THE ORISSA AFFAIR

AND

THE C.B.I. INQUIRY

Price : Rs. 2/-

S. N. DWIVEDY, M. P.

Printed and Published By:
S. N. DWIVEDY, M. P.,
21 Canning Lane,
New Delhi

Price : Rs. 2/-

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This document published in book form was placed on the table of the Lok Sabha by me on April 19. I certified that it was a true copy of the full report of the Certral Bureau of Investigation on charges of corruption in Orissa submitted to the Union Home Ministry on November 15,1964 by Shri D. P. Kohli, Director of CBI. The report and Shri Kohli's covering letter (Appendix-A), with the list of charges (Appendix-B), are now public documents, but the Government have so far neither denied nor admitted their authenticity. They have chosen to remain silent on a vital matter like this which has already received wide publicity.

On March 3 Shri H. V. Kamath was also permitted by the Speaker to place another version of the CBI report, known as summary. Although this was discussed during the debate on the no-confidence motion in the Lok Sabha on March 15 and 16 the Government have so far not committed themselves in any manner regarding it. The report has been published in full in English and Oriya.

The Government's attitude is rather strange. Why does it refuse to divulge the materials on the basis of which they have come to certain decisions ? These documents expose not only the misconduct of responsible public men holding power, they, also underline the weakness of the Government in dealing with politicians and administrators against whom serious charges of misusing authority and corruption are made.

Orissa affairs are fairly well known to the public. Ever since 1961, after the formation of a Congress Government with Shri Biju Patnaik as Chief Minister, serious allegations have been made against State administration in Parliament, in the State legislature and elsewhere.

It was alleged that the administration was being run in complete disregard of rules, procedure and law, and that all sorts of questionable methods were being adopted to benefit a few individuals at the cost of the community and at the expense of the public exchequer. It also raised a serious question in the minds of the thinking Indians regarding the relations between top-ranking administrators and business houses. Some Congressmen of Orissa felt that the kind of irregularities some men in authority were indulging in was against all moral and legal canons and they protested to the Congress President. The Conress Working Committee appointed a sub-committee to inquire into charges of corruption against politicians and administrators, but in the case of Orissa, for reasons best known to themselves, they left the matter to the Public Accounts Committee of Orissa legislature. Then after some months a panel of lawyers set up by the Congress President also took up this issue, but their findings were never made public and they ultimately left the decision to the Government.

Meanwhile, the men in authority did not halt their questionable activities and public discontent mounted in Orissa. The Auditor-General's report has not yet been submitted, and as a result the Public Accounts Committee has had no opportunity of going into these questions.

The matter referred by Congressmen to their President was not merely a technical or administrative affair but it raised the question of moral conduct in public affairs. Was it proper for business concerns run in the name of wives of Chief Ministers to have dealings with the same Government? This was never taken up seriously by the Congress authorities.

Since the persons concerned commanded a majority in the legislature and majority support in the Congress organisation in the State the Congress High Command was reluctant to take steps which would weaken their hold.

Our charges against these persons, later described as "guilty men" by the Hindustan Times, were such that a judicial inquiry would make out whether there was criminal conspiracy to defraud public money for personal and party benefits and whether legal prosecutions could be launched against them. With this end in view the matter of corruption was raised often in Parliament.

Under public pressure the Government was obliged to appoint a Commission of Inquiry against the then Chief Minister of Punjab, Sardar Pratap Singh Kairon. Prompt action was taken when the Das Commission's findings were made public and political changes were effected in the administration of Punj·b. Home Minister Nanda's public declaration that he would substantially reduce corruption within two years and the Santhanam Committee's recommedations on corruption at the political level raised high hopes in the public mind.

In view of these developments the crusade against corruption in Orissa also took a different turn. The Secretary of Orissa Praja Socialist Party submitted a memorandum to the President of the Republic followed by a bigger representation containing allegations against the Orissa State administration from 1961, when Shri Patnaik became Chief Minister. The letter was signed by a large number of Orissa MLAs including the leader of the Opposition, MPs and some distinguished public men. The nature of these charges are given in detail at the end of this book and they form part of the documents tabled in the Lok Sabha. All over the country, in the press and on public platforms, demands were made for a judicial investigation. In Orissa a regular campaign was started for demanding removal of the "guilty men."

The President forwarded this petition to Prime Minister. As it was well documented the proper course for the Shastri Government would have been to refer it to a commission of inquiry. But it failed in its first major test on account of political pressure. The outcome of the Das Commission report was so revealing and damaging to the Congress organisation that some members of the Congress High Command took fright at the likely consequences of a thorough and open inquiry into charges of corruption against the Orissa Ministers. Shri Nanda has now admitted that the method adopted in disposing of the Orissa case has satisfied nobody and that the Prime Minister was thinking of some independent agency to deal with such cases in future.

In the case of Orissa a strange procedure was adopted. As is evident from the report published in this book, the scope the CBI men was very limited. They were handicapped by the fact that all the relevant papers were not produced before them. They were not permitted to call for papers from private firms, nor were they entitled to interrogate or verify facts from individuals. Even the State papers made available were not complete. Some of them had been tampered with, others were missing. In spite of these handicaps, according to Shri Nanda, they did a commendable job. With the limited time at their disposal, and with the limited jurisdiction and in view of un-cooperative attitude of the State Government at the initial stages, the CBI could inquire into only a few of the charges. They submitted a detailed report on these few. regarding others they recommended an open inquiry.

When these facts came into possession of the Government they should have either asked the CBI to make further inquiries or appointed a commission of inquiry to go into all the charges. But a hue and cry was raised again by the same set of Congressmen. They even questioned the justification of the CBI inquiry and a controversy was also raised about the authority of the Centre to investigate a State administration.

The legal aspect was later made clear by the Union Education Minister Shri M. C. Chagla, who in the course of his speech on the no-confidence motion said: "I am of opinion, after careful consideration, that our Constitution has given sufficient power to the Prime Minister to advise the President to remove a Chief Minister from office if it is found that he is corrupt, unfit to hold office, or guilty of impropriety." He further clarified this point in course of a speech at the Press Club of India when h said that even if a Chief Minister enjoyed majority supp ort in a legislature he could be removed from office by th Prime Minister. In spite of all this legal clarity, th Government was afraid of political pressure and the Prim Minister appointed a sub-committee of the Union Cabi net to go into the question. There were protests agains this, but the sub-committee continued to examine on th basis of the incomplete evidence collected for them by th CBI and invited comments from the persons agains whom the CBI said there were prima facie cases. Surpri singly, they did not get in touch with or give a hearing tc the original complainants, who in a letter said that they were in a position to prove the charges if given an opportunity. The Government took a one-sided decision to protect their own men, and ultimately the Prime Minister made the following observations in the Lok Sabha on February 22:

"The Committee however found that in several transactions improprieties were definitely involved for which responsibility had to be borne by Shri Patnaik and Shri Mitra. The Committee felt that the normal standards of public conduct had not been maintained. The findings of the Committee which were accepted by the Central Cabinet were communicated to Shri Patnaik and Shri Mitra"

After this decision, Shri Mitra and Shri Patnaik were asked to resign their offices and did so. But no administrative action was taken besides this political action taken on the basis of the so-called code of conduct accepted by all the Chief Ministers and the Prime Minister. The "guilty men" were removed, but their guilt went unpunished.

This enabled the same set of politicians to function freely. Their nominees against whom there are charges of corruption, were put in office. The same old wine has been put in new bottles.

The Cabinet Sub-Committee, which confined its inquiry to some charges, had said very harsh things. According to the summary tabled in the Lok Sabha on March 3:

"The sub-committee felt, in the course of its examination of the material, that the manner in which Shri Patnaik and Shri Mitra, directly or otherwise, conducted Government transactions, in which were also involved the interests of private concerns owned or controlled by them or by their relations, was definitely not in keeping with the normal standards of public conduct. The sub-Committee desire to record their profound concern at the picture, emerging as a whole from the series of such individual transactions in many fields of activity of the State Government, of improper use of authority by leaders of the Government."

Later, in the course of his reply to criticism of its findings during the no-confidence motion Shri M. C. Chagla said:

"I say this with all the strength I possess, that I have no doubt that the Chief Minister of Orissa, Shri Patnaik, had behaved in a manner unworthy of a Chief Minister."

The fact is that after pronouncing their verdict in such strong language in the interest of their party the Govt. are not prepared to proceed against them legally. Even the code of conduct is not being adhered to. Although these persons have been held unworthy the Utkal Pradesh Congress Committee has reiterated its complete faith in both persons' thus nullifying the very purpose of a code of conduct for political action.

The demand for a commission of inquiry must be accepted. This document, which is now public property, would strengthen the demand

Let the public judge.

New Delhi,
20 5-65.

Surendranath Dwivedy.

Report of Preliminary Enquiry into allegations against some Ministers of Orissa Government.

Introductory

In a Memorial dated 28th July 1964 and Annexures thereto addressed to the President of the Union of India by Shri R.N. Singh Deo, M.L.A. and leader of the Opposition Orissa Legislative Assembly and 62 other signatories, and in some petitions addressed to the Prime Minister and the Home Minister of India, several allegations have been made against Shri B. Patnaik Ex-Chief Minister, Orissa, Shri B. Mitra, present Chief Minister Orissa, Shri Neelamani Rout Ray, Home Minister Orissa, Shri Brindaban Nayak, Minister in charge Community Development and Shri Sadasiva Tripathy, Revenue Minister Orissa. The Government of India in the Ministry of Home Affairs desired the Central Bureau of Investigation to make a Preliminary Enquiry into these allegations and accordingly three separate P. Es. in respect of allegations against (i) Shri B. Patnaik and Shri B. Mitra (ii) Shri Neelamani Rout Roy and (iii) Shri Sadasiva Tripathy were registered on 10.9.64 in the Special Police Establishment. Two other P.Es. concerning certain entries in the books of Mohd. Serajuddin and Company showing certain payments to Shri Neelamani Rout Roy and Shri Sadasiva Tripathy, Ministers, Orissa Government were also registered for Preliminary Enquiry.

The supplementary memoranda dated 21.9.64 and 12.10-64 respectively, to the Memorial dated 28th July '64 have been received subsequently on 5.11.64. While some of the allegations in these two Memoranda are already contained in the Memorial dated 28.7.64, there are other allegations in respect of which it will be necessary to consult further relevant official records of the State Government and action is being taken to obtain these Copies of the Memorial dated 28.7.64 with its summary, and copies of the supplementary memoranda, and of the relevant petitions have all been placed in the Folder Marked 'A'

A statement of allegations in which Preliminary Enquiry is being made is enclosed as Statement No. 1. Statement No. 2 contains the allegations into which Preliminary Enquiry is held up for want of records or other reasons. Statement No. 3 contains the allegations into which, for reasons stated therein, no enquiry is proposed to be conducted.

During scrutiny of official records made available by the State Government it has been found that in respect of the loan of Rs. 97 lakhs, taken by Kalinga Tubes Ltd. from the Industrial Finance Corporation of India, for which the State Govt. had stood guarantee, Stamp Duty of approximately Rs. 97,000 was payable. The State Government, with the approval of Shri B. Patnaik, Chief Minister, by taking over he liability in respect of the Stamp Duty, saved Kalinga Tubes Ltd. about Rs. 97,000 which would otherwise have accrued to the State Government. This allegation has therefore been added in Statement No. 1 at serial 15. All these statements have been placed in the enclosed Folder 'A'.

A questionnaire containing points for clarification from the Ministers of Orissa Govt. concerned, has also been formulated. A copy of this questionnaire has been placed in Folder 'K'.

For clarity and facility of reference, it may be stated that on the basis of official records so far made available, a preliminary Enquiry has been held, into the following allegations :

1. Issue of Finance Department Memorandum in November' 61 to benefit concerns in which Ministers and their relations had personal interest.

2. Purchases made by the State Government from 'Orissa Agents' said to be a benami concern of Shri Biren Mitra at exorbitant rates for his benefit.

3. Favouritism in the appointment of Shri Srinivasan as Chief Engineer-cum-Administrator, Paradeep Port.

4. Purchase of Tubular structures by the State Govt. from Kalinga Industries Ltd. without tenders.

5. Purchase of Tubular Structures of the value of over Rs. 16 lakhs by Commerce Department of the State Govt.

6. Advance of Rs. 18 lakhs to Kalinga Industries Ltd. for Tubular Trusses for Tikkerpara Project.

7. Sale of low shaft furnace of Kalinga Industries to Industrial Development Corporation of Orissa.

8. Irregularities relating to Mining of leases of Shri B. Patnaik and the improper conferment of the rights on B. Patnaik Mines (P) Ltd.

9. Favouritism and illegal gratification in the appointment of Agents under Kendu Leaves (Control of Trade) Act 1961.

10. Establishment of a Saw Mill by Mrs. Mitra on illegally occupied Govt. land.

11. Withdrawal of prosecution of cases against steel stockists by Shri Neelamani Rout Roy.

12. Sales of private land by Shri Brindaban Nayak to the Electricity Department at higher than prevalent rates.

13. Entries in the books of accounts of Mohd. Serajuddin and his Company showing payments to Shri Sadasiva Tripathy.

14. Entries in the books of accounts of Mohd. Serajuddin and his company showing certain payments to Shri Neelamani Rout Roy.

15. Improper taking over of liability in respect of Stamp Duty by "Orissa Government" in connection with Kalinga Tubes Ltd.'s loan from Industrial Finance Corporation.

It may be stated at the outset that this Preliminary Enquiry has been held under certain limitations as it was desired that no oral enquiries may be made, nor should we ask for or secure the recods from private parties or the firms concerned. There has also been difficulty in the proper scrutiny of some of the official records as some files made over by the State Govt. have been found to be incomplete, in some cases without note sheets, and in others some pages seem to be missing.

After the mid-term elections to the Orissa Legislative Assembly in 1961, Shri Bijoyananda Patnaik formed a new Government with himself as Chief Minister and Shri Biren Mitra as Deputy Chief Minister. A list of Ministers, in this Government headed by Shri Patnaik, and the portfolios held by them is contained in Statement No. 4, placed in Folder marked 'B'

Notes on 'Orissa Agents', of Mrs. Easwaramma Mitra, wife of Shri Biren Mitra—and on Kalinga Tubes Ltd. and Kalinga Industries Ltd., have been marked as Statements No. 5 to 7 and placed in Folder 'B'. Notes on the low shaft furnace of Kalinga Industries Ltd., B. Patnaik Mines (P) Ltd., Kalinga Otto (P) Ltd. and the Industrial Development Corporation of Orissa, have similarly been kept, in the same folder, as Statements Nos. 8 to 11.

Allegation No. 1

During Chief Ministership of Shri B. Patnaik who was also in charge of Finance, Govt. Departments were directed through a circular issued in November 61 to purchase vehicles, stores and other materials only through local dealers within the State on the ground that purchases from outside resulted in loss of State Sales Tax. Since these orders prevented competitive tenders fresh orders were issued in May 62 but these required that after giving preference to cottage and small scale industries products, next preference should be given to local manufacturers or outside firms having local agency offices within the State.

Shri B. Patnaik himself had local manufacturing concerns and Shri Biren Mitra's "Orissa Agents" had the local agency for a large number of firms and the above orders were issued merely to favour Companies and firms *in which Ministers and their favourites had personal interest.*

The detailed report in respect of the allegation has been placed in Folder 'C'.

Before discussing the allegation it may be worthwhile mentioning the business interests of Shri B. Patnaik and Shri B. Mitra. Prior to assumption of office on 23rd June 1961, Shri B. Patnaik was Chairman of Board of Directors, Kalinga Industrles Ltd. and Managing Director of Kalinga Tubes Ltd., with his wife Mrs. Gyan Patnaik as one of the Directors in both the Companies. When he took over as Chief Minister, Mrs. Gyan Patnaik became Chairman Kalinga Industries Ltd. Patnaik family have substantial financial interest both in Kalinga Industries Ltd. and Kalinga Tubes Ltd. The Tubular structure factory—one of the units of Kalinga Industries Ltd. had been registered as a small scale industry with the Director of Industries Orissa in April 1961.

