

Bhardwaj's rural court bill shelved

Law Minister's Brainchild A Non-Starter, Aiyar's Panel To Draft New Gram Nyayalay Legislation

Akshaya Mukul | TNN

New Delhi: Law minister HR Bhardwaj would regret having made such tall claims of a seminal change that his dream Gram Nyayalay Bill would have brought in the judicial system. The bill has been shelved and instead the panchayati raj ministry would now be preparing a bill on 'nyay panchayats'.

The law ministry had sent the draft Gram Nyayalay Bill for cabinet approval some months ago but it was never taken up. The cabinet secretariat would now be re-

turning it. Meanwhile, the panchayati raj ministry, under Mani Shankar Aiyar, has constituted a committee under Upendra Baxi, one of the country's leading legal brains. The commit-

tee would also have D Bandopadhyay, head of the Rajiv Gandhi Foundation's task force on panchayati raj, as a member. In fact, Bandopadhyay had protested the law ministry's initiative to UPA chairperson Sonia Gandhi.

Despite Bhardwaj's brave words, the bill was a non-starter from the beginning. His promise of 2,000 mobile courts and 4,000 judges in rural areas

working towards bringing down court arrears by 40% was seen by votaries of panchayati raj institutions like Bandopadhyay and Avdhash Kaushal of Rural Litigation and Entitlement Kendra

(RLEK) as an affront to the independence and spirit of panchayati raj institutions. Besides, the national advisory council, then headed by Sonia Gandhi, had found serious

had debunked the law minister's idea as "non-starter, ab initio". He had said that with more than half a million villages, Bhardwaj's 2,000 gram nyayalayas would mean that one new court would on an average cover 250 villages. That would mean one court catering to the population of 2.5 development blocks. Each court would have at least 117.33 gram panchayats under its territorial jurisdiction.

Arguing in favour of nyay panchayats within the panchayati raj system and not a separate judicial structure as envisaged by Bhardwaj, Bandopadhyay had quoted Rajiv Gandhi's speech in parliament in which he said work on panchayats would remain unfinished without nyay panchayats.

Bandopadhyay had also

joined issue with those who felt that since administration of justice is not one of the items listed in the 11th schedule, panchayats would have nothing to do with it and nyay panchayat is a matter of judicial reform. Therefore, panchayats constituted under Part IX of the constitution should not get involved.

"This view is wrong. The primary function of panchayats at each tier is preparation of a plan for economic development and social justice. Inclusion of the term 'social justice' indicates that panchayats may have to get involved with a whole gamut of activities not related to development only... The concept of dispensation of justice is inherently embedded in the primary function of panchayats under the Article 243(g). Hence, there is

need for a Central enabling legislation on nyay panchayats," he had argued.

In fact, Bandopadhyay said that after the 73rd constitution amendment, Bihar, Himachal Pradesh, Punjab, UP and West Bengal provided for nyay panchayats in their new constitutional laws or in their confirmatory amendments to old laws. In Himachal, nyay panchayats are functioning satisfactorily.

He had pointed out that even the supreme court upheld the constitutional validity of nyay panchayats in the case of UP and others vs Pradhan Sangh Kshetra Samiti and others. The apex court said the organisation of nyay panchayats will be in promotion of the directive principles contained in Article 39A of the constitution.

NOT IN CHANGE



Legal luminaries fear that the law ministry's bill will undermine the autonomy of panchayati raj institutions

The National Advisory Council had found serious loopholes in Bhardwaj's draft legislation

loopholes in the bill.

Bandopadhyay in his communication to Sonia Gandhi

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'SECRETS ACT INCONGRUOUS'

Scrap law, panel tells Centre

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Statesman News Service

NEW DELHI, June 9: Terming the Official Secrets Act, 1923 'incongruous', the second Administrative Reforms Commission today recommended its scrapping and inclusion of some of its safeguards in the National Security Act.

The commission also recommended against allowing the 'IAS lobby' to dominate the Information Commissions. "At least half the members of the Information Commissions should be drawn from a non-civil service background, so that members represent the rich variety and varied experience of society," it recommended.

The chairman of the commission, Mr Veerappa Moily, met the Prime Minister, Dr Manmohan Singh, and submitted his report recommending major changes in the administrative set up including implementation of the Right to Information (RTI) Act, redressal of public grievances on corruption and harassment by an independent body.

