit at this stage."

4.22 The Committee further enquired what remedy was available to client even when he paid as per the agreement with the lawyer and the lawyer somehow did not pay enough attention to the case in the court and the client felt that he had been cheated. The representative of the Ministry replied thus:—

"If the lawyer does not pay attention to the case and if the client is not satisfied, he can take it up with the Bar Council."

4.23 In the same context, another representative of the Ministry stated:—

"The Bar Council has got a disciplinary Committee which will deal with this case."

4.24 When asked whether the rules of the Supreme Court and High Courts relating to fees charged by advocates were being followed uniformly by advocates in all the courts, a representative of the Ministry stated as under:—

“Each High Court has its separate rules with regard to the fee chargeable to the clients. There is no uniform rule. Supreme Court has separate schedule according to which the fee is controlled.”

4.25 When asked about the minimum and the maximum fees charged by advocates, the witness replied as under:—

“Actually, in the Supreme Court rules, there is no provision regarding fee chargeable by senior lawyers. Therefore, there is no question of maximum fee chargeable as such. Of course, the minimum fee is there as per the schedule. But there is no provision at all for maximum fees. That is why the senior lawyers are probably charging more. In some cases, they charge beyond the capacity of the clients.”

4.26 Regarding the Legal Aid Scheme being implemented by Government for the weaker sections of society, the Committee was informed thus:—

“With regard to the legal aid matters, we have been launching various programmes like giving legal aid to the poor, propagating the legal aid schemes and giving para-legal aid. We are spending a lot of money in this regard. We have opened legal aid clinics in various Universities. For example, in Maharashtra, they have gone to the extent of introducing legal aid scheme as a syllabus in the law course. They have been launching good programmes. Regarding the victims of motor vehicle accidents, the General Insurance Company is giving a helping hand to us and according to which the victims are getting financial aid. Suppose, if the matter is before a Court of Law, they will go by evidence. If it is a question of local adalats, they do not go by technicalities. On the basis of the helpless conditions of the victims etc., money is being disbursed liberally by the Insurance Companies. They have been disbursing a considerable amount. In various States, they have got separate bodies. The Centre is also liberally giving grants. People are slowly realising the importance of this legal aid scheme and they are getting legal aid.”

Observations/Recommendations of the Committee

4.27 The Petitioner has raised two issues in his representation viz. (i) that lawyers charge very high fees from their clients; and (ii) that they drag on the cases.

The Petitioner has pleaded that in a socialist country, people should have easy and affordable access to courts to get justice. Lawyers are in a service profession and they should not be allowed to fleece the people by charging exorbitant fees on one hand and dragging on the cases, on the other. The petitioner has sought Committee's assistance in finding out a solution to these problems.

4.28 During evidence, representative of the Ministry of Law and Justice, however, informed the Committee that various High Courts and the Supreme Court have framed rules regarding fee chargeable by the lawyers and therefore the transactions between the parties and lawyers were within the ambit of those rules.

4.29 Regarding the grievance of the Petitioner that lawyers charge more than the prescribed fee, the representative of the Ministry of Law and Justice admitted the fact and stated that the matter was looked into by the Law Commission and the Law Commission also felt that lawyers were charging more fee than decided by various High Courts and the Supreme Court. The Law Commission has suggested that certain administrative machinery should be established so that the fee between the clients and the lawyers could be regulated.

4.30 The Committee desire that the possibility of setting up of an administrative machinery which may be able to regulate the fees charged by lawyers from their clients, may be explored by the Government urgently as recommended by the Law Commission.

4.31 The Committee note from the Ministry's reply that the rules of Supreme Court and the High Courts generally contain a table of fees for advocates. As most of the people are not aware of this, the Committee recommended that table of fees prescribed under the rules should be displayed prominently by each advocate in his chamber and given publicity through media so that people are aware of it. This table should also be displayed in the Registrar's Office and also made available to anyone who may ask for it, at a nominal price.

4.32 The Committee desire that Government should impress upon the Bar Councils and Bar Associations that their members strictly follow the rules framed by High Courts and Supreme Court regarding the fees charged by them from their clients.

4.33 Another complaint of the petitioner is that in most of the cases lawyers do not issue stamped receipts to their clients for the amount they receive as fee and thus conceal their income to avoid paying income taxes which is a loss to the national exchequer.