"Orissa Agents" sole proprietory concern of Mrs. Easwaramma Mitra—wife of Shri Biren Mitra—were established in April 1959 and were appointed distributors for Orissa, for G.I. pipes manufactured by Kalinga Tubes and as authorised agents of Kalinga Industries Ltd. "Orissa Agents" also secured agency for Orissa for 'Paints' manufactured by Jensons and Nicholsons — a Calcutta firm.

The scrutiny of official records shows, that vide Industries Department Memorandum No. 13807-2-SSI-108/61-I dated 31.8.61 the State Government laid down that while orders already existed vide Commerce Department Notification dated 30th September, 1958 that price preference to the extent of 15% should be granted to products of cottage industries established within the State, in making purchases for the Govt. The Govt. had decided that for the establishment of small scale industries in the State, this price preference should in respect of the products of small scale industries also be allowed in Governmental purchases. Under the order of 31st August 1961, which was issued two months after Patnaik Ministry came into office price preference to certain specified goods including cast ironwares, ranging from 10 to 15% in respect of the products of small scale industrial units registered with the Director of Industries, Orissa, was secured and it was further laid down that this price preference would be admissible not only when manufacturing units tendered for supply of goods to the Govt. but also when authorised agents of the manufacturing units or their distributors tendered for such supplies.

On 27th October 1961 i.e. 4 months after the assumption of office by Shri Patnaik'sMinistry, the then Secretary, Finance Department, Shri S. Nanda pointed out, in connection with the purchase of vehicles by the Transport Department, in a note to the Chief Minister that the placement of this order with outside dealer would result in the State losing substantial sales tax and he therefore was of the view that orders should be issued laying down that the purchase of vehicles, stores and other materials by different Departments of the Govt. and organisations in which Govt. had financial interest should be made only through local dealers and there should be no attempt to avoid sales tax on any account. Shri Patnaik agreed and a circular dated 17.11.61 was issued under the heading "imposition of restrictions on purchases from outside the State."

It may not be out of place to mention here that although this circular sought to lay down the general purchase policy of the State Govt. no other departments were consulted and even the opinion of purchasing departments docs not appear to have been obtained. In fact even the Chief Secreetary appears to have been in the dark, and he became aware of the circular only after its issue.

The circular dated 17.11.61 not only laid down that the purchase of vehicles, stores and other materials should only be made through local dealers and that in any case where it was found absolutely necessary to place direct orders with firms outside the State, prior concurrence of the Finance Department should invariably be taken, but it also made any deviation from these instructions the personal liablity of the officer concerned for loss of consequential sales tax revenue to the State Govt.

It will be seen that apart from the unusual rigidity of purchase policy enunciated, this circular completely discarded the fundamental principle of purchases being made at the lowest price obtainable. The Chief Secretary had as early as in December 61 drawn the Chief Minister's attention to this Finance Department circular which in his view seemed to depart from the above general principle and the Chief Minister had suggested the issue of suitable amendment after discussion with the Finance Secretary, vide his Minute dated 12.12.61 but it appears from a subsequent note of the Finance Secretary dated 17.12.61 that during a detailed examination held in the Chief Minister's room on 12.12.61 the Chief Minister had been definitely of the view that the circular should not be cancelled but only certain powers may be delegated to Govt. departments to be exercised with the concurrence of F. As attached to them. The Chief Secretary again pointed out that the delegation of such authority will be no solution as in the terms of the circular dated 17-11-61, even the F. As attached to the Departments will be in no position to authorise purchases from outside the State so long as local dealers, irrespective of the prices quoted by them were available. Even in February 1962 on the representations received from Bharat Chamber of Commerce and Bengal Chamber of Commerce against the purchase policy of Orissa Government enunciated in the above circular, the Chief Minister had recorded the Minute "File. No Consideration Necessary"; it was only on 4-5-62, after further discussion between the Chief Secretary and the Chief Minister that a fresh circular was issued by the Finance Department which while laying down that wide publicity for requirements of the Government should be made both within and outside the State in order to make purchases at the most economical rates, also required that the price preference in respect of products of small scale industries would continue to be enforced, and if after considering the monetary value of the cost of transport, local or inter-State sales tax and other incidental charges, the prices quoted by local manufacturers, or outside firms having established agencies or offices in Orissa were competitive, preference was to be given to such local manufacturers or local agencies.

The most important point to be ascertained in connection with this allegation is the actual motive behind the issue of the Finance Department Circular dated 17-11-61.

The circular was unusual not only in its rigidity but also because in practice, it left no option to the Indenting Department of the Govt. irrespective of the basic price factor, except to place orders for Governmental requirements on local manufacturers or the authorised dealers of outside firms. This is borne out from the fact that the Director of Inspection who conducted a special audit in respect of the purchases made by the State Government from 'Orissa Agents' had found that in a number of cases as a result of the above Finance Deparment Circular the Departments concerned had not even obtained quotations from outside the State as they felt that they were barred from having anything to do with outside business. In reply to the Director of Inspection, on this point the Chief Secretary had to concede that prior to the modification of the circular in May 61, the Purchasing Departments though not precluded altogether from dealing with outside firms irrespective of the price factor were nevertheless precluded in practice, since reference to the Finance Department would have meant delay in placing orders for the materials which were required for various works.

It is quite clear from the relevant files that the Chief Secretary had pointed out more than once that the circular dated 17-11-61 seemed to depart from the basic principle of procuring supplies at the lowest prices obtainable, and appeared almost to authorise Govt. Departments to make purchases from local dealers even if they chose to quote exorbitant rates. The difficulties that the Departments were experiencing in implementing this order on account of having to make reference to the Finance Department for concurrence, for purchase of goods for which there were no local dealers were also in the notice of the Chief Minister. The representations which certain outside Chambers of Commerce made against the purchase policy of the State Govt. enunciated in the above circular were also placed before the Chief Minister Shri Patnaik who, however, was not inclined to consider the withdrawal of this circular. Even when eventually in May '62, after further discussion between the Chief Secretary and the Chief Minister a fresh circular was issued giving preference not merely to local dealers, where after taking into account the cost of transport, Sales Tax and other incidental charges, their prices were comparable, but what is more significant, such preference was also safeguarded in the case of local agents of outside firms. Whatever the other consequences of this policy, it clearly secured the continuation of the special position for the Products of Kalinga Tubes and Kalinga Industries, and M/s. Orissa Agents the authotised dealers for these products in Orissa.

Kalinga Tubes were the only manufacturers of G. I. Pipes in Orissa State. The Company had appointed 'Orissa Agents' the sole proprietory concern of Mrs. Easwaramma Mitra—wife of Shri Biren Mitra—who became Deputy Chief Minister in Shri Patnaik's Ministry —their authorised agents for tubes for the whole of the State. This concern was also appointed authorised agents for Kalinga Industries Ltd. whose tubular structures, as will be seen later in this report, were supplied to different Departments of the State Govt. in large quantities. It had also already secured the agency, for paints of Jenson & Nicholsons for Orissa. It is quite clear therefore, that whatever the ostensible purpose of the issue of Finance Department circular dated 17-11-61 may have been one of its immediate inevitable and foreseable consequences was the creation of a virtual monopcly in favour of 'Orissa Agents' in the matter of supply of Tubes and Tubular Structures to the State Govt. What is more, this arrangement enabled Kalinga Tubes Ltd. themselves to make substantial supplies of Tubes in Orissa for Governmental requirements, which themselves seemed to have increased very considerably after the new Ministry's assumption of office and the issue of the above Finance Department circular, without their having to confirm to their own price circulars or the D. G. S. & D. rate contract which was operative at least from 15-4-62 for certain dimensions of pipes manufactured by this company and which rate contract also, strangely enough was not availed of by State Government Departments.

It will be seen later from the discussion of allegation No. 12 and the Statements of purchases made by the State Govt. Departments from 'Orissa Agents' that as a consequence of the above arrangement brought about, by the appointment of 'Orissa Agents' as authorised dealers in Orissa, for the products of Kalinga Tubes and Kalinga Industries Ltd. and the Finance Department circular mentioned above coupled with the large increase in the requirements of State Govt. Departments for pipes and tubular structures after November 61, the State Govt. had to make excess payment to the tune of several lakhs with corresponding financial benefit to 'Orissa Agents', Kalinga Tubes Ltd. & Kalinga Industries Ltd. concerns in which Mrs. Easwaramma Mitra wife of the Deputy Chief Minister Shri Biren Mitra, and Mrs. Gyan Patnaik, wife of the Chief Minister Shri Patnaik, had direct personal interest.

It may be argued that the Finance Department Circulars were calculated to ensure the accrual of sales tax to State revenues and to benefit generally the local dealers of Orissa. A perusal of the circular of November 61 will however clearly show that it went well beyond its ostensible purpose of ensuring state sales tax which in any case could have been secured by merely laying down that in the comparison of prices for Governmental purchases the elment of provincial or Central Sales Tax may not be taken into account. As regards the benefit of the circular extending to other local dealers, there is no getting away from the fact that Shri B. Patnaik and Shri B. Mitra, Chief Minister and Deputy Chief Minister respectively had personal interest only in Kalinga Tubes Ltd, Kalinga Industries Ltd. and 'Orissa Agents.' The arrangement which was brought about by the appointment of 'Orissa Agents' as the authorised dealers for the products of these two companies for Orissa and by the issue of the

Finance Department circular clearly benefited these three concerns and at least in the matter of the products of Kalinga Tubes Ltd. and Kalinga Industries Ltd. the possibility of any benefit accruing to any other local dealer was in fact completely eliminated.

It can of course be argued that the State Govt. themselves had financial interest at least in Kalinga Industries Ltd. in which they had invested funds. Such an argument on careful consideration will easily however be found to be of little validity. The fact that the State Government had invested funds, can hardly be pleaded as a justification for bringing about in favour of the company a virtual monopoly under which the State Govt. prevented itself from availing of competitive rates for its own large requirements.

There can be a further argument that the sales to the State Govt. by Kalinga Industries Ltd. or Kalinga Tubes Ltd. are only a fraction of the total production of these concerns and therefore of no great interest to these companies. This cannot be answered without examination of the overall sales of Kalinga Tubes Ltd. and Kalinga Inds. Ltd. In respect of the Tubular structures factory of Kalinga Industries Ltd., however, as will be seen from discussion of allegations 4 to 6, most of the production appears to have been purchased by State Govt. during the period of Patnaik Ministry without competitive tenders.

It will be seen therefore from the above discussion that the bonafides of the Finance Department circular dated 17.11.61 are open to question.

Allegation No.2

REPORT ON PURCHASES FROM 'ORISSA AGENTS'

The concern. 'Orissa Agents' standing in the name of Mrs. Biren Mitra, is a benami concern of Shri Biren Mitra, the present Chief Minister of Orissa, and it has been stated that this concern had monopolised supplies to Government, secured agencies of local and outside firms and charged exhorbitant rates. Most of the supplies were made without calling tenders. As principal distributors of

Kalinga Tubes, supplies were made to the State, Govt. by this concern without the purchasing departments availing of the D.G.S. & D. rate contract and without even availing of Kalinga Tubes' own price circular. The benefit of these transactions is alleged to have gone to Shri Biren Mitra.

A note on 'Orissa Agents' based on such information as can be gleaned from the files of Orissa Sales Tax Department has been marked as Statement No. 5 and placed in folder 'B'.

These files of the Sales Tax Department show that Mrs. Iswaramma Mitra—wife of Shri Biren Mitra of Behari Bagh, Cuttack-2 filed an application for registration under Orissa Sales Tax Act, of 'Orissa Agents', of which she claimed herself to be the sole proprietor. It was stated that 'Orissa Agents', had commenced business on 1.4.59, but until 24.11.60, there had been no turnover of business. In the Statement filed on 1.12.60 by S. Kafaitullah, as Manager, 'Orissa Agents,' it was stated that the concern had until then been only procuring orders for supply of Tubular Structures, G.I. Pipes and Black Pipes and Jenson & Nicholsons paints on commission basis and no account of sales or purchases had been maintained. The concern proposed to deal in Bengal Potteries, and after receipt of the consignment of potteries, proper accounts would be maintaned. Two statements were also filed showing that 'Orissa Agents' had until the end of Nov. 60 executed orders for tubular structures of Kalinga Industries Ltd., of the value of about Rs. 20 lakhs for which thev had received a commission of Rs. 1,11,492,66nP.

The official files containing the returns submitted by 'Orissa Agents' under the State Sales Tax Act show the annual value of business done in each of the calendar years 1961 to 1963 as follow :—

1961	...	1,74,498.04 n.P
1962	...	23,56,179.32 nP.
1963	...	22,62,754.70 nP.

The return for the quarter ending 31-12-63, is a Nil return while the annual return for the year ending 31-3-1963 shows total turn of Rs. 35,09,517.59 nP. against which Sales Tax of Rs. 1,47,063.11 nP. was deposited. The concern was issued Provisional and Central Sales Registration Certificates Nos. CU 1-3124 and CU-CI 747, which certificates were surrendered by Mrs. Iswaramma Mitra to the Sales Tax Officer through a letter dated 21-2-64, in which it was stated that she had ceased to do any further business and returns upto 31-12-63, had already been filed by her.

It has been alleged that 'Orissa Agents' is a benami concern of Shri Biren Mitra and that he was in fact the beneficiary of the business done and the profits earned by this concern through supplies made to the State Government. There is of course no indication of Shri Biren Mitra's connection if any with this concern in the official files, and in the very nature of this allegation, it will be difficult to arrive at any firm conclusion without full and open enquiries and without a thorough examination of the accounts of this concern. It does appear however, that prior to joining the Ministry headed by Shri B. Patnaik, Shri Biren Mitra had been taking personal interest in 'Orissa Agents', which was claimed to be under the sole proprietorship of his wife Mrs. Iswaramma Mitra. It appears that 'Orissa Agents' had secured the agency of M/s. Turner Hoare and Co. Calcutta. In a letter dated March 13, 1961 from 'Orissa Agents', to the above quoted firm, following reference has been made :

"Mr. Mitra had a talk with you regarding the wharfage of Rs. 158.90 nP. which we had to pay and I understand that you are crediting that amount and also Rs. 130.60 nP. which we have paid for the freight. Today we have received a reminder from the Executive Engineer, General Electrical Division for those 499 fans to be supplied by Indian Electric Works. Ltd. According to their orders the fans were to be supplied by 20th March. Please ask them to despatch the fans within the 20th March 1961. Though the order was placed on D.G.S. & D. rate we had to manipulate a lot for it and I hope you can arrange to get some commission for on it".

It will be clear that Mr. Sawhney of M/s, Turn Hoare & Co. to whom the above letter was addressed h held some discussions with Shri Mitra in connection wi the business of 'Orissa Agents', who appear to ha secured an order for supply of fans to the State Gover ment. Incidentally, it may be mentioned that this pari cular order of fans does not find mention in the fil handed over by the State Government relating to pu chases from 'Orissa Agents'.

In a further letter of 'Orissa Agents' to M/s. Turn Hoare and Co. Shri Sawhney of this Calcutta firm ha made the following endorsement for this office, in his ow hand on 27-3-64:—

"S. B.

This was handed over to me today by Shri Bire Mitra. Please write to them confirming our conver sation and ask for the advance.

Sd/-
27-3-61.

'Orissa Agents' had also secured dealership rights o Bengal Potteries and had been in correspondence witl M/s. Allied Distributors and Co. of Calcutta who are the sole agents for M/s. Bengal Potteries Ltd. The relevant portion from a letter of 'Orissa Agents' dated 4th November 1960 addressed to the above firms, is reproduced below:—

"Regarding supplies of products of Bengal Potteries,

Dear Sirs,

With reference to your letter No.3/15557 dated 14-10-60. we have the detailed market report on the products of M/s Bengal Potteries Ltd. and therefore are in a position to indent a wagon load of the same. As per the telephonic conversation between Mr. Biren Mitra, Cuttack and your personnel at Calcutta, it was decided to allow us a wagon load of your earthware products with 50% of Class A variety and 50% of Class 'B'.