The commission also asked the government to chart out a roadmap for effective implementation of the RTI Act in the legislature and judiciary at all levels. It made specific recommendations on civil service conduct rules and office procedures, record keeping, capacity building and awareness generation, and the exercise of power to remove difficulties.

The Second Commission, constituted in August 2005, was to take up four subjects initially - Right to Information, a case study of employment guarantee Act in the context of the shift of entitlement with Union funding, crisis management, public order and conflict management. Besides this, the commission is also likely

Defence plan for pvt sector

NEW DELHI, June 9: In a major move to spurt larger private sector participation in advanced armament production, the defence ministry today announced that it proposed to permit select private industries the right to receive technology from abroad in the defence sector.

Such companies would be conferred the status of "Raksha Udyog Ratna" defence minister Mr Pranab Mukherjee said here today. They would be treated at par with defence public sector undertakings for selection of transfer of technology from overseas sources and allowed to assume the role of system integrators of large weapons systems and producers of weapons platforms, the minister said. ■ SNS

Details on page 5

to conduct study on civil service reforms, local governments and ethics in governance. In the first report, the commission has suggested a series of reforms including complete reorganisation of public records. It mooted a public records office be established in every state as a repository to expertise, to monitor, supervise, control and inspect all public records. "One per cent of the funds of all flagship programme of the government of India should be earmarked for five years for updating all records and building necessary infrastructure," the commission recommended.

Information commissions should be entrusted with the authority and responsibility of monitoring the implementation of the Act in all public authorities.

রক্তচক্ষু নেই, রক্ত ঝাড়িয়ে বিহার ফিরল বিহারেই

অনমিত্র সেনগুপ্ত • পটনা

১৫ মে: দশটি প্রাণ বলি দিয়ে বিহার ফিরল বিহারেই। ছিল না নির্বাচন কমিশনের রক্তচক্ষু। ছিল না সজিদ ওঁচানো আধা-সামরিক বাহিনীর ভারী বুটের শব্দ। সেই ফাঁক-ফোকর দিয়েই বিহারে ফিরে এল চিরাচরিত ভোট-গুণ্ডামি।

অথচ গত অক্টোবর-নভেম্বর মাসে নির্বাচন কমিশনের কড়া নজরদারি ও আধা-সামরিক বাহিনীর তৎপরতায় তিন দফার বিধানসভা ভোট হয়েছে শান্তিতে। একটি মৃত্যুর ঘটনাও ঘটেনি। আর আজ প্রথম দফার দলহীন পঞ্চায়েত ভোটে সরকারি হিসাবেই দশজনের মৃত্যু হয়েছে। জখম ২৭। বেসরকারি হিসাবে, দেড় ডজন প্রাণ গিয়েছে শুধু প্রাণহানি নয়, ছাপ্পা ভোট, বুথ দখল, ব্যালট বাস্তব নুঁঠ, এমনকী

ব্যালট পেপার বাড়ি নিয়ে যাওয়ার ঘটনাও ঘটেছে। মাইলারায়ও বুথ দখল করেছেন। আক্রান্ত হয়েছেন পটনার জেলাশাসক বি রাজেশ্বর এবং ভোটকর্মীরা। প্রার্থীকে লক্ষ্য করে গুলি ছুটেছে। পুলিশও বিভিন্ন জায়গায় ১১ রাউন্ড গুলি চালিয়েছে। তাতে কোনও দর্পিত মরেনি। কেউ জখমও হয়নি। সব মিলে বিহারের সেই চিরাচরিত নির্বাচন-চিত্র।

এই ভোট পরিচালনার দায়িত্বে রয়েছে রাজ্য নির্বাচন কমিশন। আইন-শৃঙ্খলা রক্ষার দায় রাজ্য সরকারের। প্রথম দফায় পঞ্চায়েত ভোট ছিল ৩৮টি জেলার ৬২টি ব্লকের ১৩৭২১টি বুথ। আজকের ঘটনা পরের ৯ দফা কী ঘটবে, তাই নিয়ে আশঙ্কা জাগিয়ে রাখল। দীর্ঘ কুমারের রাজত্বে প্রথম ভোটের এই সব ঘটনা তাকেও রাখল যোর অস্বস্তিতে।

