

COMMON CAUSE

VOICE OF "COMMON CAUSE"

FOR INFORMATION & ACTION

We give below some points for information and some suggestions for action. We earnestly hope that where action is suggested the readers will kindly take the desired action.

PROPERTY TAX

Problems arising from the aberrations and distortion of assessment of property tax in Delhi are well known to all. Readers should also take upon themselves the duty of strongly voicing their views. Collective action in matters of this nature is of paramount importance. All should write letters, addressed to the Home Minister of the Government of India (North Block, Secretariat, New Delhi-110001) and to the Lt. Governor of Delhi (Raj Niwas, Court Road, Delhi-110006) conveying to them deep concern and resentment at the discriminations and distortions. For instance, there will be inevitable discriminations between a house constructed three decades ago, and an exactly similar adjacent house constructed recently on same sized plot, both self-occupied and assessed on cost basis; or between a house rented at Rs. 3600 and assessed on rental basis and the adjacent same sized house rented at Rs. 3400 but constructed three decades ago and assessed on cost basis. How can such widely different tax - impositions be inflicted on similar properties? Only proper solution is that property tax should be related to the area of plot and aggregate area built on it, so that it has relationship to the quantum of services provided by the municipal authority. Recommendations of High Powered Committee constituted by Delhi Administration, specifically on assessment will in fact create serious problems for the citizens in the matter of assessment.

KINDLY NOTE

1. Kindly note that Annual General Meeting of COMMON CAUSE will be held on Saturday the 8th February, 1992 in the Constitution Club, Rafi Marg, New Delhi-11 at 10.30 A.M. Notice and Reports are reproduced in this issue.
2. We convey apology for a misunderstanding caused in the last issue. Existing Life Members are not expected to pay any additional amount towards membership subscription. Of course, everybody is welcome to support the organisation through donations any time.
3. We request memberships renewals and also remission of membership subscriptions of consumers organisations etc. Form on the last page can be photocopied and used if necessary.

PENSIONS

It is unfortunate that the case of pre-1973 pensioners, which had been filed by the Pensioners Associations of All India Services has failed in the Supreme Court. Review Petition was submitted, but that has also been rejected. To the Pensioners we have one important request now to convey. There is obvious serious discrimination in the matter of dearness allowance being paid to the pensioners and serving personnel. When both are living in the same conditions of cost of living and when the policy decisions were to relate dearness allowance to the consumers price index, why should there be this discrimination? To the pensioners the dearness allowance is being paid at 50% of that given to the serving personnel. We have raised this question with the Department of Pensions of the Government of India but have not yet received any satisfactory reply. We will follow it up and if no satisfactory redress comes forth we will consider taking this matter of discrimination to the Supreme Court. Secondly, on the question of family pension we feel that there should not be

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discrimination between one widow and another widow of officials of similar posts, taking account of the fact that they are both accustomed to same standard of living.

Readers should convey their feelings on these issues to the Minister of Personnel, Public Grievances and Pensions (North Block, Secretariat, New Delhi-110001).

Pensioners often write about the decision of Government restoring pension commutation 15 years after the date of commutation and not after retirement. We agree with this decision of Government and do not wish to contest it.

INCOME TAX

Serious problems are being encountered by hundreds of thousands of persons all over the country who hold fixed deposits in the banks, and who now have to go about filing declarations in the banks about their being not within the income tax bracket, otherwise income tax will be deducted from their interest due on the fixed deposits where the interest is more than 2500, and they will never be easily able to get the deducted tax refunded. The form prescribed for the declarations requires to be signed before "a gazetted officer" "known to the signatory"; this is a most absurd requirement, a legacy of the colonial days. This requirement must be got deleted; declaration by the person should be enough because the declarant would stand to be prosecuted for false declaration. We have written strongly to the Finance Minister on this matter. We suggest that readers should write to him conveying their views (Finance Minister, North Block, Secretaries, New Delhi-110001).

INCOME TAX RETURNS

For the submission of returns of income tax the Department has printed absurdly big forms. To each form they have attached 26 pages of "instructions", printed in Hindi as well as in English on alternate pages. The forms are printed in millions, on good quality paper. One can imagine the huge wastage of funds and of paper. We have written to the Finance Minister suggesting that instructions could be made available if necessary on small payment, and that printing can be done separately in English and Hindi so that those who wish to use form printed in either language should be able to do so, without the wastage involved in the present arrangement. We suggest that readers should write on this subject to the Finance Minister.

CONSUMERS PROTECTION ACT

We have furnished detailed information in this issue. We suggest that on the basis of the writ Petition submitted by us in the Supreme Court, and reproduced in an earlier issue of the periodical, organisations of consumers in the States should file writ petitions in their High Courts highlighting the defaults of the State Governments in effective implementation of the Act and satisfactory functioning of the District Forums and State Commissions.

PENSIONS TO MPs

We have reproduced in this issue of the periodical the substance of writ petition filed by us in the Supreme Court on this important subject. We suggest that organisations taking interest in public affairs should file similar writ petitions in their high courts challenging the pensions being given to the members of legislative assemblies and legislative councils.

UNAUTHORISED CONSTRUCTIONS

We are glad that on our suggestions various associations of housing colonies have filed writ petitions in Delhi High Court against unauthorised constructions and builders have started realising that they cannot continue their depredations. We hope housing colonies at other places will initiate similar action.

We hope that readers will take initiatives on the Suggestions we have made. We would be grateful for their keeping us informed.

FOR CONSUMERS' REDRESSAL

H.D. SHOURIE

Problems of consumers will in the coming years continue to gain more and more importance. We have therefore considered it necessary to present in this article a full descriptive picture so that people are apprised of the basic essentials of the Consumers Protection Act, the position as it now obtains in regard to the establishment of the quasi-judicial redressal machinery provided for in the Act, difficulties which are yet being encountered even after the repeated directives issued by the Supreme Court regarding expeditious implementations of the Act on the basis of writ petition submitted by COMMON CAUSE, the lacunae and shortcomings which exist in the Act, and the proposals which are being formulated for affecting the desired amendments in the Act. We would be happy if this article is reproduced in the periodicals which are being issued by the various organizations of consumers, after translating into local languages where necessary.

There is need of wide dissemination of information on the redressal machinery which is provided for under the Consumers Protection Act. Arising from the initiatives of COMMON CAUSE in filing writ petition before the Supreme Court early establishment of the redressal machinery in all districts of the country can now be envisaged. The Act was passed in December 1986. It contained mandatory requirement that in each district there must be a District forum which would entertain the complaints of consumers and decide them expeditiously; the period of 90 days was prescribed for the decision of the complaints. The matters have languished at the level of the States and we had therefore taken the matter to Supreme Court almost 2 1/2 years ago.

Repeated directives were issued by the Supreme Court to the States, asking for submission of detailed information about the establishment of District Forums and State Commissions. Eventually in August '91 the Supreme Court told the States that the District Forums must be set up within the period of two months and detailed reports of the establishment must be transmitted. When it was noticed in that some States had yet continued to default, the court issued direction to Civil Supplies Secretaries of eight State Governments to appear before it to show cause why they should not be punished for contempt of court for not having complied with its orders. The concerned officers appeared before the court and when the court satisfied itself about the action taken by then States the contempt notices were discharge.