In a further letter No. DLP/12364(2)/62 dated Octobe 27, 1962, of 'Orissa Agents', to the Allied Distributors o Calcutta the following finds mention :

> We are to thank you for your Mr. Tandon's visit to ou areas with regard to your booking. Our representativ conected him to Cuttack parties securin firm promises. Since Bhubaneshwar market wa closed on Thursday and Mr. Tandon was to visi Behrampur we had fixed up an appointment o following Saturday for him to meet Mr. Mitra. Bu we were sorry to note that Mr. Tandon did no contact us as arranged on his return".

Extracts from the above letters will cleary show tha Shri Biren Mitra, at least in March 61 i.e. three month before he became Deputy Chief Minister Orissa, had been discussing business matters, of the concern 'Orissa Agents' with Calcutta firms. Earlier, in November '60, Shri Mitra again appears to have held telephonic conversation with Allied Distributors on behalf of 'Orissa Agents', to secure for this concern a wagon load of earthware products. What is even more significant, is the fact, that even in October 1962 when Shri Biren Mitra was Deputy Chief Minister, 'Orissa Agents' had fixed up an appointment with him for a representative of Allied Distributors of Calcutta. It may be argued that Mr. Mitra referred to in the letter dated October 27, 1962, may be someone else of this name and not Shri Biren Mitra, Deputy Chief Minister, Orissa. The very fact that an appointment had to be fixed up in advance, for the representative of Allied Distributors, to meet Mr. Mitra will show that the proposed meeting was with the Dy. Ch. Minister and no one else.

There are, in the official records made available a number of letters from 'Orissa Agents', addressed to various Departments of the State Government but none of these appears to have been signed by Mrs. Iswaramma Mitra who is said to have been the sole proprietor of this concern. It is only in the few letters addressed to the Sales Tax Department in which the signatures of Mrs. Iswaramma Mitra appear, and this was because the relevant applications to this Department had to be signed by her as the proprietor of the concern. The letters on behalf of 'Orissa Agents' were being signed by different persons—presumably the staff employed by this concern. Who exactly was issuing instructions to the staff cannot of course be determined, but the fact that Shri Biren Mitra, at least until three months before he became the Dy. Ch. Minister. and in one instance in October 1962 when he was already the Deputy Ch. Minister, had been taking interest in the affairs of this concern, is of considerable significance.

The State Government was requested to make the relevant official files regarding purchases made from 'Orissa Agents', available for scrutiny. Some of the files handed over are incomplete as certain pages appear to be missing; in some cases comparative quotations are not available on the relevant files while in some cases although there is clear reference in the note-sheets to certain quotations and page Nos; these do not appear on the files. This has created some difficulty in undertaking a proper scrutiny of some of the official records.

The statements Nos. 13 and 12 relating respectively to the details of purchases from 'Orissa Agents' and the total purchases of G. I. Pipes, paints and timber from this concern, indicating the overall value of the orders placed and the excess payment made by the State Government have been placed in Folder 'C'.

Statement No. 12, placed in Folder 'C' will show the total value of the business done by 'Orissa Agents' for G. I. Pipes, paints and timber, which apart from the tubular structures constituted the main items of supplies, separately during the period preceding the assumption of office by the Ministry headed by Shri B. Patnaik, and the period from the date of assumption of office, i.e. 23-6-61 until September 1963 when Orissa Agents are said to have discontinued their business. It will be seen from these statements that while in the pre-1961 period, the total business done by 'Orissa Agents' in respect of G. I. Pipes paints and timber, was of the order of less than 10 lakhs, there was a remarkable increase in the business done with the Government during the period of Shri Patnaik Ministry in which Shri Biren Mitra was the Dy. Chief Minister before himself taking over the Chief Ministership from 2nd October, 1963, and the total value of this business came to well over 60 lakhs. It will also be seen that on purchase orders on the value of Rs. 60 lakhs the State Government had to make excess payment to the tune of over Rs. 20 lakhs to Orissa Agents.

It will perhaps be of some interest to discuss briefly, by way of illustration the manner in which some of the orders were placed on Orissa Agents.

Order No. Li/1/62-8341 dated 20-8-62 for 1 lakh rft. of 6" dia. G. I. Pipes placed by Chief Engineer. Public Health, Orissa.

The Chief Engineer, Public Health, Orissa, invited tenders on 10-7-62 for 1 lakh rft. 6" dia. G. I. Pipes Class 'A'. Last date for submission of tenders was 20-7-62. One per cent security deposit in the shape of National Plan Certificates was to be remitted with tender. The tender notice, which was sent for publication in three Oriya and two English dailies, appeared in Calcutta papers on 17-7-62. This left three days for submission of tenders, which coupled with the condition of 1% security in the shape of National Plan Certificates, would have normally practically shut out all outside tendering. The very large value of the order appears however to have resulted in 39 tenders being received, although only 10 of these were for 6" G. I. Pipes; the rest being for various accessories. As was only to be expected 29 of these 39 tenderers had not remitted security deposit and their tenders were, therefore, conveniently rejected. One of these rejected tenders was of M/s. Amin Chand Pearey Lal, for Rs. 14. 75 nP. per rft. FOR Calcutta and sales tax at 1%. Their offer undoubtedly entailed import licence, but this was from rupee currency area and in any case the tender was not rejected on the ground of possible difficulty of import licence but for non-receipt of security money although the tenderers were one of the established suppliers and their offer would have saved the State Govt. over Rs. 4 lakhs. Although the tender notice was for 6" G. I. Pipes, Class 'A' Orissa Agents had quoted a rate of Rs. 18.75 nP. per rft. for Class 'B' only. Although some other firms had quoted for Class 'A' the fact that Orissa Agents had not done so, appears to have resulted in a novel argument being advanced as follows :

> "G. I. Pipes of 6" diameter are manufactured in Class 'B' and above; so the quotations for Class 'B' have been considered".

Having rejected the other tenders, including M/s. Amin Chand Pearey Lal, who were the lowest, on the ground of non-receipt of security, and having decided that instead of Class 'A' pipes Class 'B' pipes were to be considered, the quotation of Orissa Agents was found to be the most favourable and an order was accordingly placed on them on 20-8-62. Their security deposit was also short by Rs. 1690 but there is no indication that they were required to make good this short payment. What is of special interest, is the fact that the prevalent DGS & D rates with the Indian Tube Co. for 6" diameter seamless pipes capable of withstanding high pressure and generally more expensive were Rs. 9.14 nP. per rft. + 1% Central Sales Tax. Further only in June 62, Superintending Engineer, Public Health Circle, Bhubaneswar, had on the basis of quotation of Orissa Agents themselves, placed on order with them for 6" G. I. Pipes at Rs. 15.25 nP. per rft. According to Kalinga Tubes prices circular, their ex-works rate at the relevant time was Rs. 11.50. The order being of the order of over Rs. 10 lakhs sanction of the Government was necessary, but this also does not apper to have been obtained, On this single order alone, the State Government made excess payment to Orissa Agents, to the tune of over Rs. 10 lakhs, on the basis of the then available DGS&D rate and nearly Rs. 4 50 lakhs on the basis of the lowest quotation of M/S Am'n Chand Pearey Lal. Even if Kalinga Tubes own price circular is considered, the State Government paid some 7 lakhs in excess.

Public Health Department File No. 1-2

Quotations were invited for G. I. Pipes of dimension ½" to 3", the last date of submission of tenders being 6-7-62, but this appears to have been postponed to 16-7-62 although quotations of 15 firms had been received. The comparative statement compiled on 30-7-62 indicated that Binaik Trading Co. and M/s Utkal Plumbing Stores had quoted the lowest rates. A note was, however, recorded on 1-8-62 that the lowest tenderers had been asked to deposit 1% security, but Binaik Trading Co. had expressed their inability to make supplies and would not, therefore, be presumably interested any longer, and no reply had been received from Utkal Plumbing Stores. There is no indication in the file of such enquiry having been addressed to the above firms. Having thus eliminated the lowest tenderers, 15 separate orders of the value of several lakhs were placed on Orissa Agents from 21-8-62 to 19-10-62 and on certain dates, several separate orders were placed, on the same day, presumably to bring the value of each order within the financial competence of the official concerned. The non-availing of the then prevailing DGS&D rate and the rejection of the lowest quotation resulted in the State Government having to make substantial excess paying on these 15 orders.

Orissa Khadi and Village Industry Board

File No. ISK. 3/62

Limited tender enquiry was addressed to five firms on 16-4-62 for various kinds of timber, the last date for submission of tenders being 20-4-62. Only two of the five firms addressed, and some otherfirms who appear to have learnt of the above enquiry casually, submitted quotations which continued to be received until 30-4-62. The quotations were not examined until 29-5-62. Orissa Agents quotation dated 20-4-62 appears from the file to have been received by the Board only on 30-4-62. From the noting it appears that it was suggested that orders for teak and seamu quality of wood may be placed with A. B. Behra and for Kusam and Halandu qualities on Gopi Nath Sahu lowest tenderers. Nothing happened and on 12-6-62, in a further note, it was incorrectly recorded that the quotation of Orissa Agents alone had been received by 20-4-62, the last date fixed. It was further suggested that the tender notice having been issued with delay of 6 days, a grace period of 6 days may be allowed and the quotations received until 26th April 1962 may be taken into consideration along with the quotation of Orissa Agents. No reasons have been recorded for Orissa Agents being singled out for this consideration. Elsewhere in the noting it was pointed out that Naik Brothers' quotations although lowest, did not clearly indicate whether Orissa Sales Tax was included or not and whether the rates were for FOR Bhubaneswar. Orissa Agents appeared to have agreed through negotiations to supply the required quantities of timber at the rate o Naik Brothers provided sales tax licence for Khadi was amended to include the item 'timber' also; on this basis a n ord r of the value of Rs. 52,775 was placed on Orissa Agents on 20-7-62. No clarification was sought from the lowest tenderer—Naik Brothers. A draft order for supply of timber of the value of Rs. 22,275/-, duly signed on 29-5-62, is available on the file but was apparently not issued as against the relevant quotation the word 'withdrawn' without initials or signatures, has been noted. Orissa Agents were unable to make supplies and the department was ultimately forced to make local purchases. But it is of interest that even these local purchases were made at the rates lower than those which had been accepted from Orissa Agents. The manner in which supplies were made, will be clear from an extract from a note dated 10-9-62, which reads "from the inception of Karyale timbers were being purchased from Nayak Brothers till the end of 19.10.61. At the time Saranjam never felt the shortage. Orissa Agents had accepted the order from 61-62 and from that period onwards shortage of timber became common complaint of the workshop. While Nayak Brothers could be able to supply our requirements within 2 or 3 months, Orissa Agents were not able to fulfil the same within a year's time as a result of which the workshop had to sustain huge losses by not completing the annual production target.

In connection with another order by the same Department of the value of Rs. 1,04,590, an advertisement appears to have been placed in the local paper in August 1961. Pages No. 111, 113, 115 and 118 of this file are missing Seven quotations were received, opened on 15-8-61, and a comparative statement prepared. Apparently the rates quoted by Orissa Agents were not favourable and fresh quotation from Orissa Agents, bearing the date 21-8-61 were obtained and a fresh comparative statement compiled. On the basis of the revised quotations of Orissa Agents, which were naturally then the lowest an order of the value of Rs. 1,04,590 was placed on them.

In this case also the supplies made by Orissa Agents were the subject of adverse comments from the Superintendent of the workshop who in his note dated 25-1-62 observed that Orissa Agents had supplied only two small wagons of teak and one truck of Non-sal wood and the Teak logs were full of knots and holes of very bad quality and he was afraid that when the teak logs were cut into sizes, there would be a great wastage. In a further note dated 14-2-62 it was observed that the kind of Non-Sal log which was being received was not in the order and that the firm was supplying very hard type of logs which could not be made use of. The supplies had also been badly delayed. It was indicated that the Karale would suffer considerable loss as considering the quality of wood being received, there would be wastage of 60 to 70%

Some of the more important irregularities noticed in the scrutiny of the relevant files regarding purchase from Orissa Agents are summarised below:—

(1) Failure to avail of DGS&D rate contract for supply of G. I. pipes, which it appears could have saved the State Government over 20 lakhs, on the total purchases of about 60 lakhs, made during the period 23-6-61 to 30th October, 1963. Even where limited tender enquiries were floated, the time allowed for submission of quotations for goods of value of several lakhs was so short as to virtually shut-out outside tenderers.

In the case of the largest order for 6" G. I. Pipe of the value of over 18 lakhs, in which outsid firms were given hardly 4-5 days to submi quotation, a further impracticable condition wa imposed that security money of 1% of the tendere amount should be remitted in the shape o national plan certificates. 29 of the 39 tenderer were conveniently eliminated on account of thei failure to comply with this condition alone. Eve for an order of this magnitude, it was not consi dered necessary to avail of the available DGS&D rate contract.

(2) Rejection of lowest tenders, when these did no emanate from Orissa Agents on all sorts of flimsy and sometimes factually incorrect grunds, such as :—

(i) Urgency, which however, does not appear to be borne out by the manner in which supplies were made by Orissa Agents and accepted by the departments without objection.

(ii) Unjustified assumptions that the lowest tenders had not included the element of Sales Tax; that it was not indicated that the supplies were FOR destination; that the tenderers would not be in a position to make supplies within the stipulated period.

(3) There are cases in which some of the departments placed orders of substantial value with Orissa Agents not because there were any immediate requirements, but merely because there was an offer of the goods in question, from Kalinga Industries Ltd. This shows that the departments concerned did not even pause to ascertain and verify whether the goods were, in fact, required and if so, in that quantity.

(4) In certain cases factually incorrect noting was made on the files regarding the date of receipt of quotations from Orissa Agents. In some files

there are clear indications of papers being tampered with.

(5) The secrecy of tendering system even in the limited number of cases, where tenders or quotations were invited, does not appear to have been observed. Quotations were obtained from Orissa Agents after the receipt of other quotations and after these were known.

(6) In certain cases, by way of justification for placing the orders with Orissa Agents, it was noted on the file that the lowest tenderers had intimated that they were unable to make supplies. Such intimation, however, finds no corroboration from any papers on the files. Although Kalinga Tubes Ltd. were themseves on rate contract with DGS&D for certain dimensions of pipes from 15-4-62, even this rate was not availed of by the departments.

It has already been pointed out that Kalinga Tubes Ltd. and Kalinga Industries Ltd., with which Shri B. Patnaik has been directly associated, by appointing Orissa Agents as their authorised dealers for Orissa, had enabled this concern to come to occupy virtually a monopolistic position in the State, for the supply at least of the tubes manufactured by Kalinga Tubes Ltd. and the Tubular Structures of Kalinga Industries Ltd., to the State Govt. and through this arrangement Kalinga Tubes themselves managed to avoid any obligation of selling G. I. Pipes to the State Government, on the basis of their own price circular. Even when Kalinga Tubes Ltd. came on DGS & D rate contract for certain dimensions of pipes from April 1962, the State Government Departments for reasons which are not clear failed to avail even of this rate contract during the relevant period and orders continued to be placed with Orissa Agents.