রাজ্য সরকার অবশ্য আজকের খটনাকে খুব একটা বড় করে দেখছে না। নির্বাচনের শেষে সাংবাদিক সম্মেলনে স্বরাষ্ট্রসচিব আকজল আমানউল্লা বলেন, “প্রথম দফা হয়েছে। আহত হয়েছে ২৭ জন। সমাজবিরোধী কার্যকলাপের জন্য গ্রেফতার করা হয়েছে ৮৯ জনকে।”

এই সংখ্যক মৃত্যুর পক্ষে সাফাই দিতে গিয়ে আমানউল্লা জানান, “প্রশাসনের কাছে ১০ জনের মৃত্যুর খবর মোটেই বড় ঘটনা নয়। আমরা বরং আরও প্রাণহানির আশঙ্কা করছিলাম। তুণমূল স্তরে গণতন্ত্র পৌঁছতে গেলে কিছু মৃত্যু তো ঘটবেই।” পাশাপাশি এই পরিস্থিতির জন্য তিনি কেন্দ্রীয় সরকারকেই দুবেছেন। তাঁর মতে, চাহিদামতো আধা-সামরিক বাহিনী না পৌঁছনোতেই এই অবস্থা। তিনি বলেন,

রাজ্য সরকারের “আশা করছি ১৮ তারিখে দ্বিতীয় দফা ভোটের আগেই মোট ৪০ কোম্পানি বাহিনী সরকারের হাতে চলে আসবে।” বেশ কিছু জায়গায় সকাল সাড়ে সাতায় ভোট শুরু হওয়ার সঙ্গে সঙ্গে বুথ দখল করে ফেলে বিভিন্ন প্রার্থীর সমর্থকেরা। অবশেষে চলতে থাকে ছাপ্পা ভোট। জিনতাই করে নেওয়া হয় ব্যালট পেপার। বেশ কিছু বুথে ভোটারেরা দীর্ঘক্ষণ লাইনে দাঁড়িয়ে থেকে জানতে পারেন তাঁদের ভোট আগেই পড়ে গেছে। এ বারের পঞ্চায়েত ভোটে মোট আসনের ৫০ শতাংশ সংরক্ষিত করা হয়েছিল মহিলাদের জন্য। মহিলাদের যে বুথ দখলে পারলেন, তা বোঝা গিয়েছে পটনা সংলগ্ন বিভিন্ন ব্লকগুলিতে।

ডেমা পঞ্চায়েতের দৌলতপুর গ্রামে এ দিন সকাল সাড়ে এগারোটা নাগাদ একদল মহিলা জোর করে বুথে ঢুকে

ছাপ্পা ভোট মারতে শুরু করে। পোলিং অফিসার বাধা দিতে গেলে তাঁকেও প্রাণে মেরে ফেলার হুমকি দেন ওই মহিলারা। দু’জন কনস্টেবলের সাহায্যে কোনওভাবে দু’টি ব্যালট বাস্তব নিয়ে গ্রাম থেকে পালিয়ে প্রাণ বাঁচান তিনি। পরে ওই বুথের ভোট বাতিল করে দেওয়া হয়।

পটনা জেলার মুড়িমায়তে এক প্রার্থীকে লক্ষ্য করে গুলি চালানো হয়। তবে গুলি তাঁর গায়ে লাগেনি। রাজ্য সরকারের পক্ষ থেকে প্রাথমিকভাবে জানানো হয়, প্রথম দফায় ভোট পড়েছে ৫৫-৬০ শতাংশ। তার মধ্যে কতটা ছাপ্পা ভোট, তা অবশ্য জানার উপায় নেই। চার জন মারা গিয়েছেন নওয়াদা জেলায়। ছাপ্পারায় তিন জন এবং গয়া, বৈশালী ও সমষ্টিপুরে ১ জন করে মারা গিয়েছেন।

17 killed in Bihar election violence

9 gunned down on CM's home turf of Nalanda

K. Balchand

PATNA: Nine persons, mostly Dalits, were massacred in the home district of Bihar Chief Minister Nitish Kumar among a total of 17 killed in separate incidents of violence during the second phase of panchayat elections in the State on Thursday. The turnout was put at 68 per cent in 57 blocks of 37 districts where polling was held.