These directives of the Supreme Court have helped to shake up the States. Some States have in fact frantically issued notifications for the setting up of District forums. The main thrust of the Supreme Court Order has been that (i) independently functioning District Forums must be set up in all districts wherever the number of complaints is more than 150 over a period of six months; (ii) where the number of complaints in any district is less than 150 during the period of six months the powers under the consumers Protection Act can be given to the District Judges; and (iii) in the case of District Judges exercising the powers it must be ensured that they operate for atleast three days in a week to deal with the consumers' complaints and for this purpose the States have been directed to take the approval of the concerned High Courts.

Even though notifications for establishment of District Forums have been issued there will inevitably be some delay in the final establishment of the Forums and their starting to actually function. These delays are attributable to finding suitable accommodation and appointment of staff; besides securing the active participation of the two non-official members nominated for each Forum and the appointment of

President of the level of District Judge. While, therefore, the District Forums can now be expected to start operating almost everywhere in the coming months it is necessary that people should be made fully aware of the benefits they can derive by approaching these Forums with their complaints. For this purpose we have considered it necessary to provide the requisite information and guidance.

IMPORTANT FEATURES

Before the matter relating to the operations of District Forums is dealt with in detail it is desirable that the people should be broadly aware of the various important Features of the Consumers Protection Act. Briefly put, the Consumers Protection Act can be utilised to advantage by the people because it has certain features which did not find place in any of the previous enactments dealing with the problems of buyers or consumers. Legislations such as Essential Commodities Act, Prevention of Food Adulteration Act, Drugs Control Act, Drugs & Cosmetics Act, Weights & Measures Act etc. have been on the statute book for decades but there were certain shortcomings which did not enable the full advantage of these legislations to be directly available to the consumers. Against this background it is relevant to mention that the Consumers Protection Act has certain specific important features. Firstly, it is for the first time that the rights of the consumers have been spelt out in any enactment. These rights have been clearly stated in this enactment. These include specific rights such as the right to be protected against marketing of goods which are hazardous to life and property, the right to be informed about quality, quantity etc. of the product, the rights to be assured of availability of goods at competitive prices, the right to be heard through complaints, the right to seek redressal against unfair trade practices, and the right to be given education on the problems of consumers. Secondly, it is also for the first time that besides the entertainment of complaints regarding products or goods, it has been provided in this legislation that the complaints can also be made in respect of "services". Services in this context have been defined to include those such as banking, financing, insurance, transport, processing, supply of electricity, boarding, lodging, entertainment, amusement and the purveying of news or other information. Thirdly, it is for the first time that in an enactment of this nature the parliament has made the public sector as much accountable to the consumers as the private sector. For instance, services of the nature mentioned above are largely being presently provided by public sector enterprises. These have been made accountable to the consumers in regard to efficient functioning thereof. Previously it could not, for instance, be contemplated that an aggrieved consumer could proceed against the telephone department, or electricity supply undertaking, or a bank; it is now possible under this Act to put them in the dock and make them accountable for their lapses. Another important feature of this Act is that it has made it mandatory to set up advisory bodies having as their members the representatives of all the concerned departments and organisations of government and representatives of consumers and all other concerned interests. Essentials of the policies relating to the problems of consumers are discussed in these advisory bodies for arriving at decisions which influence the government policies in relation to problems of consumers.

RANGE OF PROBLEMS

There is hardly any limit to the type of problems which the consumers can take to the redressal machinery for seeking redressal. These problems can range from the supply of a defective product to an inadequate service. If a shopkeeper has supplied to the consumer a defective gas burner which has caused damage or a defective sewing machine which has caused loss, or if a bank has issued a draft which is found to be unencashable because of defective signature, or an electric supply undertaking has issued a wrong bill which has necessitated the bother of getting it corrected, they can all be proceeded against

under this Act. Numerous types of problems are now being taken to the District Forums, State Commissions and the National Commission for seeking redress. By now almost about 40,000 cases have been filed before the District Forums, and relief has been secured in vast numbers of these. For once the traders, manufacturers and the public sector organisations like the railways, road transport corporations, banks, insurance companies, electricity supply undertaking, hospitals, telephone nigrams etc. have all started realising that they are accountable to the consumers and they cannot get away with providing them defective products and inefficient services.

We have from time to time given information about the types of cases which have been taken before these redressal bodies. Some interesting cases have been decided by these bodies. Railways were directed to pay a heavy compensation to a lady whose sari got torn, and who sustained some injury, by a nail protruding on the upper berth of the compartment when she climbed on to it. Railways had also to pay compensation for not informing the passengers about cancellation of a train after tickets had been sold to them, or for holding up a train for about two hours in the heat of the sun without sufficient reason, or for depriving a passengers of the seat reserved for him and giving preference to a VIP in allotting it. Life Insurance Corporation was ordered to pay the policy amount and compensation to a widow on their failure to accept the claim on the policy of her deceased husband on some ground that he had not submitted information about the condition of his health at the time of taking the policy. Telephone Nigam has been ordered to give rebate on the rent charged from the consumers during a period when telephones could not function due to a strike by workers. The matters have been taken under the Consumers Protection Act to such an extent that a revenue officer of the government has been ordered to pay compensation for the failure to supply copies of documents asked for by an agriculturist in respect of his land. Of course, the traders and manufacturers are being hauled up before these courts for every conceivable default or defect in relation to the products supplied or manufactured by them. Defects relating to refrigerators, television sets, washing machines and such like have been taken up and redressal secured.

PROCEDURE

Procedure for securing redressal under this Act is simple. Complaint has to be filed before the appropriate redressal body.

Where the value of goods or services, which form the subject of complaint, or where the compensation, if it is claimed on account of damage caused due to defect in the product or deficiency in service, is less than Rs one lakh, the complaint has to be submitted before the District Forum. Where the amount is more than Rs one lakh but less than Rs ten lakh, the complaint has to be filed before the State Commission in the capital of the State, and where this amount is more than Rs ten lakhs and complaint needs to be filed before the National Commission which is located at Delhi.

The complaint should be addressed to the "President, District Consumers Redressal Forum, "President, State Consumers Redressal Commission" in the case of State Commission, and to the "President, National Consumers Disputes Redressal Commission" in the case of National Commission. Address of the concerned body should be locally ascertained, and the complaint, expressing the matter in detail and giving full name and address of the complainant as well as of the party complained against, should be either delivered personally or sent by registered-A.D. post. It facilitates matters if one or two copies of the complaint are sent along with the original, keeping in view that copy of the complaint will be sent by the redressal body to the other party. It would be useful if the complaint is typed out somewhat on the following pattern:-

IN THE COURT OF CONSUMERS DISPUTES REDRESSAL FORUM

[name of the district]

PETITION NO. _____

OTHER PARTY _____

COMPLAINANT

(Name and Full address)

(Name and Full address)

(Substance of the Complaint in full detail, along with photocopies of all relevant documents, highlighting the defect in the product or deficiency in service, the loss suffered or damage caused, giving full particulars of these, and the compensation claimed, furnishing information about the expenditure which had to be incurred in getting the defect removed, or the mental anguish caused, etc.).

The complaint should be signed at the bottom. If the complaint is proposed to be pursued before the redressal body by the complainant himself, it would be desirable to type the words "IN PERSON" at the end of the complaint, below the signature.

(In Delhi the address of District Redressal Forum is Room no: 158, Tis Hazari Court, Delhi-110006. Another Forum at Delhi is yet in the process of being established. The address of State Commission at Delhi is : "Old Civil Supply Building, Tis Hazari Court, Delhi-110006. The address of National Commission is : Old Indian Oil Building, 5th Floor, Janpath, New Delhi-110001).