There appears, therefore, to emerge from this discussion a discernible pattern under which Kalinga Tubes Ltd and Kalinga Industries Ltd., in which Shri B. Patnaik, first personally and later through his wife Mrs Gyan Patnaik and their children had personal interest, appoint

Orissa Agents claimed to be the sole proprietory concern of Mrs. Iswaramma Mitra, wife of Shri Biren Mitra, as authorised dealers for the products of these two companies for Orissa. The two companies manufacture G.I. pipes tubular structures and refrigerators, etc. After the assumption of office by Patnaik Ministry, the State Govt. lay down an unusual purchase policy under which it becomes obligatory on State purchasing departments, to make purchases only from local manufacturers, or from authorised dealers of outside firms. Orissa Agents have already secured agency for Orissa, in respect of paints also. Simultaneously the Governmental purchases of these particular items registered a remarkable increase following the coming into offiice of Patnaik Ministry. On one pretext or another, even where lower tenders are received, the departments continue to place orders with Orissa Agents alone. Even where Orissa Agents failed to make the deliveries within the stipulated time, asked for an increase in the value of the order to enable them to despatch wagon-loads, revise rates after the placement of the order, the departments are found to suffer all these terms without question. Outside competition having already been excluded by the purchase policy enunciated in the Finance Department Circular dated 17.11.61, even local competition was eliminated at least for the principal items in which Kalinga Industries Ltd., Kalinga Tubes Ltd. and their authorised agents Orissa Agents, dealt as these could only be procured within the State. from Orissa Agents alone. As will be seen later in this report, regarding purchases of Tubular Structures of Kalinga Industries Ltd., even State sponsored concern Orissa Prefabrication Ltd., manufacturing Tubular Structure, which commenced business in May 1961, a month prior to the assumption of office by Patnaik Ministry and which was recommended by the Director of Industries to all departments for placement of orders, was at no time considered for making supplies to the State Government.

It will be seen from the above and from the Statement No. 13 which shows the extent of excess payment which the State Government had to make to Orissa Agents, that this concern under the sole proprietorship of Mrs. Iswaramma Mitra received substantial undue benefit of the order for several lakhs, which could not have accrued to this concern, but for the peculiar arrangement arrived at between Kalinga Tubes Ltd., Kalinga Industries Ltd and Orissa Agents and the pruchase policy laid down in November 61, by the Government headed by Shri B. Patnaik in which Shri Biren Mitra was Deputy Chief Minister.

It may be argued that the Finance Department Circular dated 17. 11. 61 was modified in May 62, and therefore, there were no longer any restrictions on the purchasing Departments to invite quotations from outside the State. It may be mentioned, however, in this connection that even the revised circular of May 62 ensured continued preference for local manufacturers and local agents of outside firms and consequently, preserved the special position within the State of Kalinga Tubes Ltd., Kalinga Industries Ltd and Orissa Agents for the products in which these concerns were interested. Other devices were resorted to by the departments as has been mentioned above, to ensure the continued placement of orders with Orissa Agents.

It can also be argued that the sales of G. I. pipes and tubular structures, manufactured respectively by Kalinga Tubes Ltd. and Kalinga Industries Ltd., to the State Govt. were not substantial considering the total production of these companies which could not, therefore, be interested in manipulating an arrangement of the type described above. While this can be answered satisfactorily only after examination of the sales made by these companies, there is no getting away from the fact that Kalinga Tubes Ltd. through the intermediary of Orissa Agents were able to make the supplies of G. I. pipes to the State Government on rates which had no relation to the then available DGSD rates. In so far as the tubular structure of the Kalinga Industries Ltd. are concerned, from what can be ascertained from the total sales indicated in the annual Balance Sheets of Kalinga Industries Ltd., a very substantial portion of the production of these structures were supplied to the State Government at rates which were almost arbitrary as no proper tendering system was resorted to by the departments concerned.

There is finally, the question as to how Shri Biren Mitra can be said to have benefited from the concern which was claimed to be under the sole proprietorship of Mrs. Iswaramma Mitra. An answer to this, cannot naturally be found in the official records. It seems to be clear, however, that Mrs. Iswaramma Mitra—wife of Shri Biren Mitra as the proprietor of this concern, as the authorised agents for Orissa for Kalinga Tubes Ltd. and Kalinga Industries Ltd. and then by the issue of the Finance Department Circular dated 17.11.61, the remarkable increase in the Governmental requirements of the goods in which the Orissa Agents had interest, and the various irregularities which were committed by the purchasing department, for placing the orders with Orissa Agents. It is obvious that Mrs. Iswaramma Mitra said to be the sole proprietor of Orissa Agents could possibly have had no hand in the determination of the State Govt's purchase policy as laid down in the Finance Department circular of November 1961 or in getting the State Government Departments to disregard elementary financial rules regulating Governmental purchases. Under these circumstanees, it would be difficult to hold that the benefit resulting from the above circumstances calculatedly brought about was intended for Mrs. Iswaramma Mitra only and not for Shri Biren Mitra also who alone was in a position to secure for Orissa Agents a position of virtual monopoly in the matter of these supplies.

There is, of course, no indication in the official files that the purchasing departments were given any specific directions or pressure was brought to bear on them to place orders with Orissa Agents. The circumstances under which the officials of the purchasing departments concerned chose to disregard basic financial rules requiring the purchase of goods for the Government to be obtained at the lowest available rates, and failed even to avail of the prevalent DGSD rates, can be ascertained only on open oral enquiries. It is clear, however, that it was not merely a single department or a few individual officials of the State Govt. who went about placing orders worth lakhs of rupees on Orissa Agents, disregarding financial rules, but several departments and a large number of officials. There can, therefore, be no question of an individual officer or a group of officers, for their own personal benefit, being in collusion with Orissa Agents, to enable this concern, to secure orders at higher rates at the cost of the State. The manner in which the purchases were made from Orissa Agents can therefore cnly be explained by certain other influences at a higher level being at work.

A detailed report on this\allegation has been placed in Folder 'C'.

Allegation No. 3

REPORT ON APPOINTMENT OF SHRI A. SRINIVSAN

Shri B. Patnaik Chief Minister of Orissa appointed Shri A. Srinivasan as Chief Engineer-cum-Administrator, Paradeep Port Project although Shri Srinivasan knows nothing of Marine Engineering. It has further been stated that Shri Srinivasan advanced a sum of Rs. 50 lakhs to Shri Patnaik *for supplying prefabricated structures to Paradeep Project.*

Official records show that Shri M.S. Thirumale Iyengar Adviser to Government in the PWD and Additional Secretary and Administtator, Sharavathi Hydro Electric Project, Government of Mysore in a confidential letter dated 9th Nov. 1961, to Shri Shivaraman, Chief Secretary, Orissa Govt. suggested the appointment of Shri A. Srinivasan, in connection with the Express Highway and Paradeep Port Works, under Orissa Govt. It was stated in the letter that Shri Srinivasn was then working as General Manager, Neivelly Lignite Corporation after retirement from Madras Service, on a salary of Rs. 2500/- per month.

Shri Shrivaraman, Chief Secretary, Orissa Government, wote to Shri Mani, Managing Director, Neivelly Lignite Corporation requesting him to allow Shri Srinivasan to come over to Orissa Govt. Simultaneously, the Chief Secretary wrote to Shri Srinivasan to ascertain if the latter would be agreeable to come over to Orissa and if so, to indicate the terms. Shri Mani, Managing Director, Neivelly Corporation, in his reply to the Chief Secretary, Orissa Govt. stated that the Neivelly Lignite Project was at a critical stage and it would be out of question to spare the services of Shri Srinivasan. Shri Srinivasan himself however, in his letter dated 7.12.61 to the Chief Secretary, Orissa Govt. while thanking the latter for treating his correspondence 'Personal and Confidential' indicated his willingness to come over to Orissa Govt. on a 5-years contract. on a salary of Rs. 2200/- per month with increments, exclusive of pension from Madras State Govt. and a rent free quarter.

In a note dated 13th December 61 from the Deputy Secy. to the Chief Secretary it was suggested that in view of the terms indicated by Shri A. Srinivasan, the scales of the post of Chief Engineer-cum-Administrator previously fixed at Rs. 2000-50-2500 may be revised to Rs. 2500-50-2750 and further since in some other cases also a departure had already been made from the rule requiring that in the cases of re-employment of retired Govt. servants, emoluments had to be fixed so that these plus the pension drawn did not exceed the last pay drawn by the Govt. servants, in the case of Shri Srinivasan also a similar exception may be made. The Secretary, Finance Dept., pointed out in his note dated 20th December 61 to the Chief Secy. that the cases referred to by Shri Gian Chand, Deputy Secy. in which a departure had been made in some cases of re-employment, the position was different as these cases had occured before the relevant decision of the Government of India in 1958. He added however that since Shri A. Srinivasan was the only choice, his pay may be fixed as proposed by P. & C. (Paradeep) Department after taking special orders of the Govt. The Chief Secretary in his note dated 1.1.62 sought the Chief Minister's approval for a 5-years contract for Shri A Srinivasan in the scale of Rs. 2500-50-2750, exclusive of pension and rent free quarters and the Chief Minister, the same day accorded his approval. The

Chief Secy. in a personal/confidential D.O. letter dated 2nd January '62 conveyed the acceptance of Shri A Srinivasan's terms to him. Shri A Srinivasan, however, in his letter dated 6.1.62 requested that the proposed reference to the Public Service Commission regarding his appointment may be made after about a month by which time he expected to be relieved. He further requested that the reference to Shri G.V. about his appointment may also similarly be deferred for 2-3 weeks till his relief had been agreed to, as in the event of Shri Mani or the Board of Directors getting an inkling of his intention to leave pressure would be brought to bear on him to continue in his present employment.

As desired by Shri A. Srinivasan, no reference was immediately made either to the State Public Service Commission or to Shri Venkatesware Iyer, Secretary (Transport). It was only on 27.3.62 that the Chief Secretary in a D.O. letter to Shri Venkateswara Iyer, Secretary (Tansport) Government of India informed the latter that Orissa Government proposed to appoint Shri A. Srinivasan as Chief Engineer-cum-Administrator, Paradeep Port on a contract for 5 years and since Paradeep being a majo port would ultimately come under the control of Ministr of Transport, he enquired as to whether Shri Venkateswara Iyer had any objection to the above proposal. In a note recorded two days earlier on 25-3-62, the Chief Secretary had also indicated to the Chief Minister that he was writing to the Secretary (Transport) Government of India but when he had last met the Transport Secretary in Delhi, the latter had told him that while Shri Srinivasan was an excellent engineer, it would be wasting him to put him on the port work as he could be used for other things. In that note the Chief Secretary had also added that he personally felt that after Shri A. Srinivasan had set the port work going, he could very well be taken over for Tikkerpara. On 20-4-62 the Chief Secretary in a note to the Chief Minister observed as follows :—

"C.M.

As Venkateswara Iyer is delaying his reply to P.E. 21/C, I submit orders of CM pre-page may now be confirmed. We can utilise Shri Srinivasan elsewhere if Shri Venkateswara is obstructive."

The Chief Minister then ordered that there was no need to wait for Shri Iyer's letter. Shri Srinivasan may be engaged immediately and appointment order may be issued.

Shri G. Venkateswara Iyer in his D.O. reply dated 23rd. April 1962 to the Chief Secretary, Shri Shivaraman suggested that since the State Government were still awaiting the receipt of the project report from the consulting engineers and collecting data for taking a decision on the site, the question of appointing high level officer to be in charge of actual construction could only arise when clear decisions were reached on the major policy issues still pending before the Planning Commission. He indicated that he was not therefore, in a position to consider the proposal for the appointment of Shri A. Srinivasan as Chief Engineer-cum-Administrator, in charge of the project and advised the Chief Sectretary that he may constitute a special field Investigation Division under a suitable Executive Engineer to carry out preliminary work such as collection of data under the direction of their Development Officer in case this had not alreay been done.

In his note dated 8-5-62, to the Deputy Chief Minister, the Chief Secretary while referring the previous orders of the Chief Minister requested for permission to take further necessary action in anticipation of the approval of the Council of Ministers for enhancement of the scale of pay of Chief Engineer-cum-Administrator Paradeep Port from 2000-50-2500 to 2500-50-2750 and added that the service records of Shri Srinivasan will be obtained from Madras Government and thereafter a reference will be made to the Pubic Service Commission for concurrence. Referring to Shri Venkateswara Iyer's reply, the Chief Secretary obtained "I had foreseen this in my note at page 14/N/ante, Unless we have our men the work cannot be expedited according to our conditions. With the best of intentions Government of India's reactions were generally slow and steady. Chief Minister had already ordered that we should go ahead on our own. This is for information". The Deputy Chief Minister initialled the Chief Secretary's note on 9-5-62 in token of approval.

Shri A. Srinivasan joined as Chief Engineer-cum-Administrator Paradeep Port on 16-7-62. It was only after he had taken over as Chief Engineer Paradeep that on 13-7-62 the State Government moved the Public Service Commission for approval. The Commission replied back to say that the cases of other persons said to have been considered for the appointment may also be forwarded to them along with the qualifications laid down for the post. They also suggested that the post may be advertised and Shri Srinivasan asked to apply to the Commission. Concurrence to provisional appointment for six months was, however, accorded. On receipt of this reply from the Commission, the Chief Secretary observed in a note to the Chief Minister as follows :—

"C.M.

P. 88/C.P.S.C. in action! What should we do?

The Chief Minister in his Minute dated 7-9-62 remarked :

> "P.S.C. should be told clearly that this post will not be advertised. Government's decision in this respect is final".

On a further query from the Public Service Commission in November '62 for information about the pay of Shri Srinivasan under Neivelly Lignite Corporation a reply was sent stating that Shri Srinivasan had been dralwing Rs.2000 in the sclae of Rs. 1800-100-2000 as Deputy General Manager, Neivelly Lignite Corporation. The Commission wrote back on 9th February 1963 to say that while concurring in the appointment of Shri A. Srinivasan, they would like to observe that in view of the pay that he was previously drawing the scale of pay and emoluments fixed for his appointment to the present post appeared to be erring on the side of excessiveness.

The official record also shows that when the terms of contract of service of Shri A. Srinivasan were being formulated the Finance Department felt that under the existing rules Shri A. Srinivasan would be entitled to leave as admissible to temporary Government servants for the first three years and there after, to leave as admissible to permanent Government Servants. The Deputy Secretary Finance in his note dated 26-10-62 to the Secretary observed as follows:—

"**Secretary**

Shri Srinivasan was brought over to our service at the initiative of CM and under promise of the scale of Rs. 2500-50-2750. In view of this and in view of the fact that this is a contract service we may concur specially to the following: —

(i) Period of notice should be three months.

(ii) He will have leave as admissible to temporary Govt. servants."

Finance Department appeared to have been asked by the Commerce (Ports) Department to reconsider their advice regarding admissiblity of leave to Shri A. Srinivasan and since the Finance Department appeared to be unable to make an exception in this case, the Chief Secretary eventually in his note dated 19-11-60 observed:

"It is regretted F. D. is objecting to the leave terms though in the past they have agreed in some cases. It is not easy to get Engineers of Shri Srinivasan's calibre every day. C. M. may consider the leave terms in F. D."

The Chief Minister, in the Finance Department then agreed to the above suggestion of the Chief Secretary, in a note dated 29-11-62.

It will be seen therefore from the above discussion of the relevant official file that although Neively Lignite Corpn. under whom Shri A. Srinivasan was serving on a salary of Rs. 2,000 per month, had intimated that their project was at a critical stage and they could not spare the service of Shri A. Srinivasan the State Govt. decided to secure the services of Shri A. Srinivasan after accepting the terms intimated by him confidentially to the Chief Secy., Shri Sivaraman. Secretary (Transport) Govt. of India had also felt that the appointment of a high level officer for Paradeep Port at the relevant time appeared to be premature and he in fact considered that Shri Srinivasan would be wasted, in being placed on port construction work. It is also clear, that Shri A. Srinivasan was specially favoured in the terms of his appointment, as an exception was made in his case not only to enable him to draw the already revised pay of Rs. 2500/- in the scale of 2500—50—2750 in addition to his pension, against the existing rules, but also in the matter of leave. No other person was considered for this appointment and even the Public Service Commission's suggestion to advertise the post was not acceptable. The Commission were of the view that the pay and emoluments fixed for Shri Srinivasan considering the last pay drawn by him erred on the side of excessiveness. Shri B. Patnaik as Chief Minister, holding the charge of the Finance Department, personally passed orders authorising exceptions to be made in the case of Shri A. Srinivasan in the matter of the terms of his appointment and even the original pay scale was substantially revised in favour of Shri A. Srinivasan. The note dated 26-10-62 by the Deputy Secretary, Finance Department that Shri A. Srinivasan had been brought to Orissa on the initiative of the Chief Minister, shows Shri Patnaik's personal interest in the matter of this appointment.