The nine, most of whom belonged to the extremely backward Kahar caste, were gunned down by a gang while retreating after losing one of its key member in a clash outside a polling booth.

The clash outside the polling booth took place at Bhadarpur village in Sheikhpura district allegedly between the supporters of two candidates belonging to the same Bhumihar caste, Tantan Singh and Ramanuj Singh. Ramanuj Singh lost one of his sharp shooters in the battle to capture the booth.

While retreating, the Ramanuj Singh's allegedly gang attacked a group of people at Goachak village in Nalanda dis-

trict just about 1.5 km from Bhadarpur village in the neighbouring district. Of the nine killed, eight were Kahars and the ninth a Yadav.

Chief Minister Nitish Kumar denied gang rivalry behind the massacre stressing that the killers fired indiscriminately on their way back after losing one of their gang members.

He condemned the killing and called for peace. Mr. Kumar would be visiting the spot on Friday.

Earlier, State Home Secretary Afzal Amanullah said he suspected involvement of the Akhilesh Singh gang behind the carnage. The Police Headquarters was a confused house. IG

• **The nine were allegedly shot dead by a gang after losing one its member in polling booth clash**

• **Chief Minister Nitish Kumar denied gang rivalry behind the massacre**

Operations Anil Sinha sought to conceal facts and mislead the Press.

He corrected himself at the directive of the Chief Minister and admitted that it was a poll-related incident and the fallout of the clash outside a polling booth in which one person was killed.

Earlier Mr. Sinha maintained that there was no poll in Bhadarpur today and refused to divulge whether the death of one person was the outcome of a clash.

The other killings took place in Arwal, Saran and Jammui districts. Three persons, including a home guard, were killed in Arwal district.

Two more were killed in a clash in Parshurampur village while a home guard was killed in a separate incident in Masidpur village of Arwal district.

An alleged booth grabber was lynched in Mubarakpur village in Saran district. Three persons lost their lives while making explosives in Jammui district.

The police rounded up over 300 people as a precautionary measure, besides seizing 14 weapons.

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THE HINDU

Now IAS training goes international

Mid-career exercise is mandatory for promotions

SOUFYAJIT Pattnaik
Bhubaneswar, April 21

LEADING INTERNATIONAL institutes can henceforth take part in imparting mid-career training to IAS officers. The Prime Minister has approved the proposal and the personnel ministry has informed the state governments about the details of the training programmes.

Pratyush Sinha, secretary of the Union ministry of personnel and public grievances and pensions, in a letter to Orissa chief secretary Subas Pani said, "As approved by the PM, the work of detailed designing and delivery of each of the phases of mid-career training programme is proposed to be entrusted to an external agency. For this purpose, offers were invited from leading institutes, both domestic and international".

According to the letter, an expert committee, under the chairmanship of Y.K. Alagh, has been involved in the selection of the institutes which are to undertake the work of detailed "design, content and delivery" of

each of the phases. The letter adds, "We are in the process of finalising the award of work to the institutes selected".

Mid-career training has now been made mandatory for the promotion of the IAS officers. The letter says, "Mid-career training programme will be a mandatory requirement for further promotions at certain stages in an officer's career.

THREE-PHASE PROGRAMME

Participation in a mid-career training programme would not necessarily qualify the officer for promotion but non-participation would debar the officer for promotion. In other words, mid-career training programme would henceforth be a necessary but not sufficient condition for promotion".

The mid-career training programmes would be conducted in three phases designated as Phase-III, Phase-IV and Phase-V programmes. Phase-I and Phase-II training programmes

are imparted to an IAS officer at the time of induction. Phase-III and Phase-IV of the mandatory mid-career training programme will be of 8 weeks each and will be the minimum requirement for promotion to junior administrative cadre or to the super time scale, respectively. An officer could participate in Phase-III of the training at any time between the 7th and 9th year of service and in Phase-IV of the training at any time between 14th and 16th year of service.