Re: COMPLAINTS

There are certain points arising from the present wording of the Consumers Protection Act which need to be kept in view by everybody, particularly in relation to the complaints which can be submitted and the claims that can be embodied in them. There are certain shortcomings and lacunae in the Act which disable the successful pursuing of complaints in certain aspects. It is necessary that people should know about these. Effort have already been made for remedying this matter. On the insistence of representatives of consumer's interests the government has set up a Working Group which has gone into all the various lacunae and the suggestions received from the organisations and associations from all over the country for effecting amendments in the Act might be passed by the Parliament in the coming months. Meanwhile, we give below information about the various aspects which affect the submission of complaints and the changes which are likely to be made in the Act for overcoming the existing lacunae.

(i) At present complaint under the Act can be filed only where loss or injury has actually been caused. It is felt that in addition there should also be scope for filing of complaint where loss or injury can be reasonably apprehended on account of an unfair trade practice adopted by a manufacturer or trader.

(ii) At present there is no scope for filing complaint if a product is put up for sale without adequate information about its contents and usage, thereby endangering the safety of users. This shortcoming is proposed to be remedied.

(iii) Presently the complaint can be filed only after the purchase has been effected. It is proposed to remedy this by incorporating an appropriate clause to take care also of cases where there has been only an agreement to effect purchase.

(iv) At present the wording of a clause defining the "consumer" has a very severe limitation which has

caused difficulties at various places. The relevant words are that one is not a consumer if the goods have been purchased "for a commercial purpose". All sorts of hurdles have been created by this wording. For instance, this wording would exclude a widow who buys a sewing machine for earning a livelihood, or a person who buys a cycle-rickshaw for earning a livelihood, or a doctor who buys a stethoscope for his medical profession, or an agriculturist who buys seeds for his crops, or even a journalist who buys a pen for his profession of writing; there can always be argument from the other side that these purchases were made for "commercial purpose". Efforts are now being made to remedy this problem. Where the product is purchased for self-employment it has necessarily to be included ; our suggestion in fact is that where the product purchased has no nexus with the selling or manufacturing activities of the complainant he should be capable of seeking redress in relation to the defect in the product. It is understandable that if a company making cotton yarn buys cotton, or a company weaving cloth buys cotton yarn, or if a company making garments buys cloth, or if a company selling garments buys cloth or garments; these companies are certainly buying these for commercial purpose, and we don't want the Consumers Protection Act to be used for these transactions which are for normal civil courts to settle. But, if a company selling cloth buys an air conditioner or a lighting system for the office of its executive, we feel that the company should be able to complain under this Act about the defective product. We hope that the amendment which eventually is effected will solve the various problems caused by the present wording.

(v) Another important lacuna arises from the wording of clause which disables action being taken under the Act where a service is secured without payment of any consideration. This poses a serious constraint. If a citizen desires to proceed against a municipal authority for not cleaning his surroundings or the road and causing unhygienic conditions, the municipal authority can always take refuge under the clause on the ground that the service rendered is without consideration. Likewise, if a government hospital provides a poor service due to which, by the negligence of a doctor, the problem of a patient is aggravated by wrong operation, the hospital can argue that the service was free and without consideration. Of course, in such cases it can be contended that the citizens are paying taxes; therefore, it has been felt that there is need of amending the relevant provision in the Act. It has been suggested to overcome this problem by adding the word "avails of", after the word "hires" the service in the relevant clause, and also by providing that payment of consideration will not be a condition precedent to action being initiated under this Act in relation to a service.

(vi) Difficulties have also arisen in regard to the enumeration of "services" under the Act. The services mentioned in the Act, such as banking, insurance, transport etc, are only illustrative and not exhaustive. Anyhow, there is need of specifically mentioning certain services such as medical services in hospitals, municipal services, and services relating to housing construction.

(vii) Rights of consumers have been spelt out in the Act, but it has not been made explicit that the redressal agencies, namely, the Forums and Commissions, will enforce and protect these rights of consumers. This is proposed to be rectified.

(viii) The States have been expressing difficulties in being able to find adequate number of qualified retired persons of the level of District Judges for appointing them Presidents of District Forums. Suggestions have accordingly been made to modify the wording of relevant clause in such manner that persons of appropriate status who have had experience of administering law can also be selected for these appoint

ments. This will widen the scope of availability, including also retired administrative officers. In this context it is also pertinent to note that there have been many complaints that the two members selected to sit with the Presidents of District Forums, and even of State Commissions, are selected often on political considerations, without their having any experience or knowledge, or even being literate. This is a very serious matter. Where such inadequacy is noticed it must be highlighted for remedying the wrong. Suggestions have been made that a judge of High Court should also be included for helping in the selection of proper nominees. Certain other matters relating to the terms of appointment, and the limitation of age, etc, are also proposed to be modified, so that these panels on the Forums and State Commissions etc become really effective.

(ix) A very important matter presently under consideration is whether the existing pecuniary and appellate jurisdiction of these "courts" should remain as they are provided in the Act or whether these need to be modified. Opinion is emerging that the jurisdiction of District Forums should be increased from Rs one lakh to Rs five lakhs, and that State Commissions should have unlimited jurisdiction as presently operating for High Courts limited to the area of the respective states. The National Commission and State Commissions should have concurrent pecuniary jurisdiction, so that matters of national importance can come before the National Commission. The National Commission and the State Commissions should continue to have the existing appellate jurisdictions.

(x) There has been a feeling that the redressal agencies established under this Act don't have sufficient powers to provide adequate relief to the consumers. They can at most limit the relief to the damage actually suffered and to order replacement of the product. They cannot even award costs to the complainant. These shortcomings need to be removed and it has been suggested that the redressal agencies should be empowered to award such relief which they consider appropriate besides awarding costs to the complainant.

(xi) One very serious lacuna in the present Act is that the redressal agencies have no power to stop the sale of any product even if it is well known that the product is hazardous to life and must not be allowed to be sold. Secondly, the redressal bodies cannot issue any interim relief or stay in a case where it may be considered necessary. In the MRTP Act there is provision authorising the issue of "cease and desist" orders ; in this Act there is no such provision. There are demands that these powers, and also for interim relief and stay and recall of unsafe or hazardous goods, must be included in the Act.

(xii) It has been the experience that whereas a section exists under the Act to award punishment to a party which fails to comply with the order passed on a complaint, in practice it has been difficult to secure compliance with this provision. It has been suggested that provision should be made to enable action being taken under the relevant provisions of Code of Criminal Procedure. Provision is also proposed to be made to award penalty to the complaint if his complaint is found to be false, frivolous and vexation. At the same it is considered necessary to provide for immunity to a consumers organisation which may be concerned with the filing of a complaint in good faith on behalf of a consumer.

(xiii) Over and above these various provisions relating to the functioning of the redressal agencies under the Act it has been felt necessary that the advisory bodies in the shape of Consumers Protection Councils established at the Centre and in the States must exercise their effectiveness in formulating the policies for ensuring that the rights of the consumers, which have been spelt out in the Act, are properly protected.