Shri Patnaik, Chief Minister, took over the subject 'Ports' which formed part of the Department of Commerce, directly under his charge on 17th July 1962. Shri A. Srinivasan took over as Chief Engineer-*cum*-Administrator Paradeep Port on 16—7—72. The date is of some relevance as only 5 days earlier, Kalinga Inds Ltd., on their own had offered to the Commerce Department 2500 tubular structures of the value of Rs. 16 lakhs and Shri A. Srinivasan as Chief Engineer-*cum*-Administrator Paradeep Port, promptly advised on 21-7-62 the purchase of these structures when at the relevant time he could not possibly be expected even to have been aware of the actual requirements, having taken over his new appointment only 5 days earlier. This is also borne out from the relevant official files which show that in spite of Kalinga Industris Ltd. having delayed the delivery of tubular structures by several months, the Paradeep Port authorities were unable even to accept the supplies for lack of storage space and on account of likely damage due to saline activity in the port placement of the order, stores worth Rs. 6 lakhs remained lying at the premises of Kalinga Industries Ltd., it is clear that there was in fact no immediate need for such a large number of these structures for Paradeep Port when the order was placed in August '62.

It has also been stated in the allegation that Shri Srinivasan had advanced Rs. 50 lakhs to Shri Patnaik for supply of pre-fabricated structures for Paradeep Port. The reference in the allegation appears to be to the order for 2500 tubular structures, placed by the Commerce Department on 17-8-62 with Kalinga Industries Ltd., after ascertaining the opinion of Shri A. Srinivasan, Chief Engineer-*cum*-Administrator Paradeep Port. Kalinga Industries Ltd. had in their offer of these structures stipulated for 90% of the value of the order to be paid in advance. This condition had been accepted by the Commerce Department and an advance of over Rs. 14 lakhs had been paid to Kalinga Industries within 24 hours from the placement of the order.

Considering that there is no indication in the official files that Paradeep Port authorities were at the relevant time in need of such large number of tubular structures and in fact were unable even to find the space for storage of these structures for over a year, the special favours shown to Shri A Srinivasan in the matter of his appointment as Chief Engineer-cum-Administrator, can alone perhaps explain the advice tendered by him within 5 days of his taking over his new appointment, to place the order for 2500 tubular structures of the value of over Rs. 16 lakhs, when he could obviously have had not even an inkling of the actual requirements if any of these structures, for Paradeep Port.

A detailed report on this allegation has been placed in Folder 'D'.

<u>Allegation No 4 to 6</u>

REPORT ON PURCHASES OF TUBULAR STRUCTURES.

(4) Kalinga Industries in which the State Govt. have a sizeable share enjoyed monopolisitc position in the supply of tubular trusses mauufactured out of rejected pipes of Kalinga Tubes and no tenders are called in respect of such supplies to the Govt.

(5) Kalinga Industries supplied tubular trusses worth Rs. 16 lakhs to Commerce Department for construction of quarters at Paradeep Port. The offer was made by Kalinga Industries on their own and no tenders were invited. According to the opinion of Engineers tubular structures were unsuitable for construction of quarters at Paradeep.

(6). The State Govt. advanced Rs. 18 lakhs to Kalinga Tubes in one day on account of tubular trusses for quarters at Tikkerapara without the Project being sanctioned and special arrangements were made to bring the cash from Cuttack, Puri and Bhubaneswar Branches of the State Bank.

Since all the above three allegations relate to the supplies of tubular structures by Kalinga Industries, Ltd. to the State Govt. it is proposed to discuss these jointly.

It may be stated at the outset that in so for as the alleged supply of tubular structures for quarters at Tikkerpara is concerned (allegation No.6). the State Govt. have stated that no files regarding any such purchase are available. It is possible that these supplies relate to some other project under the State Govt., but in any case the matter cannot be pursued further until more particulars of these supplies are furnished by the Memorialists, on oral enquiries or otherwise.

The Tubular Structures Factory of Kalinga Industries Ltd commenced production in April 1959. The official record shows that from December, 1958, onwards, Shri B. Patnaik who was then M.L.A. and Chairman, Board of Directors, Kalinga Industries held discussions with the then

Development Commissioner, Orissa Shri Shivaraman, for the use of tubular structures, in the proposed construction by the Govt., of grain godowns and for cattle sheds etc. On technical examination by the Dept. it was found that the use of tubular structures would substantially increase the cost of construction of grain godowns and it was at that stage decided that the matter need not be pursued further. Shri B. Patnaik, however, appears to have made further efforts, and it was then decided that the original designs for goain-gollas may be modified to bring their cost, through the use of inferior materials so that the use of tubular structures, in the construction, may become possible. Shri Patnaik, Chairman, Kalinga Industries Ltd., then offered to State Govt. in Feb, 1959, 30 tubular structures, at the rate of Rs.1, 015/- per unit, stating that the original quotation of Rs.1,100/, for this type of structure was being specially reduced for bulk orders of the State Govt. The price circular received from Matpa Corporation, representing Tata- Stewards- Lyods, however, showed that 30' span tubular structures were available from them at a lower rate and Shri. Patnaik agreed to supply these structures to the State Govt. at the rate of Metpa Corporation. Another firm 'Modern Traders' had also quoted for 25' span tubular structures on favourable rates' but this offer was not considered on the ground that only 30' span tubular structures were required and the Development Commissioner somehow also seemed to doubt the capacity of this firm to make supplies. As a further argument in favour of Kalinga Industres Ltd. it was stated that the State Govt. had also invested funds in this Co. An order for 347 units at the rate of Rs.947/- per unit was accordingly placed on Kalinga Industries Ltd. by the Tribal and Rural Welfare Department for the construction of grain-gollas. Kalinga Industries thereafter requested for transport charges at Rs. 50/-per set which was accepted and even when they subsequently requested for 90% of the value of the structures to be paid in advance to them this was considered by the Development Commissioner, Shri Sivaraman, to be a reasonable condition which which was similarly accepted by the State Govt. No concurrence of the Finance Department, for making such an advance of the value of 90% of the supplies, even before delivery was taken.

It appears from the official records that the technical soundness of the structures offered by Kalinga Industries Ltd. was not determined when the substantial oder was placed by the Tribal and Rural Welfare Department. In fact the Chief Engineer (R & B) informed Kalinga Industries Ltd. in August 1959, that the designs of these structures, submitted by them did not appear to confirm to I.S.I. standards with regard to wind pressure etc. and advised the strengthening of certain members of these structures. The Chief Engineer (Irrigation) who was also approached by Kalinga Industries Ltd. to purchase tubular structures, had the cost of these structures worked out departmentally and had found that these structures were uneconomic as compared to conventional steel structures and he had informed Kalinga Industries. Ltd. accordingly. In fact in May 1961 Chief Engineer (Irrigation) had advised his Superintending Engineers against the purchase of these tubular structures, on the above ground and in that connection had expressed the view that the structures suppplied by Kalinga Industries to Bhadrak School had been found to be defective and that the painting of these structures by Kalinga Industries Ltd. before making supplies, prevented any technical examination of the welding joints. The Superintending Engineers were also told that these structures could be manufactured departmentally, if neceesary, at a very much cheaper cost.

There is a note dated 17.3.1960, of the then Chief Minister, Orissa, from which it appears that Utkal Miniing and Industrial Association, Calcutta, had made a representation to Shri Sanjivaya, President, All India Congress Committee alleging that the State Govt. had placed orders on a monopoly basis, for tubular godowns, on Kalinga Industries and that vested interests of this nature were proving a stumbling block to ordinary business men, especially small ones. When a note regarding the orders placed with Kalinga Industries was put up for the Chief Minister, he observed that the Company's demand of 90% advance appeared to be too high and *if* any such advance was to be made, other contractors may construct the buildings. Following this decision, Shri M. Ramakrishna Iyer, who appears to have taken over as Development Commissioner held discussions with Kalinga Industries Ltd. as a result of which Kalinga Industries Ltd. agreed in May, 1960, to waive the condition of 90% advance on governmental purchases. At the instance of the Development Commissioner a tender enquiry was also floated in November 61 for tubular structures, and from a note dated 30th January, 1962, a comparative statement of quotations received also appears to have been prepared showing the rate quoted by a local firm M/s. Jagannath Engineering Corporation, Cuttack, to be lower than those of Kalinga Industries Ltd. A suggestion was, however, put up that the order for supplies may be split up between this concern and Kalinga Industries Ltd. but no decision was taken. A further note dated 20-2-62 shows that a fresh comparative statement of quotations including those of outside firms was compiled and this revealed that the quotations of Kalinga Industries were incomplete and in fact the rates of two firms, Jagannath Engineering Corpn. and B.P. Rungata & Co., Bhubaneswar, were the lowest. Significantly enough the relevant comparative statements, referred to in the note-sheets as being available on pages 600 and 601, are not available on the file handed over by the State Govt. The last note on the files shows that it was proposed to negotiate with Kalinga Industries Ltd. to supply tubular structures at the rates quoted by Jagnnath Engineering Corporation. The relevant notes nevertheless show that the tender enquiry floated in Nov., 61, had revealed that tubular structures were available at lower rates than those quoted by Kalinga Industries in June, 62, but even then it was decided to negotiate with Kalinga Industries Ltd. for supplies at the lowest rates of Jagannath Engineering Corporation.

Patnaik Ministry assumed office on 23rd June, 1961, and the Finance Department under Shri B. Patnaik issued a circular on 17-11-61 under which purchases could be made by the Departments of the State Govt. only from local dealers or from local Agents of outside firms. Only a month prior to assumption of office by Patnaik Ministry, the Director of Industries had, in May, 61, informed all the Departments that the State sponsored firm "Rourkela Fabrication Ltd." were manufacturing various goods including roof trusses and had recommended this concern for placement of orders for governmental requirements.

On 17th July, 1962, Shri B. Patnaik, Chief Minister, also assumed charge of the Department of Commerce (only the subject ports). Shri A. Srinivasan had also taken over as Chief Engineer-cum-Administrator, Paradeep Port, only on 16-7-62. On 12.7.62 i.e. only four-five days prior to these developments, Kalinga Industries on their own wrote to the Secretary Commerce Department (Paradeep Project) that they had learnt with interest that the Government required 2500 units of 20' span tubular roofing structures for Paradeep Port and that they were in a position to supply the entire requirements provided an order was placed for the whole lot of 2500 units and 90% of the total value of the structures was paid in advance. On 21-7-62, Shri Srinivasan, who had assumed charge as Chief Engineer-cum-Administrator (Paradeep) only five days earlier, advised the acceptance of this offer. The Chief Secretary, Shri Sivaraman, recommended the payment of 90% advance stipulated by Kalinga Industries Ltd., and the Chief Minister, Shri Patnaik, who held both the Depts. of Commerce (Ports) and Finance, accorded his approval on 10-8-62 of the proposal to accept the offer of Kalinga Industries Ltd. The corresponding Paradeep Port file contains a note dated 17-8-62 of the Chief Engineer-cum-Administrator, Paradeep Port according to which the Chief Engineer, Shri Srinivasan's immediate requirements of tubular structures were only 200 numbers. However, on the same date, i.e. 27-8-62 the Commerce Department placed an order for 2500 units of the value of over Rs. 16 lakhs and within 24 hours 90% of the value of the order amounting to over Rs. 14 lakhs was paid by the State Govt. to Kalinga Industries Ltd.

Although the supplies of these tubular structures to Paradeep Port were to be completed by Kalinga Industrie

Ltd. by Feb. 1963 stores worth over over Rs. 6 lakhs consisting of purlins, ties, etc. without which tubular structures could not even be erected, remained lying on the factory premises of Kalinga Industries Ltd. at least until August, 1963 i.e. nearly a year after the placement of the order. It further appears that the Chief Engineer, Shri A. Srinivasan informed the Secretary, Commerce Dept. on 6-8-63 that he was unable to lift these stores as the Port area was subject to high saline activity and there was lack of space for storage. This aspect apparently had not been considered by him when he had advised the purchase of large quantities of structures for which there appears to have been clearly no immediate need.

From the State Secretariat files relating to an Assembly Question it appears that on 12-7-62 when Kalinga Industries Ltd. had offered 2500 units of 23′ tubular structures to Commerce (Ports) Department and had stipulated that 90% of the value of the order will have to be paid in advance, an identical offer was promptly accepted by the Corporation, along with the stipulation of 90% advance. Here again there appears to have been no urgent need, because at the beginning of 1964 i.e. over 18 months after the placement of the order, over 900 of these structures remained unutilized with the Orissa Mining Corporation.

It is quite clear that in so far as the supply of tubular structures to the State Govt. of Orissa is concerned, Kalinga Industries enjoyed monopolistic position and the purchasing department during the period of Shri Patnaik's Ministry did not care even to ascertain competitive rates before placing their orders with Kalinga Industries Ltd. In fact the Finance Department circular dated 17-11-1961 and even the modification issued on 4-5-62 maintained this monopoly in favour of tubular structure factory of Kalinga Industries Ltd. It has been pointed out that a State Govt. sponsored firm, Rourkela Fabrication Ltd. had been recommended by the Director of Industries, in May, 1961, but no enquiries were addressed even to this firm when substantial orders were placed by

State Government Departments. It further appears from the balance sheets of Kalinga Industries Ltd. that the position in respect of production of tubular structures was as follows :

1959-60	1275 tons sale of the value of	Rs 23-00	lakhs
1960-61	560 tons ,,	Rs. 16-6	lakhs
1961-62	1200 tons ,,	Rs. 26-6	lakhs

Considering that the two substantial orders placed with Kalinga Industries Ltd. in August '62 by the Commerce Department and Orissa Mining Corporation were for 1290 tons of these structures of the value of over Rs. 32 lakhs, it can be stated that bulk of the production of these structures by this factory of Kalinga Industries Ltd., were being purchased by the State Government without proper tender enquiries. In the absence of DGS&D rate contract for tubular structures, since no tenders were invited it is difficult to determine the excess payment which the State Government may have made to Kalinga Industries Ltd. for the purchase of these structures. It had, however, been revealed from an order for 563 units of these structures placed on Kalinga Industries on 1st April 1964, that while the State Government in the Health (LSG) Department purchased these structures at per Rs. 3200 per unit, the structures of similar specification had been procured from Kalinga Industries themselves, by DGS&D for Dandakaranya Development Authority, at the relevant time, at the rate or Rs. 1860 per unit. In respect of this particular order alone, the State Government appears to have made extra payment to the tune of Rs. 7 lakhs to Kalinga Industries Ltd. even as late as in 1964. The relevant official file of Dandakaranya Development Authority regarding the purchase of these tubular structures at the rate of Rs. 1860 per unit is being obtained for further scrutiny.

A statement No. 14 giving details of purchase of tubular structures from Kalinga Industries Ltd. as revealed from records so far scrutinised has been placed in Folder 'D'.

A detailed report on these allegations has been placed in folder 'D'.

Allegation No. 7.

REPORT ON SALE OF LOW SHAFT FURNACE

During Chief Ministership of Shri B. Patnaik, the Low Shaft Furnace of Kalinga Industries Ltd., at Barbil, was purchased by Industrial Development Corporation of Orissa Ltd. The plant had been running at a loss and accounts were manipulated to show profits. The plant which was valued at Rs. 30 lakhs only was taken over by the Industrial Development Corporation of Orissa Ltd., for nearly Rs. 1 crore without proper valuation and with contractual liabilities of Kalinga Industries. Mrs. Gyan Patnaik was the Chairman of the Board of Directors of Kalinga Industries at the time of the purchase of the plant by the Industrial Development Corporatian of Orissa Ltd.