According to the letter, Phase-V of the training would be of 4 weeks' duration and could be undertaken any time between the 26th and 28th year of service before an IAS officer is normally considered for empanelment as additional secretary or secretary in the government of India. "I may add that participation in Phase-V of the training shall be the minimum requirement for empanelment as additional secretary or secretary to the Government of India and for further increments after the 28th year of service", the Union Personnel secretary has mentioned in his letter.

22 APR 2005

THE HINDUSTAN TIMES

BUREAUCRACY'S ROLE

Civil Servants Not Obligated To Carry Out Illegal Orders

By D BANDYOPADHYAY

Some appalling incidents that had happened in the past and have been happening even recently in West Bengal have shocked the intelligentsia and the civil society of the state beyond measure. I am not referring to "normal" crimes of robbery, abduction, murder, rape and the like but to the spate of lynching of alleged anti-socials by irate mobs, politically inspired localised civil strife causing large-scale killing, arson, forceful displacement of politically inconvenient families reminding one of "ethnic cleansing" in the Balkans in the nineties of the last century.

Civil society was horrified and scandalised by the starvation deaths of some members of a primitive tribe in Amlasole in West Midnapore. Where was the bureaucracy? Did all the King's men and all the King's horses sit prettily while the political goons rampaged the countryside with mayhem, pillage and destruction of property? Where was the law and where was the order which the bureaucracy at the district level was being paid out of tax payers' money to maintain? How could destitute tribals die at Amlasole with the Annapurna Anna Yojna food stock for free distribution to destitutes being available with the BDO and the SDO?

Relief manual

The bureaucracy failed totally in respect of discharging its basic functions. Even in the British days, a starvation death would have led to sharp departmental action against the negligent and defaulting civil servants. When I had asked a well known left theoretician about the incident of starvation death I was stunned by his reply. Almost accusing me of my ignorance, he retorted "Don't you know that that Gram Panchayat is controlled by the Jharkhand Party?" The implied cruelty froze me to silence. For voting the Jharkhand Party to power in Amlasole, Sabars forfeited their right to live with dignity as guaranteed by Article 21 of the Constitution. The bureaucracy which under the Relief Manual is duty-bound to prevent such incidents of starvation death utterly failed for which they deserve appropriate punishment. The arms of the law are quite long. In the future they may have to face the consequences of their criminal inaction. These are not motivated canards spread by the "unfriendly" bourgeoisie press to malign the coalition in power.

Truth has been proved with the restoration of many of the displaced families in their original homes by the election observers. The state bureaucracy is guilty of gross negligence in failing to carry out their duties as ordained by law and statutory manuals.

Long ago Lord Chancellor Cook of England had the moral courage to admonish his King

The author was secretary to government of India, ministries of finance (revenue) and rural development and executive director, Asian Development Bank, Manila.

James I saying: "A King is still under God and the Law". Over-time a doctrine emerged in England that the "King can do no wrong". It means that the King's servants and minions cannot do anything which is not legal or not sanctioned by law. Theoretically, the King's illegal orders can be and should be defied and disobeyed without any adverse consequences. No civil servant in India is obliged to carry out an

interested political groups to manipulate the voters' list in their favour. Elimination of false voters from the electoral role and prevention of bogus voters from casting false votes are essential for a free and fair election. Is the state bureaucracy capable of it?

A severe test is coming for the civil services (including the police) of the state in another few weeks when voting will be



illegal order from either his/her superiors in the hierarchy or from the political masters.

In a democratic set-up like ours, governed by the rule of law, law is the King. All civil servants and the members of the armed forces of the Union are servants of that King. No one can carry out an act which is not legal or fail to perform an act which the law mandates him/her to do. He cannot subvert the foundation of rule of law by any deliberate act of omission or commission not authorised or not sanctioned by law. Every action of the constituted civil services should invariably uphold the Majesty of Law. That is the only rationale for a politically neutral permanent civil service.

Prize or retribution

Elected political executives, good or bad, are either politically punished or rewarded through the process of election which has so far been held regularly in our country. To ensure this political prize or retribution, the election process has to be free and fair which only the bureaucracy involved in the election processes can assure.

