

COMMITTEE ON PETITIONS -- A CASE STUDY

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All those who yearn to see the emergence of a truly Welfare State and a healthy and responsive Parliament in India eagerly await the success of the National Campaign Committee in its efforts to bring in Central Legislation to ensure social security and labour welfare for construction workers .

The National Campaign Committee must eventually cut through the bureaucratic blockade that has stymied ~~the~~ its efforts for seven long years because hinging on its success is not only the welfare of lakhs of construction workers but that of our Parliament~~xx~~ and Parliamentary institutions as well .

Anyone with even a fleeting acquaintance with the work of the Committee cannot but admire the systematic and relentless way in which the Committee has gone about its task .The decision of the Committee not only to present a petition to Parliament but also to prepare a draft Bill constitutes a path breaking effort. Yet,if success has eluded the Committee thus far ,it has more to do with the mindset of officialdom and the way Committees of Parliament go about their business than with any deficiency in the approach of the Committee .

Though most of those present here are aware of all that has happened since the NCC came into being ,I would like to briefly touch on some of these events because they have a bearing on the success of such campaigns .

The NCC-CL submitted its petition and a Draft Bill to the Petitions Committee of the Lok Sabha on December 5 ,1986 .

A fortnight later,the Committee referred the petition to the Ministry of Urban Development but the Ministry took a full year to submit its comments .This was sent to the Petitions Committee only on November 26 , 1987 .

Yet another year passed before the Petitions Committee called the NCC-CL to tender evidence but in the meanwhile the Government introduced a Bill in the Rajya Sabha .Suffice it to say that the central theme of the Draft Bill prepared by the NCC-CL -regulation of employment,social security and labour welfare -were missing in the Government Bill .

The Petitions Committee finally submitted its report to Parliament on this issue on July 25, 1989 . There is little doubt that the Committee was greatly influenced by the arguments of the NCC-CL and the substantial ground work that had been done by it. It found merit in the case presented by the NCC-CL and directed the government to withdraw the bill pending in the Rajya Sabha and to come up with a "fresh comprehensive bill" .It wanted the government to examine the legislation proposed by the Campaign Committee ^{and said} ~~and~~ all good features thereof may be suitably incorporated in the "government bill " .

Mainly ,the Petitions Committee suggested the following :

- 1) That the government must consult the NCC-CL ,which has done pioneering work in this area
- 2) That the Bill before the Rajya Sabha be Withdrawn and
- 3) That all the "good features" of the NCC-CL Bill be incorporated.

The Petitions Committee has also commented on the manner in which the government had bypassed the NCC-CL while drafting its Bill .

Four years have passed since a Committee of Parliament pronounced its opinion on the issues brought before it .Yet,there is no sign of a comprehensive bill to protect construction labour .

In the meanwhile the NCC-CL has made a representation yet again to the Committee on Petitions and apprised it of the lack of progress after the Committee`s report on July ,1989 .

The stalemate on the NCC-CL Bill is a pointer to the Executive`s sensitivity or the lack of it to the opinion of Parliament on important issues.

Is this how the Executive responds to Parliament and its Committees ? The government`s non-response to the report of the Petitions Committee in this case set me thinking as to whether this was just an exception ~~or~~ or indeed the rule .In search of the answer to this question ,I went through the reports of the Petitions Committee since the Tenth Lok Sabha came into being and also a few other reports of the Committee submitted to the Eighth and Ninth Lok Sabhas.

I shall now deal with some other petitions which have been examined by the Committee in recent years. Each case has its own story to tell on the attitude and response of the government to the recommendations of the Committee on Petitions .

1. The Case of Mr. P.N. Gulati ,

Mr. Gulati, a retired Government employee of the Ministry of External Affairs wrote to the Chairman of the Committee in October 1965 and sought the Committee's intervention to secure his dues from the Ministry. Mr. Gulati told the Committee that in 1964 his immediate boss had recommended three advance increments to him .When the case was being processed, the file was lost by the Administration and was retrieved from the record room after a lapse of 14 years. He was ~~it~~ then given two advance increments from back date but the arrears ~~payment~~ for 14 years was denied to him .