The Committee do not consider that the objective would be served merely by providing that the clients should be issued stamped receipts by the advocates for the receipts need not indicate the full amount. Indeed compliance with such a rule would be difficult to enforce. The only remedy seems to be for the income tax authorities to be more vigilant and strengthen the field organisation for unearthing concealed incomes.

4.34 Regarding the complaint of the petitioner that lawyers drag on the cases and exploit their clients, the Committee are of the view that where a client feels that his case is being dragged on unnecessarily and the advocate is seeking adjournment without any valid reasons, the client may make a

complaint to the concerned Bar Council. On receipt of such complaints, the Bar Council should go into the matter expeditiously and, if it is found that the complaint is genuine, the advocate concerned should be warned by the Bar Council and in extreme cases the defaulting advocate be debarred from practising for a specified minimum period.

4.35 The problem of pendency of cases has acquired alarming proportions in the Courts. The matters regarding elimination of delay, speedy clearance of arrears and reduction in cost so as to secure cheap and quick disposal of cases without affecting cardinal principles of justice has been examined by several Commissions and Committees. The Committee consider that apart from shortage of judges and their utilisation on other commissions of inquiry/committees etc., one of the reasons of mounting arrears of cases in courts, is seeking and granting of too many adjournments without any valid and sound reasons. This calls for concerted efforts both by the Courts and the lawyers. The Committee are of the view, that the feasibility of making a provision in the relevant laws that not more than four adjournments would be given in a case be examined. The Courts should also bring to the notice of Bar Councils if a lawyer seeks too many adjournments merely for the sake of attending to another case or on flimsy grounds.

4.36 The Committee are happy to note that State Legal Advice Boards which are functioning in all the States are maintaining a panel of lawyers and budget provisions for these Boards are made by the States. In addition, a Central Committee called Committee for Implementing Legal Aid Schemes is also functioning with the Chief Justice of India as the Patron-in-Chief. The Committee are happy to note that the Scheduled Castes, Scheduled Tribes, Women and Poor Section of society are given legal aid and advice with the help of funds given by these Boards.

4.37 The Committee further note that the Bar Councils have a disciplinary committee which deals with the cases brought to its notice by the clients in case they feel that enough attention has not been paid to their cases by the lawyers or in case they feel cheated by their lawyers.

4.38 The Committee also note that Government have launched various programmes like giving legal aid to the poor, propagating the legal aid schemes and giving para-legal aid. Legal aid clinics have also been opened in various universities. The Committee desire that the Government should see that these schemes are implemented in an effective manner so that persons from weaker sections of the society who are in dire need of legal aid, actually get the benefit of these schemes. The working of these schemes should be kept under constant review and necessary improvements effected.

ACTION TAKEN BY GOVT. ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR EIGHTH REPORT (EIGHTH LOK SABHA) ON THE REPRESENTATION REGARDING REGULARISATION OF SERVICES OF EMPLOYEES OF NATIONAL SEEDS CORPORATION

5.1 In their Third Report, presented to Lok Sabha on 2.4.1987, the Committee on Petitions (Eighth Lok Sabha) considered a representation regarding regularisation of services of daily wage workers in National Seeds Corporation and observed as follows:—

“.... the Committee note with satisfaction the contents of the reply furnished by the Ministry of Agriculture. The Committee trust that the Ministry would expeditiously finalise the regularisation of services of remaining daily wage workers working in National Seeds Corporation and the Committee may be informed of the position in due course.”

5.2 The Ministry of Agriculture (Department of Agriculture and Cooperation) in their action taken reply dated the 16 November, 1987 stated as follows:—

- “(i) There is no vacant post Group ‘D’ available in Lucknow region;
- (ii) There is ban on creation of new posts and therefore daily wages staff cannot be appointed on permanent basis. Some of the deserving cases will be taken up after lifting up of the ban order;
- (iii) They are assessing the need based recruitment of Group ‘D’ employees after taking into account NSC’s activities in the matter of production, marketing and processing;
- (iv) NSC is extending all benefits and facilities to its daily wage workers as per provisions of the relevant enactments such as Minimum Wages Act and Payment of Wages Act, etc.”

5.3 The Committee considered the action taken reply furnished by the Ministry and after taking evidence of the representatives of the Ministry of Agriculture and National Seeds Corporation on 21 July, 88 made certain observations/recommendations.