Unfortunately, the civil services in this state could not acquit themselves well in this regard so far. Otherwise, how could a few election observers coming from outside the state detect 1.3 million bogus voters in a few days. But what they did, though praiseworthy, was only the visible tip of the iceberg. The estimated number of false voters, according to a calculation made by this author "The great deception" (10-11 March) was one crore. How could this happen? What was the local bureaucracy doing? Either they slipped up negligently or more probably they connived stealthily with the

done in five phases. The modus operandi of rigging of election is well known in this state. One can write a bestseller called "Rigging made easy" in Bengali for the benefit of the non-English knowing cadres of political groups. All these are preventable election/criminal offences punishable with rigorous imprisonment. Will the civil services of the state be able to stop these election offences to allow the genuine electors to exercise their electoral choice freely without any let and hindrance. Not only the formal observers of the Election Commission but the entire "non-committed" intelligentsia would be keenly watching their performance. Civil services could prove their worth by being neutral, bold and fair.

Do the civil servants have a set of values to adhere to, to remain inflexible and upright under undue political pressure? The answer is an emphatic yes. The Constitution of India lays down these values with the Preamble, Chapter III, Fundamental Rights, Chapter IV, Directive Principles of State Policy and Chapter IVA, Duties of Citizens. Members of the civil services having sworn allegiance to the Constitution are bound both legally and ethically to preserve, uphold and defend these values.

In a democratic set-up, there are two sets of actors: (i) elected political executives who drew their legality and legitimacy through the consent of the people expressed through free and fair election; and (ii) politically neutral permanent bureaucracy to carry out the legal and lawful orders and policies of political masters and to enforce the law. The primacy of the former over the latter is axiomatic. These two sets are both highly complementary to each other and on occa-

sion non-antagonistic adversaries. That is how the whole system of checks and balances operates to ensure that the rule of law prevails over the rule of personal/partisan interests and whims and caprices of political bosses.

There is no point in going into a "before and after" situational analysis. But the events and episodes reported in both the electronic and print media clearly suggest that there has been a serious slippage from the high standard expected of the bureaucracy, particularly at the higher echelons.

Afzal Ammanullah's report to the Election Commission on the Parliamentary Elections (as published in *The Statesman* on 1 and 2 April, 2006 clearly brings out the involvement of the civil administration and particularly the police in committing electoral felony. It is for a few public spirited counsel to bring the matter to notice of the appropriate court to bring to justice all the delinquent officers starting from the then Police Commissioner, Kolkata the three Returning Officers and all the concerned deputy commissioners of Police (of Kolkata) to the Assistant Returning Officers and lower echelons of the police force.

Enough is enough

It is not known how far away are we from the nadir. These backslidings have to stop. It is hoped that a few from amongst the civil servants would stand up and say enough is enough and they would try to re-establish and enforce the rule of law and the values enshrined in the Constitution. A few courageous and upright officers have to play this role mode to restore the basic values of the services including efficiency, honesty and political neutrality. A small price in the shape of inconvenient transfer/posting may have to be paid. But the reward is restoring good governance.

As a retired senior civil servant of the state who had had the privilege of working intimately with Hare Krishna Konar and Benoy Chaudhury, may I offer a few suggestions to my junior colleagues who are serving in this state. Apart from the formal Election Observers, millions of eyes would be watching your performance through the electronic media. Even the goings-on behind the screen would be exposed. Hence, you should have the coverage to shun any illegal action and should have faith and confidence in yourself to defy any illegal orders and to withstand any illegitimate and unethical political pressure. Please do not fall prey to the temptation of any transient immediate gain or advantage. You would be exposed to strict scrutiny of a number of election watch groups who would try to bring to justice all actors of electoral delinquency through PIL or some court action which might adversely affect your career advancement in future. Do not feel lonely or dispirited. The law and enlightened public opinion will protect you.

Two-child norm hinders women empowerment

TIMES NEWS NETWORK

New Delhi: Women are being deserted by husbands or divorced, cases of bigamy are showing up, children are being aborted, hidden, denied their father's name or given up for adoption—all this to stay on as panchayat members by meeting the two-child norm.

Instead of empowering women, who have a third of seats in panchayats, this norm is having the opposite effect—on them and the poor, the very sections it was supposed to empower. Hundreds of men and women across certain states have been disqualified for having a third child. It's not even helping control population. "The lowest rates of fertility are in states which don't have such draconian measures," said panchayati raj minister Mani Shankar Aiyar.