Statement No. 8 containing a note on the Low Shaft Furnace of Kalinga Industries Ltd., at Barbil has been placed in Folder 'B'.

Shri B. Patnaik, prior to his assumption of office on 23rd June, 1961, was Chairman, Board of Directors, Kalinga Industries Ltd. with Mrs. Gyan Patnaik as one of the Directors. Kalinga Industries Ltd. owned the Low Shaft Furnace Plant at Barbil.

Shri B. Patnaik had entered into a licence agreement with the German Firm "KO—WE" in 1954 under which Shri Patnaik secured the German firm licence to instal Low Shaft Furnace Plants in India. Shri Patnaik had undertaken to erect two plants of 100 tons capacity per day within five years of the successful operation of the first plant and three more such plants within the next five years. The agreement provided that all industrial "KO-WE" low shaft furnace plants in India would be subject to royalty of 3% per annum of the annual ex-works price of the molten production for a period of 10 years and Shri Patnaik was to participate in the royalties with 1/3rd share. It was further stipulated that in respect of low shaft furnaces erected and operated in India by Shri Patnaik at his own expenses or his associated companies, he would be entitled to a preference royalty of 2% per annum at the annual selling price of the molton production of a period 10 years. On the strength of this licence agreement, Shri Patnaik applied to the Ministry of Commerce & Industry, Government of India, on 29th September '54 for an industrial undertaking licence for the establishment of, a low shaft furnace at Chowdouar, which was subsequently changed to Barbil. Ministry of Commerce & Industry in their letter dated 3rd December 1954 informed Shri Patnaik that it was proposed to issue a licence to him, but stipulated that out of the royalty of 3% per annum, the royalty to "KO-WE" shall not exceed 1% in cases where Shri Patnaik sets up furnace of his own, or in association with other companies and it shall not exceed 2% where he promoted the installation of the furnaces. In either case the balance of royalty due to Shri Patnaik would be retained in Indian rupee for payment to him as commission. Shri patnaik, while moving for permission to change the location, of the proposed plant, to "Chowduar or any other suitable site" also drew the Ministry's attention to the fact he had, under the contract with the German firm, undertaken to put up five more plants of 100 tons daily capacity each with 10 years of the successful operation of the first plant and requested that this may be specifically incorporated in the proposed licence so that his exclusive rights may not be jeopardised.

In the State Industries Department, the opinion of the Industrial and Technical Adviser, on Shri Patnaik's proposal to instal the low shaft plant at Barbil, was that the cost of calculations made by Shri Patnaik with regard to the supply of ore, coal etc., were unrealistic and since the cost of pig iron manufactured by low shaft furnace process was estimated by Shri Patnaik himself at Rs. 140/- per ton without allowing for waste gases, as against the cost of Rs. 80/- to Rs. 100/- per ton of pig iron manufactured by conventional blast furnace method, it would be uneconomical to run the proposed plant.

An industrial undertaking licence was issued by the

Government in January 1955, for the establishment of the low shaft furnace with a rated capacity of 15000 tons per year.

It appears from the progress report received by the State Government from Kalinga Industries Ltd. that capital requirements for the plant including railway siding, residential quarters etc. were estimated at Rs. 40 lakhs exclusive of working capital.

The low shaft furnace of Kalinga Industries Ltd. with a rated capacity of 15000 tons of pig iron per year, went into production at Barbil in September, 1959.

Five months after the plant commenced production i.e. on 13-2-60, Shri Patnaik, Chairman, Kalinga Industries Ltd, submitted an application to the Secretary, Ministry of Commerce & Industry, Government of India, for expansion of the Shaft Furnace at Barbil on the following main grounds :—

(i) that the monthly installed capacity of 2000 tons was proposed to be expanded to 6000 tons as the present rated production was not economical;

(ii) every third year one furnace had to be shut down for repairs;

(iii) with the plant's proposed expansion, the gas available from 3 furnaces will be sufficient to run a power plant of 7500 kw and it had been suggested to Orissa Government to instal such a power plant to be linked up with the Hirakud Hydel Project.

On 23rd June 1960, Shri B. Patnaik wrote to the Minister, Steel, and Fuel, Government of India, that the cost of production of pig iron by the Low Shaft Furnace, worked out Rs. Rs. 289/- per M. ton which was about 40% higher than the statutory selling price of Rs. 225/- fixed by the Iron & Steel Controller. He indicated that the cost consisting of nut-coke represented 60% of the sale price and requested that the price of nut-coke may be brought down appreciably in order to reduce the cost of production. Scrutiny of the cost sheet submitted by Shri Patnaik shows that provision had been made for royalty at the rate of Rs. 4 per ton of pig iron.

In a memorandum dated 13th June, 1960, addressed to the Prime Minister, Shri Patnaik stated that the Low Shaft Furnace at Barbil, then producing 2000 tons per month of pig iron could not be an economic venture when compared to the cost of production of blast furnace which had a higher production level. He suggested that the entire output of nut-coke available with the steel plants could be utilised by expanding the low shaft furnace at Barbil for production of 250000 tons of foundary pig iron annually. He also suggested that if the proposed expansion of the plant happened to be against Government's policy, the Central Government by themselves or along with the State Government, may form a Corporation with Kalinga Industries Ltd., with Government retaining 51% control, or alternatively the Government may purchase the Low Shaft Furnace at Barbil outright at its book value duly determined by Government auditors and then undertake its expansion. He concluded the memorandum by stating that unless some such rational approach was made the first successful Indian effort to make iron by this process would remain economically unsound and become national waste.

In December 1960, Government of India sanctioned the expansion of production capacity of low shaft furnace to 1 lakh tons, but stipulated as one of the conditions that the company will have to abide by the price policy from time to time.

Kalinga Industries Ltd. entered into an agreement with M/s Kalinga Otto Private Ltd., a sister concern, under which the later firm became consultants for the expansion programme of the Barbil Plant of Kalinga Industries Ltd., Mrs. Gyan Patnaik, wife of Shri B. Patnaik is the chairman of Kalinga Otto Private Ltd., from its very inception and Patnaik family hold 50% shares in this company. Under the terms of this agreement, Kalinga Otto Private Ltd. were to receive a lump sum of Rs. 1,50,000 and 50%

of the purchase price of all Indian materials for suppliers' works apart from 50% overhead expenses.

In none of the official files made available by the State Government are the working results of the low shaft plant at Barbil shown separately. The annual balance sheets of Kalinga Industries Ltd., also show the combined working rusults of all the three units of this Company, audit is not, therefore, possible to ascertain separately in respect of the low shaft furnace the actual profitability or othewise of this plant.

The combined financial results for Kalinga Industries Ltd., as given in the Directors' Report, show that in 1959-60, the net loss was Rs. 3,85,548/-. In the year 1960-61, a total profit of Rs. 9,57,593/- has been shown. In the year 1961-62, after providing for depreciation the profit has been shown as Rs. 12,10,044/-. The corresponding figure for years 1962-63 is 1091,560/-.

It may be mentioned here that the proposed expansion programme of the low shaft furnace plant at Barbil, entailed an expenditure of the order of over Rs. 5 crores over a period of four years, and according to the Project Report prepared in this connection, the cost of the finished products-pig-iron—was worked out at Rs. 245/- per ton.

Kalinga Industries Ltd., having entered into certain commitments regardihg the expansion programme, were clearly not in a position to arrange the necessary finance, and an indication of the actual position is contained in the explanatory statement relating to low shaft furnace, put up in the general meeting of the shareholders of the Company held on 28th Jan. 1963, which is reported below :—

"The Company is committed to manage a huge expansion programme in respect of the above mentioned factory at Barbil, which includes the setting up of two more furnaces, a power plant and a sun pipe plant. The Company has received necessary import licences in respect of various machinery which will be imported in connection with the said programme and has also obtained the industrial undertaking licence. The total capital expenditure involved is about Rs. 5 crores, besides a huge sum wi l have to be provided on account of working capital. In the present circumstances, it is not possible for the Company to procure the necessary finances, and the Management is of the view that the Company should sell the factory to M/s. Industrial Development Corporation Ltd., who may also, subject to the approval of the appropriate authorities, obtain a transfer of the said licence".

It will be seen from the above that within a few months of the working of the plant Shri Patnaik, Chairman, Kalinga Industries Ltd., found it necessary to make representations suggesting participation by the Government of India, the State Government or the outright purchase of the plant by the Government on the ground that without the plant's capacity being substantially increased, it could not prove an economic venture. The expansion programme, which entailed an expenditure of Rs. 5.70 crores, also appears to have been beyond the resources of Kalinga Industries Ltd., Shri Patnaik's suggestion to the Prime Minister in June, 1960, for purchase of the plant by the Government which appears to have evoked little response at the time, became possible of realisation after Shri Patnaik took over as Chief Minister, Orissa, with Industries Department as one of his portfolios. The Industrial Development Corporation of Orissa Ltd., a wholly Government financed company, was established by the Industries Department of Orissa in 1962, at Shri Patnaik's instance.

In January 1963, during the 8th meeting of the Board of Directors of Orissa Development Corporation, the Chairman was authorised to carry on negotiations for the purchase of the low shaft furnace at Barbil from Kalinga Industries Ltd.. and to obtain necessary directions from the State Government. The Directors of Orissa Development Corporation are all officials of the State

Government and the Chairman is the Secretary, Department of Industries.

On 2-2-63, Secretary, Industrial Development Corpn. wrote to the Industries Department of Orissa, on the subject of the proposed purchase and enclosed a copy of a ncte on the production of pig iron which is said to have been placed before the Directors of the Corporation. The State Government were requested to accord their approval in principle so that further steps may be taken. In a further letter dated 20-2-63, the Secretary of the Proiect Report received from Kalinga Industries for Government's information and added that it would give an indication of the profit earning capacity of the plant *after its expansion.* It was mentioned in this letter to the Government that the detailed particulars regarding the profit earned by the low shaft furnace were not available as the balance-sheets of Kalinga Industries merely showed consolidated profits for all the three factories including Barbil Plant. A day earlier i.e. on 19-2-63, Shri B. Patnaik, Chief Miniter, wrote a D. O. letter to Shri Subramanian, Minister, Steel & Heavy Industries, Govt. of India, in which he observed :

> "Further to our discussion, I am to inform you that the Orissa Industrial Development — a State Government owned Company—has undertaken to take over the low shaft furnace plant at Barbil (Orissa) belonging to Kalinga Industries Ltd., an expanded plant of one lakh tons capacity with 12000 tons/year (single shift) of spun cast iron pipes. It would be an economical plant and that is why the State Corporation agreed to take it over... ..."

The letter ended with a request to transfer the industrial undertaking licence for expansion, standing in the name of Kalinga Industries Ltd., to the Industrial Development Corporation of Orissa.

It will be seen that until the above D.O. letter of Shri Patnaik to Shri Subramanian, even the approval in principle, of the State Govt. to the proposed purchase of the plant by Industrial Development Corporation of Orissa.

Ltd., had not been conveyed. Shri Patnaik's statement in the above D.O. letter at that stage, that the Corporation had undertaken to take over the low shaft furnace at Barbil and that the relevant licences standing in the name of Kalinga Industries Ltd., granted by the Govt. of India, for the expansion of the Barbil Plant, may be transferred to the Industrial Development Corporation of Orissa Ltd., is an indication of the manner in which the deal was being rushed through by and on the initiative of Shri Patnaik himself.

In order to ensure the transfer of the licences in the name of the Industrial Development Corporation of Orissa Ltd., Shri Patnaik visited Delhi and personally called on the Central Govt. Ministers concerned. On 5-3-63 he handed a manuscript letter to Shri Tarlok Singh member, Planning Commission, reiterating the alleged agreement on the part of the Industrial Development Corporation of Orissa Ltd. to take over the low shaft furnace and requesting Shri Tarlok Singh for the Planning Commission for the transfer of the licences which matter was coming up before the licensing and Capital Goods Committee on 8.3.63 Shri Tarlok Singh marked the letter of Shri Patnaik to the Member, Industries (Shri T.N. Singh) and the Deputy Chairman (Shri G.L. Nanda). Shri T.N. Singh recorded a note as under :

> It is rather difficult to form a view about the proposal without getting more details than stated in Shri Patnaik's letter."

The Deputy Chairman of the Planning Commission also minuted :

> "Let all the relevant information be obtained from the Ministry. Adviser (L & M) will please study the material in the first instance".

It appears that Shri Patnaik, on 6-3-63, personally discussed the matter with the Deputy Chairman of the Planning Commission and also handed over to him a note dated 6-3-63 in which he made the following points:—

(1) The assets of the plant, the market value of which is over Rs. 1 crore, is being handed over to the State Company at the book value which would be in the neighbourhood of Rs. 70 lakhs. The valuation is being done by the joint auditors of the Kalinga Co. as well as the State Co.

(2) The payment by the State Co. to the Kalinga Co. will be in easy instalments commensurate with the profit earned by the plant. *The present annual gross profit of the plant is about Rs. 20 lakhs*

(3) When the State Co. takes over the assets, there would be no interest charged by the Kalinga Co.

(4) Kalinga's royalities of 2½% on the total ex-works value of this plant's production has also been transferred to the State Co., on the basis that the State Co., will create a fund with the Orissa Govt. in their department of Industrial to Develop an Institute of Technology and Designs (Machine Building) in Orissa.

He ended up his note by stating:

"In short this plant virtually goes as a gift to the State Co.".

On receipt of the note. the Deputy Chairman minuted:

"We may not now raise any objection."

And the Minister, Industries, remarked:

"Since Deputy Chairman has already taken a view I have nothing to say".

The Planning Commission did not raise any objection and all the licences standing in the name of Kalinga Industries Ltd., were transferred in the name of the Industrial Development Corporation of Orissa Ltd. Shri Patnaik, in a D.O. letter dated 8-3-63 from Delhi, informed Shri Purukayastha, Chairman, Industrial Development Corporation of Orissa Ltd., that he was sending Mr. Belan (Central) Secretary, Kalinga Industries with the transferred industrial undertaking licence sanctioned by the Govt. of India and suggested that the formal take over of the plant from Kalinga Industries Ltd. should take place on 1st April 1963 and further that Kalinga Industries should continue to effect sales etc., till bank arrangements had been made by the Corporation for operating the accounts from 1st April 1963. Shri Purukayastha was also advised that Shri Balan may be taken on the Board of the Corporation and placed in full charge of the plant, expansion etc. On release of the import licences by the Govt. of India in the following week, Shri Purukayastha was required to sort things out with Shri Balan so that necessary advances to the foreign suppliers could be made within that month, as stipulated.

In the State Government the Secretary, Industries Dept., Shri Purukayastha, who was also the Chairman of the Industrial Development Corporation of Orissa Ltd., sought the approval of the Chief Minister to the Corporation's proposal for the take over of the Barbil Plant, in principle, and this was accorded by Shri Biren Mitra, who was acting as Chief Minister vide his Minute dated 16-3-63. This approval was conveyed to the Industrial Development Corporation on 19-3-63. On file being received in the P & C (Pan) Department, a detailed note was recorded by Shri Ramakrishna Iyer, Secretary of the Department, the salient points of which are :—

(1) No condition has been laid down that the terms would be agreed with Government's approval.

(2) No indication is given as to how the assets would be valued.

(3) Balance sheets of the Company are not in the file.

(4) As the working results of all units are merged, valuation should be done meticulously by a reliable authority and there was need for technical valuation.

On the Corporation's file is a note containing certain points as contemplated by the Chief Minister, Shri Patnaik, and as subsequently changed, after discussion with Shri Balan of Kalinga Industries Ltd.