The Committee sought the comments of the Ministry of External Affairs. The Ministry owned ~~up~~ loss of the file and said that the same had been retrieved in 1978 -after a lapse of 14 years. It informed the Committee that in 1984 the ~~Finance~~ Finance Secretary had agreed to an ex-gratia payment of an amount not exceeding Rs 10,000 in full and final settlement of his case but ~~that~~ Mr. ~~r.~~ Gulati had refused this payment and that therefore a decision had been taken to close the case .

The Committee ,after considering the comments of the Ministry, decided ~~not to pursue the matter but~~ in June 1986 not to pursue the matter but picked up the threads once again when it heard from Mr. Gulati that he had received a letter from the Foreign Secretary offering him an ex-gratia payment of Rs 15,000 .Mr. Gulati however informed the Committee that he only wanted what was due to him and that he would not accept even this enhanced ex-gratia payment.

The Committee took all this into consideration and submitted its recommendations in its third report to the Eighth Lok Sabha (1986-87).

The report said that the Committee was satisfied with the reply furnished by the Ministry of External Affairs and had come to the conclusion that no further intervention on its part was required in the matter "in view of the offer ~~of~~ by the Foreign Secretary of Rs 15,000 which is not a paltry sum".

But the story does not end here . The Committee was compelled to take up the issue yet again when ~~Mr. Gulati informed it~~ Mr. Gulati informed it that the Ministry had now gone back on its commitment and was offering him only Rs 10,000 .This was in August 1989 -a full two years after the Committee had closed the ~~Case~~ on the ~~basis~~ basis of the Rs 15,000 that the Ministry had offered to the petitioner in October 1986.

In view of these developments the Committee was compelled to revert back to this issue in its first report to the Tenth Lok Sabha submitted in March, 1992 .

In this report it said : "The Committee regret to note that the Ministry had gone back on their commitment and issued sanction for Rs 10,000 only in August 1989 ". It went on to observe that the petitioner had been put to so much inconvenience because the relevant file was misplaced and could be retrieved only after a lapse of 14 ~~years~~ years. This, it said, was " a sad commentary on the system of maintenance of files in the Ministry of External Affairs" and hoped that corrective measures would be taken to improve the system of maintenance of files in the Ministry .

The facts that emerge from this case are as follows :

- 1) A Government employeex , who was sanctioned advance increments in 1964 petitions the Committee after 21 years in 1985 seeking justice .
- 2) In 1986 the Committee decides that it need not pursue the matter in view of the offer of an ex-gratia sum of Rs 15,000 to the employee by the Ministry .
- 3) The Ministry ignores the Committee's opinion and scales down the offer of ex-gratia to Rs 10,000 in August 1989 .
- 4) The Committee examines the issue afresh and informs the Lok Sabha through its report in March 1992 - that is a full 28 years after the problem arose - that it is unhappy over the decision of the External Affairs ministry to renege on its promise of Rs 15,000 .

I have dwelt at length on this case because it not only highlights the petty, niggardly attitude of government but also shows the contempt with which Government treats Parliament and its Committees . For a measly Rs 5000 the Government was willing to brush aside the opinion of a Committee of Parliament .

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2. The case of licenced porters, vendors and bearers who work in Railway stations throughout the country.

This is yet another case which throws up the mental block that exists in the administration when it comes to responding to the opinions of our representatives in Parliament.

A representation was given to the Committee on the problems of licenced porters, vendors and bearers ~~in~~ some years ago. The Committee presented its findings to the Lok Sabha in its thirteenth report in July, 1989. The Committee found substance in the ~~arguments~~ pleas put before it and made a series of recommendations. In March 1993, the Petitions Committee of the Tenth Lok Sabha submitted to the House the "Action taken" report of the Ministry of Railways on what was recommended by it four years ago.

It is worthwhile examining the recommendations and the "Action taken".

1. The petitioners told the Committee that the Railways do not treat these poor labourers as railway employees as not employer-employee relationship subsists between porters, vendors etc and the railway administration. Therefore though porters, vendors and bearers work for the railways throughout their lives, they are denied all benefits and privilege that normally accrue to railway employees.