(xiv) In the Act it is provided that each complaint should be decided by the redressal agencies within a

period of ninety days from the date of issue of notice to the other party on receipt of the complaint. It is very unfortunate that enormous delays have been taking place in dealing with the complaints and deciding the cases. These delays are attributable to various causes, including the non-functioning of most of the District Forums on day-to-day basis because in most of the States they have been established only by giving the requisite powers under the Act to the sitting District Judges. This system is obviously very unsatisfactory because the District Judges carry their own heavy workload of cases. At most places the District Judges have been allocating one day, like Saturday, as remarked above, to the work of CP Act. On this day of the week also the time devoted to this work is normally about one hour, with the result that the complaints are at most received and remain undisposed. At a number of places the complaints merely go on accumulating, causing sheer frustration to the consumer complainants. This procedure has tended to bring the C.P. Act only into disrepute, making a mockery of it. It is only by the repeated strong directives of the Supreme Court, on the basis of our writ petition and upon constant submission of the monitored position to the court, that the States have now woken up and the matters are likely to be set right in the coming months. The case in Supreme Court yet continues to be listed and we are thus in a position to continue placing before the court the state of affairs in the various districts, and we hope that constant monitoring and the vigilance by the court about the implementation of its orders will bring about the requisite change.

Against the background of the above presentation it is now for the consumers and the organisation of consumers to ensure that the District Forums and State Commissions become satisfactorily functional. Where they are not complying with the orders of Supreme Court information in detail should be sent to us - whether, for instance, the court sits three days in a week for C.P. Act work where the District Forum is operating on the basis of powers given to the sitting District Judges, whether reasonable dates are being given for the hearing of cases so that they can be quickly decided, whether independently functioning District Forums are established where the work load is more than 150 cases, whether proper staff is provided to the Forums and State Commissions, whether the accommodation provided to them is satisfactory. It is also necessary that consumers and the organisations of Consumers should assert themselves and demand from the State Governments, by addressing letters to the Chief Secretaries, that these requirements of the law and directives of the Supreme Court should be implemented. Copies of the letters should be sent to us for further action.

In this context it might be kept in view that on our suggestion to the Supreme Court direction has been issued that the National Commission and State Commissions should exercise administrative and supervisory control over the District Forums, and the National Commission should exercise control over the State Commissions. It may also be kept in view that feelings have been expressed that the lawyers should not be allowed to hold up progress of and decision on the complaints of consumers. There is accordingly a feeling that a lawyer should be allowed to appear only where the court considers it necessary in a complicated case, or where the complainant has engaged a lawyer. Mostly the complainants should be encouraged to appear themselves before these courts for seeking the redress.

In the over-all analysis our objective is to convey full information on this important matter to all consumers and the organisations of consumers. It is of fundamental importance that they should take steps at their own level to see that the rights which have been given to them under this statute, the Consumers Protection Act, are not in any way whittled down by lethargy, inaction, or negligence of the State Governments or their politicians or officials. They must assert to ensure that they derive the full benefits of this legislation.

In this context of the problems relating to the establishment of Consumers Courts we reproduce hereunder a letter written recently to Mr Kamal Nath, Minister for Environment & Forests by the Director of COMMON CAUSE. There is a general feeling that the courts which are being established under the Consumers Protection Act can also be used for the work relating to Environment Protection Act, instead of separate courts having to be established for the latter, considering that the setting up of duplicate courts for these allied causes can only add to the burden on the exchequer and also that it has already taken a long and sustained effort to push the States into setting up the Consumers Courts through the directives issued by the Supreme Court. It will be good if the readers could also write on similar lines to the Environment and Forests Minister, at the address recorded here, lending support to this suggestion.

December 3, 1991

Dear Mr Kamal Nath,

In the excellent drive re-inforced with your initiatives in the field of environment protection there is inter alia the proposal of establishing "courts" for dealing with the violations and defaults.

I understand that there have already been suggestions of amalgamating the work of consumerism kind environment in the courts instead of setting up separate sets of courts for these two purposes which in certain measures impinge on each other. It is possible that this matter has not been examined in detail and decision on these lines have not hitherto come about. I can claim knowledge about the consumer courts and therefore would like to elaborate on this matter which I do hereinbelow.

The Consumers Protection Act was passed as long ago as December 1986. It embodies a mandatory requirement that in each district there shall be a District forum (It is a pity that these were called "Forums" although we had suggested that they should be called "courts" or "tribunals"). The District Forum is, under the statute, presided over by an officer of the level of functioning or retired District Judge and two persons nominated by the State Government including a "lady social worker" and a "person of eminence in the field of education, trade or commerce". It also provides that there shall be in each State and Union Territory a State Commission, presided over by an officer of the level of functioning or retired high Court judge and two persons nominated by State Government who should be "persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a women". Above the State Commissions there is the National Commission which has to consist of a functioning or retired Supreme Court judge and four other persons, including a lady, possessing the qualifications basically similar to those prescribed for the nominated members of State Commissions.

I know what problems we have had in the setting up of these Consumer "Courts", particularly at the level of districts. There are 455 districts in the country. Even after 2 1/2 years of the operation of the Act the District Forums had been set up only in about 50 districts and there too the attempts were half-hearted and tardy. I then took this matter to Supreme Court and filed a writ petition from the platform of COMMON CAUSE. This petition has by now come up for hearing before the bench of Chief Justice about 12 times. Each time the Court issued directives to the States Governments to expedite the setting up the District Forums. There were delays, excuses and palpable lethargy. Eventually, four months ago the Court ordered that the establishment of District Forums must be completed in two months and affidavits submitted. Then there was some hurried activity and notifications were frantically issued. Eventually, when the matter again came up before the Court it decided to call up Civil Supplies Secretaries of eight State Governments with notices for

Contempt of Court. This further reinforced the frantic activity. By now, these strong directives of the Court have had their effect and preparations have been made for the establishment of these "courts". Even now there will inevitably be problems of finding suitable accommodation and staff. The State Governments go on pleading about the problems of funds, but these pleas have been disregarded by the Court.

It is after all such intensive effort of over two years that the infrastructure of the Consumers Courts has started becoming satisfactorily visible. In a large number of districts, where the work load of consumers complaints is not more than 150 during the period of six months, the work relating to this Act will continue to be handled by the functioning District Judges, but the Supreme Court has directed that they must devote three days in a week to this work. Where the work load is more there must be separate courts for the purposes of this Act. The State Commissions have already been established, and the National Commission has been functioning for about 2 1/2 years.

I have spelt out these details to indicate to you the infrastructure that now is in sight in all the districts for dealing with the complaints of consumers. I personally feel that this infrastructure and the redressal machinery can be well utilised for enforcement also of the Environment Protection Act. It needs to be mentioned that the "courts" established under the C.P. Act are also functioning with the basic ingredients of civil courts; they are for all purposes operating as judicial courts, with defined pecuniary jurisdictions and appellate jurisdictions etc. These have been additional features of the involvement of experienced nominated persons operating in them, including a lady, besides the judicial experienced President. They will have staff and accommodation. By now the "courts" established under C.P. Act have already handled over 40,000 cases, and these have created quite a lot of awareness among the people, particularly that they can launch proceedings also against the public sector including, railways banking, insurance, electric supply undertakings etc.

These various points need to be taken into account by your Ministry in a proper assessment of the problem. If the Environment Protection Act necessarily aims at restricting the decision-making to one judicial office, arrangements can be so made that the consumers problems are taken up by these courts during certain hours when the other two nominated members will also attend. In any case, considering the enormous problems inevitably linked with the setting up and effective functioning of the courts, and the expenditure on them it would be desirable to explore every possibility of exploring the provision of redressal in respect of both these Acts, which to certain extent are allied, through the same courts. I hope this matter will be given further consideration.

I am sending a copy of this letter to the Secretary, Ministry of Civil Supplies & POS.