[Paras 4.16 to 4.20 Eighth Report (8 LS)]

5.4 The Ministry of Agriculture with whom the matter was taken up again for implementation of recommendations have furnished action taken reply *vide* their communication dated 8 November, 1989. The reco-

mendations of the Committee and the reply furnished by the Ministry of Agriculture are given below:—

Observations/recommendations of the Committee

Para 4.16 : “In their third report presented to Lok Sabha on 2nd April, 1987, the Committee had expressed the hope that the matter regarding regularisation of services of daily wage workers would be expeditiously finalised by the Ministry.”

Reply of the Government

As directed by the Committee, this Ministry had taken up the matter regarding the regularisation of daily paid workers with the Management of the National Seeds Corporation. It may be mentioned that as on 26th July, 1989 there were about 700 persons working on daily wage basis for a number of years in the Corporation. However, it had not been possible for the Corporation to regularise them due to lack of financial resources. During the year ending 31st May, 1988, the Corporation had suffered a net loss of Rs. 190.50 lakhs as against a loss of Rs. 440.48 lakhs in the previous year 1986-87. The loss of the Corporation was Rs. 317.45 lakhs during 1985-86. The cumulative loss of the Corporation as on 31.5.1988 was to the extent of Rs. 879.74 lakhs. In order to enable the Company to function the Government of India had so far extended short term loan of Rs. 840.00 lakhs during the period from 1985-86 to 1988-89. Keeping in view the present financial health of the Corporation, it is felt that creation of new posts may not be desirable at this stage without proper study of staff requirements and financial re-structuring of the Corporation. This job is now being proposed to be entrusted to the consultant to be appointed soon, for the Corporation under NSP-III (National Seeds Project) a World Bank assisted project.

Para 4.17 : “On 16 November, 1987, Deptt. of Agriculture & Cooperation while forwarding the action taken reply on the Committees’ observation *inter-alia* stated that no Group ‘D’ posts were available against which casual workers could be posted an on account of a ban on creation of new posts the daily wages staff could not be appointed on permanent basis. It was, however, stated that the need based requirement of Group ‘D’ employees in the NSC was being assessed. During evidence before the Committee an impression was given that the NSC was already overstaffed and because of the ban imposed by the government on creation of new posts, the daily wage workers could not be regularised. It was later clarified that the non-absorption of daily wage workers was not on account of ban on creation of posts.”

Reply of the Government

As indicated above, the Corporation has been incurring heavy losses in its operation during the last few years. The depth of the problems can be gauged from the fact that the Corporation had incurred heavy losses during the last few years because of several factors such as, competition from State Seeds Corporation and Private seed Industry, high overhead expenses on the processing and distribution of seeds, low utilisation of existing processing capacity etc. Because of the severe liquidity problems being faced by the Corporation, the Government had sanctioned short term loan amounting to Rs. 840.00 lakhs in the past. Taking into consideration the financial status of the Corporation, it has been decided by the Government that the short term loan alongwith interest would be adjusted against release of funds which would accrue to the Corporation under NSP-III to be effective shortly. The financial assistance under NSP-III to the Corporation will be made available after the receipt of the recommendations of the consultant. Meanwhile, because of financial constraints, the absorption of daily paid workers may not be feasible for the Corporation at this stage.

Para No. 4.18 : "The Committee feel that the issue raised in the petition namely the regularisation of daily wage workers in the NSC, where these workers have been continuously engaged for years, is one of fundamental importance. According to Government's own guidelines which are equally applicable to public sector undertakings whenever a daily wage earner is continuously in service for 240 days, he is required to be converted into regular employees. The petitioners in question have been working in NSC as daily wage earners for years but still they continue to work only as daily casual labourers. This clearly show that things are being manipulated in such a manner that no casual worker in NSC is allowed to complete 240 days of continuous service so as to become entitled to the benefits of a regular post".

Reply of the Government

It has been recommended by the Committee that all the workers who have completed 240 days of continuous service may be offered adhoc appointment in regular scales of pay and all benefits as admissible to regular employees be extended to them. In this connection, it may be pointed out that due to non-availability of adequate number of group 'D' posts, it is not possible to appoint them on ad hoc basis in regular scales of pay. Creation of new post to absorb the workers even on ad hoc basis is difficult at this stage. The question regarding the creation of additional

Group 'D' posts would be considered after the optimum strength of the regional units of the Corporation is fixed by the Management on a realistic basis. Overall performance of the Corporation in financial terms is not satisfactory. The year 1988-89 has also ended with a net loss and this will be the 4th year of continuous loss recorded. The budget estimates for the year 1989-90 also indicate a loss despite higher turnover.