It appears that it was pointed out by Legal Advisers of the Industrial Development Corporation of Orissa Ltd., that royalty being an item of income liable to be taxed in the hands of the company, if such an assessment is suffered, it would be quite heavy. It was, therefore, suggested as an alternative that the benefit of Section 35 read with section 43 of the Income-tax Act, 1961 may be availed by creating a fund as stipulated for providing research and the expenditure incurred on that head would be wholly liable for exemption. Shri Biswal, Secretary of the Corporation accordingly suggested to Shri Balan of Kalinga Industries Ltd., on 25th March, 1961, that relevant clause (8) of the draft agreement may be amended accordingly as in any other case the Corporation will become liable to pay quite a lot of money by way of income-tax.

On 28-3-63, Shri Biswal, Corporation's Secretary, addressed the State Industries Department for Government's approval to the terms and conditions of the sale agreement and for communication of the approval before the 30th March 1963. It was also indicated that the Company and the Corporation had jointly appointed H. Naik & Co., Auditors, to make independent valuation and that G. Basu & Co., who had no connection with either party, would also make a separate valuation and the assessent would, therefore, be quite free and fair. It may be pointed out that H. Naik & Co., were the auditors for Kalinga Industries Ltd., and also for Industrial Development Corporation of Orissa while G. Basu & Co., were the auditors for Kalinga Tubes Ltd. a sister concern of Kalinga Industries Ltd.

The draft agreement was put up to the Chief Minister, who approved the same, subject to the deletion of clause (9) of the agreement on 2-4-63. The relevant clause, as as it stood then, read as follows :

"And whereas the properties and assets of the Low Shaft Furnace Plant, described in Schedule 'A' are mortgaged to the Indian Overseas Bank Ltd. and the Corporation has agreed to pay an advance of Rs. 6 lakhs to enable the Company to enable the latter to completely repay the outstanding loan and secure release to the assets from mortgage and that it has been agreed between the parties that the said amount shall be deducted from the net amount payable by the Corporation to the Company".

It appears from the file that the Chief Minister of Orissa, Shri Patnaik, and Mrs. Gyan Patnaik who is Chairman, Kalinga Industries Ltd. arrived in Calcutta on 29th March and held discussions with Shri Balan, who the very same day, communicated the view of Shri Patnaik through a letter to Shri Biswal, Secretary, Industrial Development Corporation.

On 30th March, 1963, the Board of Directors of the Corpn. approved the proposal to purchase the low shaft furnace plant on terms and conditions contained in the draft agreement and further resolved that the Corporation shall pay Rs. 6 lakhs to Indian Overseas Bank Ltd., in complete repayment of the debenture loan of Rs. 6 lakhs and effect the release of the assets from the mortgage and that the said amount will be adjusted from the sale price payable to Kalinga Industries Ltd. In the minutes of the Board meeting it was mentioned that the Board of Directors of the Corporation having been satisfied of the audit report of the A.G. Orissa available in the Industries Dept. file, that the plant had earned a net profit of 3% during the year 1960-61, on the capital employed, approved the proposal to purchase the assets of the said plant. The extracts from the relevant report of the Accountant General, Orissa which are of interest, are reproduced below:—

Depreciation on fixed assets:

Upto the year 1959-60 the Company was charging depreciation on its fixed assets according to the rates prescribed in the Indian Income Tax Act 1922, read with Section 350 of Companies Act 1956. In the year 1960-61, the Company has adopted the method of charging depreciation on fixed assets as outlined in section 205 (2) (b) of the Companies Act. 1956(as amended by Companies Amendment

Act 1960) which envisage writing off in equal annual instalments over the specified period of life or the assets an amount equivalant to the 95 percent of the cost of the assets. Due to this revised method of charging depreciation adopted by the Company during 1960-61, the amount debited to profit and loss account for the year on this score was almost half of that charged in 1959-60 as shown below :—

	Depreciation charged	
	1959-60	1960-61
L. E. Section ...	70,989	34,273
Tubular Structures ...	32,516	18,744
L. S. Furnace (for 7 months only)	3,83,459	3,62,801
	4,86,964	4,15,818

It will be seen from the above extracts that in so far as the low shaft furnace was concerned the change in the method of calculation of the value of finished goods had resulted in the profits being inflated in respect of this plant. In the meeting of the Board of Directors, held on 30th March, 1963, Shri Balan, General Secretary Kalinga Industries Ltd., was appointed as Additional Director, to function as Director in charge of Kalinga Iron Works (by which name the Barbil plant was to be styled in the hand of the Corporation). This was in pursuance of the directions given by Shri Patnaik to Shri Purkayastha in the former's letter dated 8-3-1963.

The important provisions of the agreement relating to the purchase of the low shaft furnace are reproduced below :

(a) The depreciated book value of the block assets as on 31st March, 1963, certified to be correct by the auditor or auditors appointed by the Company and the Corporation jointly.

(b) The value of raw material and spares and stores at costs and the value of such of the finished products as would be taken over the Corporation at the end of 31st March 1963, as certified by the auditors referred to in Clause (2) (a).

(c) The agreed value of the deposits with and advance to third parties made by the company which the Corporation may require to be transferred to it.

3. The net consideration to be paid by the Corporation to the Company shall be arrived at in accordance with clause (2) above as reduced by the sum total of the following :

(a) The amount of overdraft outstanding on the cash credit account with the Indian Overseas Bank Ltd.,

(b) any payment which the Corporation may or may be awfully called upon to make to any third parties in order to secure the assets to be transferred to the corporation free of encumberence, in pursuance of these presents.

(c) any other dues for which there may be subsisting a lawful charge on the assets to be sold to the Corporation or which the Corporation may be lawfully called upon to discharge by decision of any court or statutory authority.

4. The Corporation shall pay to the Company the net consideration as arrived at in accordance with the preceding clauses 2 and 3 in suitable monthly instalments, the aggregate of such payment in any financial year (period between 1st April of one year to the 31st March of the next succeeding year) not being more than the profits of the Kalinga Iron Work (by which name the plant shall be called as provided hereinafter) provided that no payment shall be made to the Company out of such profits till payment if any made by the Corporation under clause 3 (b) and 3 (c) has been completely recovered by the Corporation out of such profits.

5. The Company shall transfer to the Corporation all spare parts which may be received hereafter by the Company relating to the said low shaft furnace plant and for the import of which orders might have been placed

on the strength of import licence or licences already received by it and the Corporation shall take over all such spares on payment of the actual cost, freight and insurance and other charges incurred by the Company".

H. Naik & Co. in their report dated 27th March, 1964 assessed the depreciated book value of the assets proposed to be transferred to Kalinga Industries Ltd., at Rs. 67,21,269/-. Current assets, accepted at their book value, were worked out at Rs. 23,15,111/- making a total of Rs. 90,45,541/- Accordingly to G. Basu & Co., the depreciated book value of the assets came to Rs. 68,49,984/- and the value of current assests consisting of raw materials, fuel, stores and spares and goods in transit, came to Rs. 20,64,399/- thus making a total of Rs. 89,14,383/-. Shri G. Basu & Co's report is dated 26th February, 1964.

Following points which emerge from the discussion of the official record relating to the purchase of low shaft furnace of Kalinga Industries Ltd. by Industrial Development Corporation of Orissa Ltd., merit consideration:—

1. Although the take over of the Barbil Plant by the Orissa Development Corporation entailed an expenditure of nearly Rs. 90 lakhs, and a further commitment for expansion of the Plant of the order of Rs. 5.70 crores, even a proper technical valuation of the plant and machinery does not appear to have been considered necessary.
2. There is no indication anywhere in the official records that the profitability of the low shaft furnaces was carefully examined at any stage. The combined balance sheet of Kalinga Industries Ltd., appears to have been accepted as the basis for the assumption that the Plant was running at a profit although separate financial results of this Plant were nowhere available. The Accountant General, Orissa's audit report of Kalinga Industries Ltd., for the year 1960-61, which was referred to during the Corporation's Board meeting, also contains the observations that the profits of the Plant had become inflated

on account of the change in the method of calculation of depreciation and by the manner in which the value of finished goods has been arrived at.

3. The two auditors, who were appointed to make an assessment of the depreciated book value of the assets, were also the auditors for Kalinga Industries Ltd., and their sister concern, Kalinga Tubes Ltd.,

4. It is not quite clear as to how Kalinga Industries Ltd., were considered to be entitled to 2½% royalty, which, however, was subsequently diverted towards the establishment of an Institute of Technology and Designs, merely to avoid the payment of income-tax, both by Kalinga Industries Ltd,, and the State Corporation.

5. Under the agreement of 1954 with the German Licensing Firm, Shri Patnaik was entitled to receive part of the royalty. Provision for royalty was also made in the cost statement which was sent by Shri Patnaik in June 1960, to press the case for the reduction of the price of nut-coke in order to bring down the cost of production of pig iron. Under the above agreement, Shri Patnaik had undertaken to instal two more furnaces within the next five years. The first plant went into production in Sept. 1959 and by getting Industrial Development Corperation of Orissa Ltd. to undertake the expansion scheme, Shri Patnaik was able to get more low shaft furnaces installed at Barbil. It is not quite clear from the official records as to whether Shri Patnaik continues to be entitled to royalty under the licence agreement with the German firms.

6. Industrial Development Corporation of Orissa Ltd. subsequent to take over, revised the previous agreement of Kalinga Industries Ltd. with their consultants, Kalinga Otto Private Ltd. and under the revised agreement Kaling Otto Private Ltd. in which Patnaik family has about 50%

interest became entitled to a total payment of Rs. 18 lakhs.

7. It appears from the Government of India files that a scheme for an Industrial Complex at Talcher (Orissa) which includes production of pig iron by low shaft furnace method, has also been sanctioned. If Shri Patnaik continues to be entitled to royalty under the 1954 agreement, this will show that through Talcher Industrial Complex Shri Patnaik will arrange to fulfil his undertaking regarding instalation of five low shaft furnaces within a period of 10 years, and accordingly continue to receive this royalty, which would have otherwise lapsed.

Orissa Development Corporation after having already piad Rs. 6 lakhs to Indian Overseas Bank Ltd. were required to make the following further payments.—

(i) Rs. 18 lakhs towards 10% advance on suppliers' bill which were deposited in the treasury in May 1963.

(ii) Rs. 1,37,818.83 to clear the dues of Kalinga Industries Ltd. by way of electricity duty.

(iii) Rs. 12,95,881.13 was paid to Kalinga Industries during 1963-64 in accordance with the provisions of the said agreement. The Corporation also decided in August 1964 to pay to Kalinga Industries Ltd. Rs. 1 lakh every month subject to final adjustment at the end of the year. It may be mentioned here that although the net profit of Orissa Development Corporation, from "Kalinga Iron Works", during the year 1963-64 was of the order of Rs. 6 lakhs, the Corporation had to make the payment of Rs. 10 lakhs.

9. It also appears from the official record that one of the terms of the take over agreement was that the four contracts entered into by Kalinga Industries Ltd. with foreign suppliers on 1-3-63 were

made binding on the Industrial Development Corporation of Orissa Ltd.

The above four agreements have not so far been made available and the State Government, who were approached in this behalf, have intimated that the same may be obtained from Kalinga Industries Ltd. It is surprising, however, that even then Shri Patnaik had already decided that the Industrial Development Corporation of Orissa Ltd. should take over the Barbil Plant, Kalinga Industries chose on 1st March, 1963 to enter into these agreements with the German Suppliers.

10. Similarly the source of supply of the iron ore for the plant continued to remain under the control of B. Patnaik Mines (P) Ltd. and it appears from the Project Report that after the expansion, requirements of the expanded plant in respect of iron ore will alone be of the value of over Rs. 28 lakhs. per year.

11. In spite of the take over the Plant by the Corporation, the actual control was virtually vested in Shri Balan, Secretary, Kalinga Industries Ltd. who was taken as the Director in charge of Kalinga Iron works.

The whole manner in which the entire transaction relating to the sale of low shaft furnaces by the Kalinga Industries of which the Chairman was Mrs. Patnaik, to the Industrial Development Corporation, a wholly State owned company, of which the Minister incharge was Shri B. Patnaik was pushed through raises doubts and suspicions about its bonafides and about its having been in public interest as against the interest of Kalinga Industries.

A detailed report on this allegation has been placed in folder 'E'.

Allegation No 8.

REPORT ON MINING LEASES OF SHRI B. PATNAIK

The substance of the allegation is that :

1. Shri Patnaik was favoured in the matter of grant of mining lease.
2. The lease was given on the ground that he will set up a Ferro-Alloy plant but this condition was not enforced.
3. That the working permission for these mines was given to M/S B. Patnaik Mines (P) Ltd. without any valid transfer by registered deed having taken place, from Shri Patnaik to whom the working permission was granted to this concern.
4. Royalty of the tune of 6 lakhs was not collected.
5. Shri Patnaik was mining more area than actually allowed to him.
6. When the Government decided to determine the working permission on account of non-payment of arrears of Royalty, B. Patnaik Mines (P) Ltd. filed a writ petition in the High Court. The State Government, of which Shri Patnaik had by then become the Chief Minister, effected a compromise instead of contesting the suit.

A detailed report in respect of this allegation has been placed in Folder 'E' & 'F'.

Scrutiny of the official records shows that Shri B. Patnaik then M.L.A, applied, in 1961, for the grant of mining lease for manganese ore over an area of 3900 acres of Keonjhar Dist. The area applied for former part of the blocks surrendered by M/S Bird & Co. after a compromise dated 2-7-52 with the State Government. Prior to the above compromise, three other persons, of whom one had priority in point of time, over Shri Patnaik had also filed applications for mining lease of this area. On the dates of receipt of the 4 applications including that of Shri Patnaik, the area in question was not in possession of the State Government as the compromise with Bird and Co. was effected later and as such the applications were premature and liable to be rejected outright, but for reasons which are not clear, this was not done. There is no indication in the record as to when exactly the area covered by the blocks surrendered by Bird and Co. was formally thrown open for re-grant. In fact it appears from the note of Shri Shivaraman, Additional Secretary, Board of Revenue, that the full Board had recommended the reservation of this area for Ferro-Alloy plant. Within a month of the State Government's compromise with Bird and Co. Shri Patnaik filed another application on 5-8-52 for the grant of the lease and also offered to put up a Ferro-Alloy industry which seems to suggest that he was aware of the recommendation of the Board of Revenue. The District Magistrates forwarded the application the very same day i.e. 5-8-52 to the State Government where also within 10 days i.e. 16-8-52 the case had been processed not only by several officials, but even the orders of the Revenue Minister and the Chief Minister had been obtained. The Under Secretary had in his note pointed out on 9-8-52 that the question of priority will present some difficulty. Shri Shrinivasan had, however, argued that the applications prior to the surrender of the area in question by Bird and Co. could not be taken into consideration, but even if these were, the applicant Raja Balbhadra Narayan Bhanjdeo who had priority over Shri Patnaik, being exempt from civil liability as Ex-ruler, would not be a desirable person to whom the lease may be granted as the State would no civil remedy against him. After the surrender of the area, Shri Patnaik being the first applicant, was entitled to the grant of the lease. Even after the order of the Revenue Minister and the Chief Minister were obained on 16-8-52, it was pointed by the Deputy Secy., that since liability could not be effectively enforced, in respect of a working permission the continuation of the working permission may at least be made conditional upon payment of half-yearly dead rent, in advance. This suggestion was only partly made by Shri Shivaraman, in that security deposit equal to half yearly dead rent was demanded put the renewal was not made conditional on this ground.

Shri Patnaik was put in possession of the area on I-11-52 and the working permission was renewed from year to year until 29-5-56 when fresh renewal was applied for on 4-10-56, the Collector objeeted that "No attempt was being made by the applicant to pick up small sizes of ore which was practically of very high quality. In fact it is a very serious wastage of mineral wealth and Government revenue at large. Some sort of measures should therefore, be taken before the renewal of the working permission". The Government however, took no decision as the practice of granting working permission pending excution of the lease was disapproved by the Government of India.