Kind regards,

Yours sincerely,

Director
COMMON CAUSE

Mr Kamal Nath
Minister for Environment & Forests
Ministry of Employment & Forests
Paryavaran Bhawan, CGO Complex
New Delhi - 3

c.c. Mr B.K.Goswami, Secretary, Ministry of Civil Supplies & POS,
Krishi Bhawan, New Delhi.

CHALLENGING MPs' PENSIONS

COMMON CAUSE has challenged the constitutional validity of the pensions being given to the Members of Parliament. These pensions were authorised by an Act of Parliament passed in 1976 which amended the previous Act of 1954 whereunder they were allowed only "salary and allowances" on the basis of a provision to that effect existing in the Constitution. The word "pension" does not exist in the Constitution in relation to the privileges which can be extended to the legislators. Similar position applies also to the members of legislative assemblies and legislative councils of the States but presently the writ petition filed by us has restricted itself to challenging the constitutional validity of the pensions given to members of Parliament.

In effect, the passing of the Act of 1975 has authorised the grant of pensions to all who have been members of Parliament including those who were members of the Constituent Assembly prior to establishment of the Parliament. Total number of members of Parliament who may be presently drawing pensions would be over 3000. The quantum of pension originally sanctioned was Rs 300; it was subsequently increased to minimum of Rs 500, with the stipulation of additional Rs 50 for each year when the period served in the Parliament is more than five years, without any maximum ceiling. If a person has thus operated in the Parliament for ten years, the pension would be Rs 1000. And, of course, if a person has, in young years completed five years in the Parliament, the pension is earned for entire life.

In this context it would be of interest to know that pensions are given to members of the legislatures in some countries, mostly in the more affluent countries, but generally the system of pension is based on contributory pension scheme wherein the members contribute during their term of office to a pension fund from which the pensions are given to them on retirement from Parliament and generally the pension becomes admissible only where a person has served two terms of five years.

Disregarding the matter of quantum of pension, or other related matters, we have in our writ petition highlighted the facts which indicate that pension are not permissible under the provisions of the Constitution, that the framers of the Constitution did not contemplate that they would need to be made entitled to receive pensions.

We have considered it necessary to reproduce the writ petition in this issue of the periodical. In doing this we have two objectives in view. Firstly, we feel that the readers should be aware of the contentions we have put forth in it in support of the theme that these pensions are violative of the provisions of the Constitution. Secondly, we consider that the readers should know how matters of such importance need to be examined from various angles and how they can be presented, even without the help of a lawyer, in a writ petition for taking the matter to a High Court or to the Supreme Court.

This writ Petition was straight-away accepted by the Supreme Court and a notice was ordered to be issued to the Government of India. It will continue to be further pursued by the Director of COMMON CAUSE on receipt of reply of the Government of India.

THE WRIT PETITION

PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA PRAYING FOR ISSUANCE OF A WRIT OF MANDAMUS OR OTHER SUCH WRIT, DIRECTION OR ORDER DIRECTING THE RESPONDENT TO CONVEY TO THE CHAIRMAN OF RAJYA SABHA AND SPEAKER OF THE LOK SABHA THAT THE PENSIONS WHICH ARE BEING PAID TO THE MEMBERS OF PARLIAMENT ARE NOT IN ACCORDANCE WITH THE LAW AND ARE VIOLATIVE OF THE PROVISIONS OF CONSTITUTION IN PARTICULAR THE PROVISIONS OF ARTICLE 106 OF THE CONSTITUTION.

TO:

HON'BLE CHIEF JUSTICE OF INDIA AND HIS COMPANION JUSTICES OF THE SUPREME COURT.

The humble petition of the petitioner above-named.

RESPECTFULLY SHEWETH

1. That the Petitioner is a society registered under the Societies Registration Act which has, during the past many years, taken up various issues of public importance for securing redressal. It has filed Writ petitions on certain important matters including pensions, property tax, strikes by lawyers, accumulated criminal cases in the courts of the country, non-implementation of the Apartments Ownership Act etc. The Petitioner has thus the locus standi for taking up citizens' causes for seeking redressal.

2. That this Writ Petition seeks to present the legal position in relation to the matter of sanction of pensions to the Members of Parliament. From the legal position as is sought to be presented in this petition it is evident that the pensions sanctioned for the Members of Parliament are violative of the provisions of the Constitution. If this position is correct then the Petitioner seeks a verdict to this effect from the Hon'ble Supreme Court and direction to the Union of India to convey this to the Chairman of Rajya Sabha and Speaker of the Lok Sabha.

3. The Petitioner at this stage seeks to present the position primarily in relation to the privilege of pensions accorded to the Members of Parliament and accordingly the Respondent named in the Petition is only the Union of India. In fact the position relating to the pensions accorded to the members of legislatures of the States and Union Territories is on the same footing, but the Petitioner at the present stage prefers to first present the position relating to the pensions sanctioned for members of Parliament; the matter relating to the members of legislatures of the States and Union Territories will be separately submitted if considered necessary. The position relating to the pensions sanctioned for the members of Parliament is presented in detail in the paragraphs that follow. These comprise the Grounds among others on which the Petition is based.

GROUND

4. The pensions to the Members of Parliament are being given under the authority of the Salaries, Allowances & Pensions Act of 1954 (Act No:30 of 1954) as amended by Amending Act 105 of 1976. Authority of this enactment has obviously been derived from Article 106 of the Constitution which, for facility of reference, is reproduced hereunder :-

"106. Salaries and allowances of members.

Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of Members of the Constituent Assembly of the Dominion of India."

5. Likewise, the pensions being given to the legislators of the States and Union Territories, position regarding which will be presented in greater detail hereinafter, are sanctioned on the basis of the provisions of the enabling enactments passed by the respective legislatures of the States and Union Territories. These derive the requisite authority under Article 195 of the Constitution, reproduced hereunder :-

"195. Salaries and allowances of members.

Members of the Legislative Assembly and Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined, by the Legislature of the State by law and, until provision in that respect is so made, salaries and allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of Legislative Assembly of the corresponding Province."

6. That in relation to the pensions accorded to the Members of Parliament the specific provision for pensions was introduced by the further enabling amendment of the above-mentioned Act 30 of 1954. Originally this Act was known by the name of Salaries & Allowances Act of 1954 (Act no:30 of 1954) and it provided only for the payment of salaries and allowances to Members of Parliament and there was in it no provision for grant of any pension. This position continued till 1976 when an amendment was made by the Amending Act 105 of 1976 whereafter the designation of this Act became the Salaries, Allowances & Pension Act (there were certain other Amending Acts related to Act no: 30 of 1954; for the purposes of this Petition it is not considered necessary to present the position arising from or related to these other Amending Acts, namely, the Amending Acts of 1974, 1975, 1979 and 1982, which inter alia dealt with certain other privileges including road mileage, water, electricity, constituency allowance etc.). Through another Amending Act of 1983 (Act no:22 of 1983) the quantum of pension was enhanced from Rs 500 per mensem to Rs 750 per mensem.

7. That, as stated above, the authority for sanction of pensions to the Members of Parliament has ostensibly been derived from the provisions of Article 106 of the Constitution. Important point noticeable in this connection is that this Article mentions only the "salaries and allowances" to them. From the wording of this Article, and what is presented hereinbelow, it was apparently never contemplated nor intended by the framers of the Constitution that Members of Parliament, taking account of the nature and normal duration of their functions and duties, will need to be provided pensions.