The Committee referred to the "clear verdict" of the Kerala High Court in 1979 that there was no room for doubt that there was indeed a relationship ~~between~~ of employer and employee between the railway administration and the licenced porters. It therefore held the view that the demands of porters, vendors etc for better facilities should not be brushed ~~aside~~ aside by taking shelter under the "specious plea" that they are not employees of the railways.

"Action taken"

The Railways explained that porters and vendors are permitted out-patient treatment in railway hospitals and seats for their wards in railway schools "subject to availability of schools" and claimed that in big railway stations rest shelters had been provided to them. "It will thus be appreciated that though the licenced porters are licencees only and earn their wages direct from the passengers, yet the railways look after the working conditions to the extent possible".

The meaning of all this officialese is to say that the railways do not accept the verdict of the Kerala High Court that an employer-employee relationship exists and that enough is already being done for porters and vendors.

2. In 1967 the Ministry of Labour appointed a Committee headed by Mr. P. V. Anandan, the then M.P. to look into the working conditions of licenced porters and vendors. The Committee submitted a report containing 55 recommendations in respect of licenced porters and 34 in respect of commission vendors. The railways told the Committee that of the 55 recommendations regarding licenced porters, 31 were accepted, 9 were accepted with modifications and 12 were rejected. Out of 34 recommendations regarding vendors, 16 were accepted, 3 were accepted with modifications and 13 were rejected. Further, the railways claimed that all the accepted recommendations had been fully implemented.

The Committee however felt that the claim of the Railway Ministry was not fully borne out by the information placed before it. The grievances on which the Anandan Committee had made recommendations had been repeated in extenso by the porters and vendors in their petition to the Committee. In other words, a full quarter century after a Committee had probed into these complaints, the grievances had remained unattended to. The Committee therefore concluded that the implementation of the Anandan Committee Report "leaves much to be desired".

"Action taken".

"Instructions for implementation of all the accepted recommendations of the Anandan Committee have been issued to the Zonal railways and have been reiterated from time to time !

The Ministry seems to think that implementation of a recommendation means ~~issuance~~ issuance of instructions to Zonal railways.

3. The Petitions Committee opined that a Working Group be immediately constituted - in which representatives of Labour may also be associated - for a de novo review of the conditions of service of licenced porters, vendors etc and to review the implementation of the Anandan Committee's recommendations.

"Action taken".

The Zonal Railways have already been advised to implement all the recommendations of the Anandan Committee. In addition, Zonal, Divisional and Station authorities have been asked to look into the grievances of porters and vendors. "In view of the position explained above, setting up of a Working Group to review the conditions of service of licenced porters may not be necessary.

4. The Committee said that the railways should consider immediately the question of providing woollen uniforms to porters working in stations situated in the Northern and North-Eastern parts of the country, where winter is particularly severe .

"Action taken " .

The railways are incurring loss even in supplying two sets of cotton uniforms to the porters. It will not be possible to provide them winter uniforms without increasing the licence fee substantially, which will not be liked by the licenced porters .

5. The Committee felt that a permanent machinery comprising representatives of the railway administration and the porters and vendors should be established as this will go a long way in solving the genuine problems of porters and vendors .

"Action taken " .

Instructions for holding bipartite meetings with licenced porters at stations having 20 licenced porters, once in six months exist. The unions of porters and vendors are not recognised by railways and it will not be feasible to set up a machinery as suggested .

~~INSTEAD OF THIS~~, I have listed out five major recommendations of the Committee . Not one of them have been accepted by the Ministry . In other words , calling government responses to ~~PARLIAMENTARY REPORTS~~ the recommendations of Parliamentary committees as "action taken reports" is indeed a misnomer . In reality they are catalogues of inaction and indifference .

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3. The case of some residents of Rohini colony in Delhi ,who were deprived of potable water supply .

Some years ago the Petitions Committee received a representation from residents of Pocket F -24 ,Sector 7 ,Rohini ,Delhi who were not given drinking water connections by the Delhi Development Authority. The Committee examined the petition and presented its findings in the tenth report of the Committee to the Eighth Lok Sabha . This report was presented in the House in May ,1989 .