The government, in the form of Aiyar, and MPs in the Rajya Sabha agreed on Saturday that the situation needs to be changed. But Aiyar pleaded helplessness, saying they could do little beyond trying to persuade states which had mandated this norm to withdraw it.

Some "positive" reaction is

evident. Himachal has withdrawn this stipulation, MP's former CM had committed to withdrawal. Discussions are on with Haryana and Rajasthan. States which had introduced this stipulation include AP, Haryana, MP, Rajasthan, Orissa, Maharashtra and Chhattisgarh.

The two-child norm, said Aiyar, has caused a great deal of damage without achieving its objective. He agreed with MP Shantarana Laxman Naik that this provision had ended

up targeting the very people it was to have helped.

Naik recalled some instances: A woman sarpanch in Rajasthan kept a month-old baby 120 km away to keep her post, a member in Bhopal sent his son to his brother. In the past couple of years, about 400 members had been disqualified in Rajasthan, he said. Another 350 in MP, 275 in Haryana. "Is this morally or otherwise a sound principle...why aren't MPs, or MLAs, enacting these

Instead of empowering women, who have a third of seats in panchayats, the norm is having the opposite effect on them and the poor, the sections it was supposed to empower

laws for themselves?" he questioned.

Aiyar took a few lines from an earlier speech of the Lok Sabha speaker to press home

the point: Linking the two-child norm with the right to contest had, in effect, deprived a

majority of this right. Women are believed to constitute over 40% of those disqualified; Dalits, Adivasis and other backward classes constitute 80%.

Given the strong preference for sons, worried Aiyar, this may degenerate into a gender-selective mechanism. It was this which had forced China to abandon the one-child norm, he said, listing studies which showed the impact of this norm on the status of women.

PANCHAYAT REFORMS

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THE TIMES OF INDIA

Towards planned urban development

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Kalpana Sharma

THE WORLD Bank's recent decision to temporarily suspend financial support to one component of the Mumbai Urban Transport Project (MUTP) raises a host of issues that urban planners and policy makers in Mumbai and other Indian metros must address. Even as plans to invest crores of rupees in our cities are being formulated, we have to ask if there is any policy in place to resettle people affected by urban infrastructure projects — both the poor and the better off.

The MUTP is a \$940 million project of which \$463 million is the road and rail component while \$79 million has been earmarked for the resettlement component. A good part of the project, involving extension of roads and railway lines and adding to Mumbai's fleet of buses, is already complete.

An important component of the project has been resettling thousands of poor households. For instance, people living along the railway tracks had to be relocated and resettled. This was partly to extend Mumbai's lifeline, its commuter railway that transports over 64 lakh passengers each day, and partly to increase the speed of the trains. Trains were forced to slow down in certain sectors because of habitations barely three feet from the railway line.

Extended negotiations between the State Government, the Railways, and the World Bank ultimately led to two things: one, all the people living along the tracks, some 14,000 households or an estimated 60,000-70,000 people, were resettled. This is no mean achievement in itself. Two, as part of the plan to extend and make the suburban railways more efficient, the Mumbai Railway Vikas Corporation that brings together the Central and Western Railways was set up. By bringing the entire suburban rail network under one organisation, future plans for expansion and

As our cities undergo a makeover, we urgently need an urban rehabilitation policy. Otherwise, as in Mumbai, the few with the ability to shout the loudest will hold up important infrastructure projects.

extension will be easier to implement.

Also as part of the MUTP, Mumbai's bus service that transports 45 lakh passengers each day has been augmented. The project is being implemented by the Mumbai Metropolitan Region Development Authority (MMRDA).

Amongst the reasons for the suspension of financial support is the fact that a grievance redress system that was supposed to be in place was not functioning properly, that some of the resettlement did not follow a proper process and people were asked to move even as their appeals were pending. And some of the sites where people were relocated did not meet the standards laid out in the project agreement. State Government officials concede that there is some substance to these complaints.

The main bottleneck that has now sprung up is partly due to an oversight in the initial planning stages, officials admit. When the project was planned, it was assumed that the majority of those needing to be resettled would be the urban poor. In fact, surveys had established that 40 per cent of the project-affected families were below the poverty line. And of the estimated 19,228 project affected households, over 14,000 were along the railway tracks.