8. That the above conclusion is derived from the position which was prescribed in the Constitution in relation to other high offices of the important institutions of the country, namely, the higher judiciary including the judges of Supreme Court and judges of the High Courts, the Comptroller & Auditor General of India and the Public Service Commissions of the Centre and the States. The provisions relating to these respective authorities of the Constitution are contained in the Article, relevant portions whereof are reproduced below :

"125. Salaries, etc., of Judges. (Supreme Court) -

(1) There shall be paid to the Judges of the Supreme Court such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule;

Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment."

"221. Salaries etc. of Judges. (High Courts)-

(1) There shall be paid to the Judges of each High Court such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule;

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment."

"148. Comptroller and Auditor-General of India. - (6) The administrative expenses of the office of the Comptroller and Auditor-General, including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India."

"322. Expenses of Public Service Commissions. -

The expenses of the Union or a State public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the Consolidated Fund of India or, as the case may be, the Consolidated Fund of the State."

9. That in this connection it will be relevant also to note the provisions of the following Articles relating to the Chairman and Deputy Chairman of the Rajya Sabha and the Speaker and Deputy Speaker of the Lok Sabha (Article 97) and the provisions relating to the Attorney General of India (Article 76) and Advocates General of the States (Article 165):

"97. Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker. - There shall be paid to the chairman and the Deputy chairman of the Council of States, and to the Speaker and Deputy Speaker of House of the People, such salaries and allowances as may be respectively fixed by Parliament by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the second Schedule."

"76. Attorney-General for India. -

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine."

"165. Advocate-General for the State. -

(3) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine."

10. That from the reading of all these relevant Articles following conclusions emerge

- (i) - Wherever the framers of the Constitution envisaged that the positions are of such nature which necessitated and justified the according of the privilege of pensions, ostensibly taking into account that these positions are of sufficiently long durations and are of the normal pattern of functioning of public servants, provision was specifically made for granting pensions in relations to those positions besides giving them the privilege of salaries and allowances. This will be evident from the reading of relevant above-mentioned provisions of Articles 125, 221, 148 and 322. As distinct from this, where the framers of the Constitution considered that the positions were of such nature which should not attract the privilege of pension, this word was omitted while mentioning their privileges of salaries and allowances. This will be evident from the reading of above-mentioned provisions

of Articles 106 and 195 of the Constitution as well as the relevant provisions of Articles 97,76, and 165 of the Constitution. In all these Articles, namely, 106,195,97,76, and 165 the word pension was not included while prescribing the privileges of salaries and allowances which will be payable.

- (ii) It cannot obviously be contended that the word "salary" would include "pension". This conclusion is evident from the fact, as stated above, that where the privilege of pension was considered necessary it was specifically included, besides recording the privilege of salaries and allowances. More importantly, it is noticeable that the word pension has been specifically defined in Clause 17 of Article 366 of the Constitution which, for facility of reference, is reproduced hereunder :

"366. Definitions. -

(17) "pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of return, with or without interest thereon, if subscriptions to a provident fund;".

- (iii) It may perhaps be argued that the pensions are sanctioned under the relevant statutes to ex-members of Parliament. This argument would obviously not be tenable because the pensions accrue only after the completion or termination of a term, when the member ceases to be a member. Similar is the position in regard to other dignitaries named in the Constitution, namely the Judges of Supreme Court and High courts, the Comptroller & Auditor General, and Members of Public Services Commissions, and is in accord with the definition of "pension" embodied in clause 17 of Article 366 of the Constitution.
- (iv) Most important consideration in this matter is that there was no amendment of Article 106 of the Constitution before Act No: 105 of 1976 was passed include the provisions of pensions in it.

11. That the above-mentioned wording of Articles 106 and 195 is clearly restricted to "salaries and allowances" of the Members of Parliament and Members of State Legislatures. There is no mention of the word "pension" in these provisions. Likewise, as stated above, wherever the privilege of pension was to be included, the framers of the Constitution specifically included this word, as stated in the foregoing paragraphs. In the States, as stated above in relation to members of Parliament, the privilege of pension is specifically included in the provision relating to the States Public Service Commissions but it is not included while mentioning the remuneration payable to the Advocate General. The conclusion, therefore, is inescapable that the omission of the word "pension", among the privileges available to the Members of Parliament, was not fortuitous; it has to be considered as having been deliberate, leading to the positive assumption that the framers of the Constitution never contemplated that the positions of the Members of Parliament necessitate of justify the according of the privilege of pensions.

12. It will also be relevant in this connection to mention other allied enactments, namely, salaries & allowances of Ministers Act 1952 (No:58 of 1952), salaries & allowances of Leader of Opposition in Parliament Act 1977 (Act no: 33 of 1977) and Salaries & Allowances of Officers of Parliament Act 1953 (Act no: 20 of 1953) - these officers being defined as Chairman and Deputy Chairman of Rajya Sabha and Speaker and Deputy Speaker of Lok Sabha. These enactments prescribe for the salaries and allowances for these offices. In these enactments there is no mention regarding pension because the ministers and leader of opposition are Members of Parliament and in that capacity they have not been made entitled to receive pension under the authority of the enactments mentioned above.

13. On these various grounds there is no alternative except to assume that the Constitution never contemplated that the privilege of pension would need to be accorded to Members of Parliament and accordingly the relevant statutes, and particularly the above-mentioned Amending Act 105 of 1976, are violative of the provisions of the Constitution and have thus to be declared as void.

14. That the Petitioner has not filed any other or similar Petition on the same subject before the Hon'ble Supreme Court or any High Court.

PRAYERS

15. It is, therefore, respectfully prayed that the Hon'ble Court may kindly be pleased to :

- (i) issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondent to convey to the Chairman of the Rajya Sabha and Speaker of Lok Sabha that the provision of pension made in the Salaries, Allowances and Pension of Members of Parliament Act 1954 (Act no: 30 of 1954) as amended by the Amending Act 105 of 1976 is ultra vires of the Constitution and correspondingly the provision of pension made in the said Act (introduced by the Amending Act 105 of 1976 requires to be quashed;
- (ii) pass such other and further order or orders or grant such further or other reliefs as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Drawn and Filed by

(H.D.SHOURIE

Director, COMMON CAUSE

(IN PERSON)

**TO : ALL MEMBERS OF COMMON CAUSE
NOTICE OF ANNUAL GENERAL MEETING**

The Annual General Meeting of COMMON CAUSE Society will be held on Saturday the 8th February 1992 in the Constitution Club, Rafi Marg, New Delhi at 10.30 a.m. Members are invited to the meeting. Agenda will be as follows :-

- (i) Consideration of the Annual Report and adoption of the Annual Accounts alongwith Auditor's Report for the year 1990-91.
- (ii) Appointment of Auditors for the year 1991-92.
- (iii) Activities and Programme.
- (iv) Elections.

It may kindly be noted in accordance with Rule 15 of the Rules & Regulations of the Society if within half an hour of the beginning the quorum is not present, the meeting shall stand adjourned for the same day and will be held after another half an hour, and the members present in the adjourned meeting shall form the quorum of the meeting.

H.D.SHOURIE
Director, COMMON CAUSE

**AUDITOR REPORT
AUDIT REPORT UNDER SECTION 12A(b) OF THE INCOME TAX ACT, 1961
IN THE CASE OF CHARITABLE INSTITUTION**

We have examined the balance sheet of Common Cause as at 31st March, 1991 and income and expenditure account for the year ended on that date which are in agreement with the books of account maintained by the said institution.

We have obtained all the information and explanations which to the best of our knowledge and belief were necessary for the purposes of the audit. In our opinion proper books of account have been kept by the above named institution so far as appears from our examination of the books.