The Committee observed that while the DDA had miserably failed to provide drinking water facility and other civic amenities in time to the residents of this block in Rohini, it had imposed penalty for late completion of houses by the allottees. The Committee then went on to examine the availability of drinking water in Delhi and asked the government to initiate measures for setting up the second Haidarabur water treatment plant ,as this seemed to be the only remedy for meeting the water requirements of the growing metropolis .

"Action taken" .

Four years later, the Committee ,after examining the "action taken" notes of the Ministry of Urban Development , had this to say in its fourth report to the Tenth Lok Sabha on March 18 ,1993 :

" While the Committee note that water connections have been provided to residents of Pocket F -24 , Sector 7 ,Rohini ,they are concerned at the lackadaisical approach adopted by DDA in implementing their recommendations for appropriate measures to ensure adequate supply of potable drinking water in Delhi. It has been stated that the Government have taken up the issue with the Haryana Government to get adequate raw water in lieu of treated effluent. The matter is also stated to have been taken up with the Chief Minister of Haryana by the Lt. Governor Delhi . THE COMMITTEE OBSERVE THAT SIMILAR REPLY WAS GIVEN TO THE COMMITTEE DURING 1988-89 WHEN THE SUBJECT MATTER WAS BEING EXAMINED BY THE COMMITTEE IN DETAIL :

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Why does the Executive tend to treat reports of Parliamentary Committees with such indifference and disdain ? Is there a way out ? . Given the social and economic conditions in which a vast majority of the people live in India, the goal of equity and a just and fair social order cannot be realised ~~until~~ within ~~the~~ a democratic framework unless Parliamentary institutions become stronger and acquire the clout to effectively deal with such bureaucratic sluggishness . ~~THIS IS POSSIBLE~~ A begining can be made by making Committees of Parliament much more stronger and potent than they are today.

Past experience has shown that a Committee of Parliament is as strong as its Chairman and members want it to be . Many Mps, it appears , are not conscious of their rights as members of Committees. Consequently, the government too begins to ~~take~~ Committee reports lightly.

For example, what ~~prevented~~ ^{drawing} members of the ~~PEIKI~~ Petitions Committee from ~~is~~ periodically ~~draw~~ the attention of the Speaker and the Lok Sabha to the non-implementation of its recommendations vis-a-vis construction labour ? .

To me, the generally held view that the opinions of Committees of Parliament are merely recommendatory in nature, is unacceptable . A Committee of Parliament is actually Parliament in miniature. It is a 15 or 21 member group of our own representatives, drawn from different backgrounds, political parties , regions and professions . It is indeed a panchayat at the national level and when these 15 or 21 MPs put their heads together and tender an opinion on an issue placed ~~them~~ before them, can they go wrong ? Can one reasonably hope for greater wisdom in an individual or a group of individuals in government ? .

There was a time when it was believed that the directive principles ~~of~~ state policy was just a string of platitudes in our Constitution. Today, through public interest ~~in~~ litigation and ~~such~~ several such novel devices, the Judiciary is giving the signal that there is more to these articles and that they constitute the very soul of our Constitution . When such is the change sweeping through these institutions, should one allow the bureaucracy to frustrate the efforts of our elected representatives and ~~an~~ even attempt to anaesthetise Parliament ? .

I think the NCC-CL can make a significant contribution towards checking this deplorable trend . ~~THINKINGPOSSIBLE~~

A begining can be made by appraising Members of Parliament of the report of the Petitions ~~of~~ Committee of July ,1989 and ~~then~~ about the non-response of government to the recommendations of the Committee. Members of the Petitions Committee itself can be ~~agjivized~~ activated to address the issue yet again and to mount ~~fresh~~ pressure on the government for bringing in a comprehensive Bill .

As I have stated at the outset, the success of the NCC-CL will not just be the success of construction workers but that of Parliament itself .

In addition, it will constitute the triumph of an interest group that took up a worthy cause and mark the beginging of serious interest group activity in our democracy.

At that stage the NCC-CL could convert itself into a forum to strengthen Parliamentary Committees in India .

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