Para 4.19 : "The Committee find that as on 7.11.1988 the total strength of daily wage staff of all categories in the 18 region of the Naional Seeds Corporation was 730, out of whom 153 were scheduled castes and 11 belonged to scheduled tribes. After the matter regarding regularisation of casual workers was first taken up by the Committee in 1986, the Corporation has been able to regularise the services of only 15 workers in three regions. However, not a single worker has been regularised in UP region after 1984-85. The Committee have been informed that Government have decided to have a study of the staff requirements of NSC made by an outside expert agency. The Committee recommend that the management study should be got completed without any further loss of time and the optimum strength of the various units of the Corporation fixed on a realistic basis".

Reply of the Government

It may be mentioned that the management study of the Corporation is proposed to be given to the Consultant to be appointed by the Government of India under National Seeds Project—Phase-III for NSC shortly. After receipt of the report of the Consultant, the optimum strength/man power requirement of the various units of the Corporation would be fixed.

Para 4.20 : "The Committee expect that after completion of the proposed staff study, the respective strength of the regular and casual workers would be realistically fixed. However, keeping in view the fact that some casual workers including the 14 petitioners have been continuously working in NSC for the last 8 to 10 years, the question of their regularisation should be accorded the highest priority. In case there is some insurmountable difficulty in regularising the services of these workers, the Committee desire that workers who have put in three years of service should be assured of employment throughout the year. They should be offered ad hoc appointments in regular scales of pay and all the benefits such as provident fund, bonus, EST, leave facilities to which regular employees are entitled, should be extended to them. They should be absorbed against regular vacancies as soon as they occur".

Reply of the Government

The above observations of the Committee have been noted for compliance. However, it may be mentioned that while the NSC would continue to regularise the daily-wage workers against the existing and future vacancies, the question regarding creation of more posts for regularisation would be examined after the report of the Consultant to be appointed by the Government of India under National Seed Project-III for the NSC for undertaking study of the inter-disciplinary functions/norms of work with size of units and staff requirement becomes available.

Observations/Recommendations of the Committee

5.5 The Committee note that as on 26 July, 1989, about 700 persons were working on daily wages basis in the National Seeds Corporation for a number of years. It has, however, not been feasible for the Corporation to regularise them due to financial constraints. The Committee need hardly stress that services of workers who have worked for more than 245 days, should have been regularised. The management, by not doing so, have denied the workers their due and legitimate claim. The Committee further note that the Corporation has not been financially healthy for the last few years. For the last 4 years the Corporation is continuously suffering financial losses and the cumulative loss as on 31st May, 1988 was to the extent of Rs. 879.74 lakhs.

5.6 The Committee note with dismay that despite such huge losses the job of management study of the Corporation has not yet been handed over to the appropriate expert agency/consultants though the proposal of getting such a study made was conveyed to the Committee as early as on 21.7.88. The Committee feel that the job of management study should have been handed over to the proper authority immediately after the losses came to sight. By not getting such a study made even after conveying the same to the Committee, the Committee is left with no alternative but to express their resentment over this gross negligence on the part of the authorities.

5.7 The Committee have now been informed that the job of study of staff requirements and financial restructuring of the Corporation is being entrusted to the consultant to be appointed by Government under National Seeds Project-III. The Committee hope that the consultant proposed to be appointed by Govt. would be entrusted with the work of management study of the Corporation without any further delay and on the basis of its report, the optimum strength of the various units of Corporation would be fixed. The Committee would like to emphasise that the services of these daily wage workers should continue till the study is completed. The Committee also recommend that after the study report, the workers should either be retrenched with full benefits or their services regularised.

5.8 The Committee have further been informed that due to non-availability of adequate number of Group 'D' posts, it is not possible to appoint those workers who have completed 240 days of continuous service, on adhoc basis in regular scales of pay. The Committee would like to reiterate the NSC would continue to regularise the daily wage workers against the existing and future vacancies.

NEW DELHI;
3 December, 1990

Agarhayana 12, 1912 (Saka)

LOKANATH CHOUDHARY
Chairman,
Committee on Petitions.