In our opinion and to the best of our information and according to the information given to us, the said accounts read with the notes thereon, give a true and fair view :-

- (i) in the case of the balance sheet of the state of affairs of the above named institution as at 31st March, 1991 and
- (ii) in the case of the income and expenditure account, of the excess of expenditure over income for the year ending 31st March, 1991.

The prescribed particulars are annexed hereto.

for RAO & RAVINDRANATH
CHARTERED ACCOUNTANTS

Place : New Delhi
Date : 26/10/91

A.V. RAVINDRANATH
PARTNER

ANNUAL REPORT FOR 1990-91

The year of report for the services of COMMON CAUSE has been as good and successful as the previous years. People have in general been appreciative of the merit and coverage of our services.

A period of financial inadequacy was experienced during a part of the year, as a consequence of which an appeal was issued to members to make one-time contribution of Rs 100 to the fund to enable us to continue our services to their full satisfaction. It is a matter of gratification that over Rs one lakh was contributed straightaway. Some members sent contributions of as much as Rs 5000, lauding the work of COMMON CAUSE, particularly its dedicated and self-less services. We are deeply grateful to everybody for the support thus provided.

Some members have taken upon themselves the task of approaching their friends and acquaintances to take up our membership. We greatly appreciate their help. If only every member could undertake this task, of spreading and widening the membership, it would be great help, for spreading the message of COMMON CAUSE and its services.

The letters which come to us from all the distant parts of the country bespeak of the spreading of the message. These letters seek information about our activities and the terms of membership; they also convey suggestions for taking up more causes. Replies are invariably sent to all who write to us.

PROGRAMMES AND ACTIVITIES**PROPERTY TAX**

The problems of aberrations and distortions of Property Tax of Delhi have continued to bother the citizens of the metropolis. Delhi Administration had set up a High Powered Committee to go into the entire question for determining the measures that need to be taken to set the Property Tax on proper footing. The High Powered Committee in turn set up a Committee of Experts. On receiving the report of Experts Committee the H.P. Committee made its recommendations, taking into account the suggestions of house owners. The recommendations of H.P. Committee, to the extent they have become known, have caused general dissatisfaction and a general feeling is that these recommendations, if adopted, will create more problems than it will resolve. However, these recommendations have obviously stuck in the Delhi Administration and the Home Ministry of the Government of India, with the result that the matters continue to be unsatisfactory, from the viewpoint of expanding the revenues of the municipal bodies, particularly the Delhi Municipal Corporation, as well as removing the causes of dissatisfaction of the house owners who continue to severely complain about the discriminations and anomalies in the assessments. Tens of thousands of notices were issued by MCD proposing to greatly enhance the rateable values of the properties on the contention that the enhancement was justified on the ground of the recent amendment effected in the Rent Control law, and also asking for application of enhancement for the previous two additional years. COMMON CAUSE provided guidance to the owners about objections to be filled against these notices. The matter was also taken to the Supreme Court but the Court held that the Delhi Administration should expedite decisions on the recommendations of H.P. Committee. We went to the Lt. Governor for this purpose, and failing to achieve anything concrete a writ petition was this time filed before the Delhi High Court. The Court, after initially issuing an order of interim stay to the Delhi Municipal Corporation, eventually took the view that as the individuals could take the matter in appeals against the assessments it was not necessary to entertain a public interest petition on this matter. Again we took the matter to Supreme Court but the effort has been unavailing. Meanwhile another writ petition has been filed by the association of a housing colony, and Delhi High Court is presently dealing with it.

CONSUMERS PROTECTION ACT

The matter of all-India importance, relating to the proper implementation of Consumers Protection Act, has continued to be relentlessly pursued by us through the Writ Petition in the Supreme Court and on which the Court

has been kind enough to issue repeated directions to the State Governments to expedite the establishment of District Forums in all the districts in accordance with the provisions in the Statute. Delays and dithering of the State Governments have held up the setting up of the Forums, with the result that grievances of the consumers have continued to remain unredressed. In August '91 the Court eventually directed the States to set up the District Forums within two months and to submit affidavits. Finding the replies of eight States unsatisfactory the Secretaries of Civil Supplies Departments of these States were called up for contempt proceedings. Eventually, the contempt notices have since been discharged but this has electrified the States and frantic efforts have been made to complete the setting up of the District Forums. It is now for the consumers and their organisations to ensure that the District Forums and State Commissions operate satisfactorily and to highlight their lapses for remedial steps being taken.

LAWYERS' STRIKES

Work in courts in various parts of the country has enormously suffered on account of strikes frequently resorted to at these places by the lawyers. We filed a Writ Petition in the Supreme Court suggesting suitable modification in the Code of Conduct prescribed by the Bar Council of India under the Advocate Act so that adverse notice should be taken of any lawyers going on strike, because of severe damage it causes to the interests of the litigants. The Court has issued notices to the Bar Councils as well as to the Advocates Generals of all the States. More than two dozen lawyers have been appearing in the hearings of this Writ Petition, but unfortunately, for one reason or another, final hearing has not yet taken place. It is now expected that the final hearing may come about in the coming weeks. Meanwhile, it is noticeable that no organisation or authority has in fact filed affidavit to resist the suggestions made in the Petition.

OLD PENDING CRIMINAL CASES

From COMMON CAUSE we had filed a writ petition five years ago on the question of the pending backlogs of cases clogging the courts all over the country which has brought about the conditions adversely affecting the administration of justice. In particular, in this petition we had highlighted the problems of pending criminal cases in the courts of all over the country. Taking account of the nature of pending criminal cases, which now have accumulated to the frightening figure of over a crore of cases, we had made certain specific suggestions about what needs to be done about the pending cases relating to minor offences, including traffic cases. The case was then considered by the court to be very important and all the States were impleaded in it. Unfortunately, since then it got tacked on to certain other pending cases, on account of which its hearing got delayed. Now the other allied cases have recently been decided by the Constitution Bench of the Court, and on our request this writ petition has been delinked from them. We can now expect that this writ petition will come up for final hearing in the coming weeks.

MP's PENSIONS CHALLENGED

A writ petition has been recently filed by us in the Supreme Court challenging the constitutional validity of the pensions being given to the members of Parliament. The arguments put forth in the Petition apply equally strongly to the pensions being given to members of State legislatures but at present the position has been taken up only in respect of the members of Parliament. The court has issued notice to the Union of India. It will be interesting to watch further developments.

COMPLAINT AGAINST DESU

Complaint was filed by us against the Delhi Electric Supply Undertaking for enormous number of wrong bills which continue being sent by it to the consumers. The case is being pursued and is expected to be decided in the coming weeks.

MISCELLANEOUS

Numerous problems of the people keep coming to us. These are dealt with, by referring to the concerned government and other organisations and departments for securing redress. It is obviously impossible for us to deal with individual problems but where these relate to the people in general or have wide ramifications they are pursued.

We are always deeply grateful to the members, and to the people in general, for constant support which they are kind enough to lend to the organisation.