Today, the State Government finds itself in a bind. As long as the resettlement involved poor people, there was no problem. In line with its own slum redevelopment policy, the Govern-

ment agreed to provide a 225 square foot flat free of cost to every project affected household. Commercial establishments under the State Government's policy are entitled to a similar space free of cost but need to purchase additional space up to a limit of 750 square feet.

In the initial stages of the World Bank project, a different policy had been agreed upon for commercial enterprises. The MUTP project document states: "Every PAH (project affected household) losing a commercial structure shall be eligible for an alternate place for commercial use of equivalent area." This was later modified in accordance with the State Government's policy.

However, the World Bank also insists on rehabilitation and not just resettlement and wants the project affected to be economically better off if possible in their new location. It is this provision in the MUTP, to which the State Government had agreed, that has stalled work on one of two link road projects in Mumbai's suburbs that will connect the east of the city to the west. While 90 per cent of the work on the Jogeshwari-Vikhroli Link Road (JVLR) is complete and 810 out of 1,305 project affected households and commercial establishments have been shifted, the second such road link, the Santacruz-Chembur Link Road (SCLR) has hit a roadblock. Even in the SCLR, 2,430 out of 2,472 project affected households have shifted and around 360 out of

549 commercial establishments have shifted. A small group of around 160 commercial units are holding out.

Like all the structures blocking the new road link, these are illegal. They were not demolished in the past because they did not obstruct anything and, in any case, the system of patronage that permits such illegalities to flourish is virtually the norm. Today these structures are in the way. They have to be removed. But the Government is bound to provide the owners not just an alternative space but also compensate them for loss of income, which they are bound to incur in their new location.

While the poor households and some of the smaller shopkeepers located in the area have shifted, these larger commercial establishments have organised themselves. And it was their complaint to the Bank that led to an Independent Inspection Panel coming to Mumbai, and submitting a critical report about the way the project was being implemented. Before the Board of the World Bank reviews the report next month, the country office has suspended further financial support to the project.

Significance

The significance of the step taken by the Bank goes beyond the specifics of this particular issue. As has been pointed, in this case the problem has arisen because the Government agreed to the World Bank's policy on rehabilitation without fully realising the consequences. In fact, when the MUTP project came through, the majority of the affected were the poor. The question of the criteria that should be used to compensate commercial enterprises that have to be relocated for urban infrastructure projects had not been thought through. Another related question that was not anticipated was whether people who had violated planning norms should be treated on a par with those who were within the law?

In the case of the urban poor, the State Government has recognised that even if they are squatting illegally on some land, they are entitled to an alternative because they have had no other housing option. But the same argument cannot be automatically extended to all illegal commercial structures. Bureaucrats in the State Government insist that the question of paying huge compensation to shopkeepers with illegal structures is out of the question.

The standoff in Mumbai is a reminder that an urban resettlement and rehabilitation policy needs to be debated and decided. It should not be formulated by default — as in the present instance. In other words, the World Bank should not be permitted to lay down a policy for a city without those who govern the city thinking it through. For if the criteria that the World Bank has laid down for the MUTP are followed in the rest of Mumbai, the process of relocating settlements will become not just complicated but extremely expensive. In fact, according to one official, if the World Bank's policy is accepted as the norm, the State Government will have to set aside at least Rs.5,000 crore just to compensate commercial establishments that come in the way of infrastructure projects.

Similar issues have come up in many cities and there are no easy solutions. In Delhi, for instance, the municipal corporation is discovering that entire sections of the city are illegal. If these structures, like the new shopping malls, are obstructing an infrastructure project, should the owners be compensated?

As our cities undergo a makeover, we urgently need an urban rehabilitation policy. It has to take all who are affected into account. And it is needed regardless of the source of funds. Otherwise, as in Mumbai, the few with the ability to shout the loudest will hold up important infrastructure projects such as these link roads. For the Maharashtra Government, the situation is even more urgent. For if it is not able to work its way around this, one wonders how it will tackle a whole line up of projects that are already on the anvil — beginning with the clean up of the Mithi river that contributed to last year's devastating floods to the modernisation plans for Mumbai airport.

CARTOONSCAPE