BALANCE SHEET AS AT 31ST MARCH, 1991

LIABILITIES	AMOUNT (in Rs)	ASSETS	AMOUNT (in Rs)
Capital Fund Account		Cash in Hand	150.00
Life Membership Subscription	3,04,651.00	Cash at Bank	20,763.88
Opening Balance	<u>20,600.00</u>	Stamps in Hand	1,564.15
Add : Subscriptions received during the year	3,25,251.00	Fixed Deposits	
Corpus Fund		With Indian Bank	1,10,000.00
Opening Balance	2,86,868.90	Shanti Niketan	
Add : Donations received during the year	<u>9,611.00</u>	With Steel Authority of India Ltd.	<u>3,69,000.00</u>
Expenses Payable	2,96,479.90	Interest Accrued	
	<u>6,21,730.90</u>	On Fixed Deposits	28,892.59
	7,742.95	with Indian Bank	
	<u>17,000.00</u>	On Fixed Deposits with SAIL	<u>91,447.03</u>
Loan From Indian Bank		Advance for Expenses Furniture	5,974.56
	<u>6,46,473.85</u>	Opening Balance	597.46
	<u>6,46,473.85</u>	Less : Depreciation	<u>5,377.10</u>
	<u>6,46,473.85</u>	Carried Forward	<u>6,27,729.20</u>
	<u>6,46,473.85</u>	Brought Forward	<u>6,27,729.30</u>
		Office Equipment	
		Opening Balance	373.30
		Less : Depreciation	56.00
		Deficit Account	
		Opening Balance	12,022.40
		Add : Excess of Expenditure over Income per Income & Exp. A/c attached	18,404.95
		Less :	
		Amount transferred from Reserve A/c	18,427.35
	<u>6,46,473.85</u>		<u>6,46,473.85</u>

INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR
ENDED 31ST MARCH, 1991

EXPENDITURE	AMOUNT	INCOME	AMOUNT
Printing & Stationary (Including printing of periodical)	42,650.25	Subscription from Members -Ordinary -Associate	8,190.00 3,930.00
Newspapers, Books & Periodicals	1,644.90	Interest Received :	
Part-time Staff Salary	26,900.00	-From SB A/c	495.65
Conveyance Expenses	9,050.00	-From Fixed Deposit with Bank	5,761.95
Legal Expenses	1,304.00	-From SAIL	5,201.33
Bank Charges	22.00	Interest Accrued :	
Postage & Telegrams	16,917.30	-On Reinvestment Fixed Deposit with Bank	10,028.25
Professional Fee	1,005.00	-On Fixed Deposit with SAIL	53,216.00
Establishment Expenses	2,437.00	Miscellaneous Income	2,222.00
Telephone Expenses	3,000.00	Excess of Expenditure over income	18,404.95
Miscellaneous Expenses	1,866.22		
Depreciation	653.46		
	<u>1,07,450.13</u>		<u>1,07,450.13</u>

AS PER OUR REPORT OF EVEN DATE

For RAO & RAVINDRANATH
CHARTERED ACCOUNTANTSGOVIND NARAIN
PRESIDENTH.D. SHOURIE
DIRECTORA.V. RAVINDRANATH
PARTNERBRIG. R.I.N. LUTHRA
SECRETARYMAJ. GEN. U.C. DUBEY
TREASURERPlace : New Delhi
Date : 26/10/91

MORE ON PROPERTY TAX IN DELHI

We reproduce below to letters recently addressed by us to organisations and associations of Delhi on this subject which is causing serious problems. We request all houseowners of Delhi to write letters as suggested in these communications.

"Property tax in Delhi has become a very serious problem. People are greatly agitated at the irrational, arbitrary and discriminatory assessments.

We are fighting the battles in courts. But, things have come to such a pass that people have now to join the battles other than of the courts. They have to exert to make it impossible for the MCD and NDMC to ride roughshod over the houseowners.

We suggest that every houseowners' organisation, welfare association, ratepayers organisations etc, in Delhi, should immediately convey copies of this letter to each of the members to inform them of our request.

We want every houseowner in Delhi at this stage to write a letter/postcard to the Lt Governor (Mr Markandey Singh) at the address : Raj Niwas, Court Road, Delhi. In the letter/postcard everybody should convey in as strong words as can be appropriately expressed extreme resentment at the arbitrariness, irrationality and discrimination in matter of assessment and levy of Property Tax, and in particular on the following points :-

(i) Parliament was misled into enacting the Amendments of the Statutes whereby MCD/NDMC have been enabled to issue notices for the previous years 1988-89, 1989-90, 1990-91 besides the year of assessment. Parliament was told in the Objects & Reasons of the relevant Bill that the Commissioner of MCD had been "called upon" to make revisions of Property Tax lists by the amendment of Rent Control Law. This is palpable falsehood and this falsehood has been exposed before the courts. In no circumstances will the citizens be prepared to pay for the previous three years.

(ii) Proposal of levy of Property Tax on existing rentals in unlawful and inevitably involves serious discrimination because the Property Tax on one house will be enormously high based on existing rental, and on the adjacent self-occupied house of same size and on exactly same plot, will be very much smaller, while both receive same quantum of municipal services. Property Tax must/uniformly based either an area of plot and built area thereon, or on capital value, thereafter giving very substantial rebate to self-occupied premises or correspondingly, raising the levy to reasonable extent on rented premises or portions.

It would be better that letters should preferably be expressed in their own words by your members, but they are welcome to reproduce the above arguments.

We request immediate action. Hundreds of thousands of letters must go to the Lt Governor. We should be informed of the number of letters going from the residents of each association/organisation.

Whereas we recently suggested that people should write postcards/letters to the Lt Governor of Delhi, We now request that in addition they should immediately take the initiative of writing byname to Dr M.D.Godbole, Home Secretary, Government of India (address : North Block, Secretariat, New Delhi-1). Each organisation must persuade all its members to write the letters, in their own words, mentioning on top the subject : Property Tax in Delhi. Tens of thousands of letters must reach him.

It needs to be highlighted that recommendations of the High Powered Committee are totally unrealistic and unacceptable, and that they will create now problems and lead to enormous multiplication of cases in courts. The whole matter needs to be re-examined in the light of practicalities. As an instance it can be stated that the prescription of the limit of Rs 3500 rent leads to serious question whether this limit prescribed in the Rent Control Act is the figure of "actual rent" or "standard rent". How will discriminations be explained between a house constructed three decades ago, and an exactly similar adjacent house constructed recently, on same sized plot, both self-occupied and assessed on cost basis; or between a house rented at Rs 3000 and assessed on rental basis, and the adjacent equally same sized house rented at Rs 3400 but constructed three decades ago and assessed on cost basis, and such other anomalies ?"

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HELP: "COMMON CAUSE" TO HELP YOU. THIS IS A NON-PROFIT, NON-POLITICAL & VOLUNTARY ORGANISATION AND IS AT THE SERVICE OF THE PEOPLE FOR VENTILATING AND TAKING UP THEIR PROBLEMS. ASK FOR A COPY OF ITS PERIODICAL.

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NAME
(IN CAPITAL LETTERS)

ADDRESS
(including Telephone)
.....

..... (Pin Code)

1. **MEMBERSHIP FEE:** Annual fee for the individual Membership Rs. 50/- For two years Rs. 100/- Life Membership for individuals Rs. 250/-. Annual Fee for Association Membership for Societies and Organisations Rs. 200/- (Revised fees effective from 1-4-1991 Applicable to all).
2. **Bank Draft/Postal Order/Crossed Cheque** be sent to COMMON CAUSE at address: A-31, WEST END NEW DELHI - 110 021. Kindly remit preferably by Draft/Postal Order to avoid disproportionate bank commission and delay in case of outstation cheques.
3. Kindly give full address, also at bottom of Money Order if fee is forwarded through M.O. Quote Membership member while remitting renewal fee. Membership takes effect from the date of enrolment.

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