On 14-12-56 B. Patnaik Mines (P) Ltd. requested for reduction of the area from 3900 acres to 3100 acres. How B. Patnaik Mines (P) Ltd. stepped into the shoes of Shri B. Patnaik in regard to this mineral concession granted to the latter in his personal capacity, is not revealed in the official records. It appears, however, that on a representation dated 30th October 56, of Shri B. Patnaik the name of grantee was changed to B. Patnaik Mines (P) Ltd. although such a substitution, as was subsequently pointed out by the Legal Remembrancer in 1960, was not in accordance with any rules. The party's request for reduction of the area was, however, not acceded to. It further appears that the area in question was surveyed by Theotolite Traversee and was found to be 4224 acres (later 4230.76) acres) as against 3900 acres originally allowed

It appears that Shri B. Patnaik, from the very beginning of the grant of the working permission had been defaulting in the matter of payment of royalty. In fact at the time of extension of the working permission in January 1955, the renewal had been opposed by the Department, on this very ground, but Shri S. Shivaraman had recommended renewal to the Minister. The arrears of royalty to the tune of Rs. 6,18,926.06 nP. were outstanding against B. Patnaik Mines (P) Ltd. for the period July 53 to 30th June 1959. The Government's position was anamolous, as it could not allow execution of the lease deed, until arrears of royalty were paid in full and it could not renew the working rermission as such a practice was found to be not according to law. The party, however, continued to work the area. The matter was referred to the Law Department and the Legal Rememberancer pointed out that the grant of a working permission was not contemplated by the Act and the rules and no valid right to work the minerals having been conferred, and the contract being invalid, no prosecution was possible but a civil suit lay for possession, with damages. He was also of the view that both Shri B. Patnaik and B. Patnaik Mines (P) Ltd. should be made parties. This view of the Legal Rememberancer was upheld by the Advocate General Orissa and the then Minister of Mining and Geology—Shri R.N. Singh Deo directed Collector Keonjhar on 8-10-60- to take action on the lines indicated above.

We may now discuss the other grant of working lease, for iron ore to Shri B. Patnaik. It appears that on 26-10-53 Shri Patnaik applied for mining iron ore over an area of 349 acres, and on 1-7-55, for 1006 acres out of an area of 3900 acres, already allowed to him. The State Government allowed Shri Patnaik to commence mining operation for iron ore on 286.5 acres on 8th January 1954. Regarding the second application for 1006 acres, orders were paseed on 30th August 55 granting working permission for iron ore in the entire area of 3900 acres, when the application itself was for 1006 acres only. The Director of Mines pointed out this discrepancy in November 55 and also stated that Shri Patnaik was not regular in the payment of rent and royalty to the Governmet and there could be no working permission without the grant of a lease in the first instance. The government then modified its earlier orders, on 16-12-55. Collector Keonjhar pointed out in June 56 a number of irregularities in the procedures followed in the grant of working permission to Shri Patnaik. He observed that necessary proceedings had not been drawn in the prescribed manner, the formal acceptance of terms and conditions in writing by the party, and the deposit of requisite security money had not been done, the area had neither been surveyed nor demarcated and there had already been difficulty in realising the dead rent from the party. This apparently had not been considered sufficiently strong ground to refuse the grant of the working permission over an area of 1006 acres. In the case of this grant also, Shri Patnaik defaulted in respect of royalty and arrears amounting to Rs. 32,030.67 nP were outstanding for the year 1957. Here also B. Patnatik Mines (P) Ltd. had started functioning from December 56 without any valid transfer from Shri Patnaik.

It appears that Collector Keonjhar on threatening Shri Patnaik on 22-8-58 that the working permission should be considered to be withdrawn till such date that the arrears are paid, an amount of Rs. 76,000/- as part payment was promtply deposited within 8 days of the notice. Thereafter, however, B. Patnaik Mines (P) Ltd. reverted to their old practice and continued their mining operation in spite of being in default or royalty. The State Government vide their order dated 5-12-59 granted the lease to the party, but the acceptance of the term was not conveyed to the State Govt. by the party who allowed the statutory period of six months to lapse and did not even produce the accounts in spite of reminders. The matter was examined in the Law Department and th Legal Rememberancer was clearly of the view that neithe B. Patnaik nor the Company had any legal right to worl or possess the iron ore mines and the working of the iroı ore could be prohibited by issuing notice and if this wa: disregarded, prosecution could be launched under sectioı 21 of Act. 67 of 1957. This suggestion was approved by the concerned Minister Shri R.N. Singh Deo on 31st August 1960 and Collector Keonjhar was directed in this case as in the case discussed earlier to issue notice to both Shri Patnaik and B. Patnaik Mines (P) Ltd. to stop working the mine and to quit the area and make over possession to the Collector.

B. Patnaik Mines thereafter went up in writ petition in the High Court where the State Govt. agreed to a compromise. Under the terms of the compromise, the State Govt. agreed to grant the lease on the former paying the arrears of royalty at the rates prevailing before the declaration of fair prices and thereafter at such rates which may be determined in accordance with law.

It will be seen that the State Govt. had taken a clear decision to evict Shri S. Patnaik/B. Patnaik Mines (P) Ltd. from the area and the Collector was even directed not to accept any amount towards rent and royalty and to take possession of the area in question. This decision was taken after full examination of the legal position. The circumstances, under which the State Government, after the assumption of office of Chief Minister Shri B. Patnaik decided, to come to a compromise with B. Patnaik Mines (P) Ltd. and to grant the lease for mining of the area in question, on payment of the arrears of royalty, are not clear from the official record made available.

It is also clear that in the matter of grant of leases both for manganese ore and iron ore, Shri Patnaik was specially favoured, and in fact in respect of the lease for iron ore, the State Govt. originally granted the working permission for 3900 acres when the application itself was for 1006 acres. Considering that the procedure of working permission was itself of doubtful validly, even the reasonable suggestion that the renewal of the lease be made conditional on the payment of half the dead rent in advance was not considered necessary by Shri Shivaraman when he recommended the application to the Minister. It further appears that the utilisation of the working permission given to Shri B. Patnaik by B. Patnaik Mines (P) Ltd. was also invalid as was pointed out by the Legal Remembrancer subsequently, but the State Govt. nevertheless during the pendency of the writ petition in the High Court agreed to a compremise under which the concession given to Shri B. Patnaik personally which were themselves of questionable validity, came to be conferred on B. Patnaik Mines (P) Ltd.

Allegation No. 9

REPORT OF APPOINTMENT OF AGENTS UNDER ORISSA KENDU LEAVES ACT 1961

> Orissa Kendu Leaves (Control of Trade) Act 1961 was promulgated during the Chief Ministership of Shri Patnaik ostensibly for State Trading. Actually heavy amounts were received as illegal gratification by Ministers and agents were appointed by direct negotiations by Chief Minister and State Planning Board Chairman.

Only one file No. 7-F.M/2-10/62 of C & F Department (Forest Branch) relating to the proposal to revise the Orissa Kendu Leaves policy of Government of Orissa and enactment of Orissa Kendu Leaves (Control) of Trade Act 1961 was received and has been scrutinised.

It appears that in April 1961 the Orissa Government felt the necessity of revising the Kendu Leaves policy. A note was prepared in the Secretariat giving the background of the Kendu-Leaves Trade, the salient features of which are—

(i) In the pre-merger days in ex-state areas Kendu leaves contracts were given out on long term basis to contractors who had the right to collect the same from all over the ex-states, no distinction being made between private land and government land as tenants had no right to forest produce on their own holdings even. In the then Angul and Khadamals trade was being conducted through contractors.

(ii) After the merger of the princely states the Govt. of Orissa declared Kendu leaves as an essential article under the Orissa Essential Articles Control and Requisitioning (Temporary) Powers Act 1947. An order called the Kendu leaves (Control) order 1949 was promulgated under the said Act.

(iii) The main provisions of the Kendu Leaves Control Order 1960 were :

(a) No person could trade in Kendu Leaves without a licence.

(b) The storage of Kendu leaves exceeding one maund without licence was prohibited.

(c) The tenants collecting Kendu leaves from the trees standing on his holdings had to sell the same to the person who had been granted a licence under the said control order.

The tenant's right had been safeguarded by allowing a higher rate than the sale of Kendu leaves to pluckers from Government lands. The Government had decided that 50% of the total revenue from Kendu leaves should go to the Gram Panchayats for development works.

The system of regulating trade by the 1949 order was described as 'A conscious attempt to reconcile the interest of the State, the trade, tenants and the pluckers'. There was, however, some criticism that the tenants and the pluckers had been adversely affected and that the traders were making enormous profits. The policy was, therefore, revised by the Government of Orissa and a new control order called the Orissa Kendu Leaves Control Order 1960 was promulgated.

The Government in exercise of their right of property leased out the right to collect leaves from Government forests and other licenses was introduced under which licences were issued in each unit, the number to be determined by the Government. The decision was that for every 2000 bags of Kendu leaves produced in a unit, the Government would grant a licence subject to a minimum of 2 licences in a unit. On that basis the Government leases was given one licence while other persons were given licences for collection of leaves from tenants areas. The intention was not to place any restrictions so far as the tenants area of the particular unit were concerned but that was not applicable to contract areas of the lessee because the lessee of a particular area alone could operate in his own area within the unit according to the lease deed executed by him. It was felt that the Government lessee was at a disadvantage as he was required to pay royalty to the Government for obtaining the lease and also to obtain a licence from the District Magistrate on payment of a fee of Rs. 5/- to deal in Kendu leaves. The persons other than Government lessees obtained licences on payment of Rs. 5/- only and they were not required to pay any royalty to the Govt. As it was not possible to distinguish the Kendu leaves of the Govt. forests from the Kendu leaves grown on tenant lands, the persons plucking Kendu leaves from Govt. forests could sell the same to any licencee offering higher prices. There were no means to check such smuggling. Obviously the licences the tenants areas could easily offer to pay higher prices to the pluckers as they did not have to pay any royalty to the Govt.

To get good quality or more quantity of Kendu leaves, coppicing and prurning of Kendu plants was very essential every year but as the Govt. licencees were not sure whether they would get the licences for the next year, they practically did not do any coppicing and consequently the quality and quantity of the leaves grown on the Govt. lands was getting deteriorated.

Financial results

Under the 1960 orders the Govt. decided to levy taxes on Kendu leaves under the Taxation Goods Act and accordingly Kendu leaves was included within the purview of the Act. Prior to that Kendu leaves leases used to be settled for a period of 3 years on an annual royalty of about Rs. 84 lakhs. On the introduction of the 1960 policy the Govt. decided to settle the rights to collect Kendu leaves with the old lessees at 15% of the annual consideration of the year 1959. Certain lessees took advantage of the ofler while those who did not do so, their lots were sold in auction. The revenue derived from the Kendu leaves leases in the year 1960 only amounted to about Rs. 10 lakhs. The Govt. expected that they will get a revenue of Rs. 56 lakhs by way of road taxes under the taxation goods act. This expectation, however, did not come up and only a sum of Rs. 8 lakhs was collected as road tax during 1960-61. The validity of the road tax was challenged and most of the licensees obtained stay orders from the High Court against the realisation of the road tax. During the year 1961 the old lessees tried to secure the leaves through negotiations but the Govt. of Orissa decided to call for tenders. As a result of the tender system a revenue of Rs. 27,74,000/- for sale of Kendu leaves lots by the forest department against Rs. 10,08,000/- of the previous year was expected.

It appears that a taxation enquiry committee was appointed which went into the details as to what should be the appropriate policy of the State Govt. in regard to the trade in Kendu leaves. They recommended to set up a commercial monoply in this trade with a view to protect the interests of the trade, tenants, pluckers engaged in collection of leaves and of the taxatiou for the creation of monopoly the reasons being :

1. Kendu plants grow over in extensive areas consisting of reserve forests, Govt. Waste lands, and some private lands. The latter are interspersed with Govt. lands and there was no easy way to prevent dishonest pilfering from Government lands and unlawful presentation of Govt. leaves as leaves plucked from private lands. To engage a large number of personnel to watch and prevent pilfering was not found to be possible in the situation.

2. Production of good quality leaves depended on timely prunning and coppicing which nobody

would undertake to do unless he was sure of collecting the leaves himself and without pilferage.

3. A larger number of landless labourers was employed for collection of the leaves during the months of March, April and May which is the season of plucking and they were likely to be exploited unless the State Govt. ensured reasonable wages and provide a guarantee of purchase.
4. The income from the monopoly system would be shared by the State Govt. with Panchayat Samities and Gram Panchayats so that the sources of the latter would be augmented for carrying out developmental work.

According to the report of the Taxation Enquiry Committee the 1960 order did not ensure smooth functioning. The State Govt., therefore, obtained the views of the Chief Conservator of Forests. He in his report dated 16-8-61 observed that he was fully in agreement with the recommendations of the Forest Enquiry Committee regarding the unilicence system. He added :—

"Govt. as absolute owner should obtain proper revenue by the disposal of Kendu leaves growing on their lands. This amounts can only be had if the lessee are assured of full produce for which they would pay the lease money. Kendu leaves grow both on Government lands and tenants holdings. As long as tenants are given full right to dispose of the Kendu leaves growing on their own holdings, there is bound to be smuggling of Kendu leaves growing on Govt. lands. With such a risk, the Govt. lessee cannot pay to Govt. the full value of the produce. This risk can only be overcome by making the Govt. lessee the only licensee of the unit to collect the Kendu leaves......... I would therefore advocate the re-introduction of Kendu leaves control order 1949 which had worked smoothly all the years it was in force".

It was on the basis of the above recomendations and views of the officers concerned that a bill to regulate and collection, purchase and disposal of Kendu leaves was drafted. Discussions were held between the Chief Secretary, Secretary of the Department, Additional Development Commissioner, Legal Rememberancer and the Secretary, Development Department and it was proposed to establish a monopoly trade on the licences indicated by the taxation enquiry committee. The Scheme briefly was:—

(a) State to have fiscal monopoly right for collection, purchase, transport and disposal of Kendu leaf for trade purposes. Tenants to have a right to collect the leaves from their lands or they could lease out the Kendu growing area. But any Kendu leaves growth on such land to be sold by the tenant or the lessees to the Government or to their Agent.

(b) State to be divided in a number of units.

(c) State to trade through agents to be appointed by them, on the rate of one for each unit. The appointment of agent was to be regularised by means of an agreement, the agent to pay a lump sum to be settled at the time of granting the agency and a variable commission depending upon turnover.

(d) Price at which Kendu leaf would be sold by the owners and pluckers would be fixed by price fixation committee to be formed by Govt.

The Law Department opined that it was permissible to create a monopoly in favour of the State but felt that legislation in that behalf was necessary. Accordingly a draft memorandum was put up for a special law for the creation of commercial monopoly in respect of Kendu leaves to the Chief Secretary on 1-9-61. He recorded his minute and submitted the file to the Minister of Forests (Mr. Sadashiv Tripathy) and also remarked that the file be shown to the Chief Minister. The Forest Minister, however, returned the file stating that Chief Minister might see the file later and meanwhile the memorandum be circulated to members of the Council of Ministers and attempts be made to get it passed within this session. Accordingly the memorandum was circulated and the file was then put up to the Chief Minister through the Chief

Secretary. The Chief Minister recorded his approval on 8-9-61 after discussion with the Chief Secretary. It appears that the matter was discussed in a meeting of the Council of Ministers on 13-9-61 and the draft was approved with the following corrections :—

In the draft Bill	*Corrections*
(i) A person who owns Kendu trees shall register himself as a grower if his total output in a season is expected to be 80 standard mds.	80 mds was brought down to 10 mds.
(ii) Units shall display particulars relating to the grades of the leaves and the prices at which they shall be purchased.	Particulars relating to the grades of the leaves to be omitted.
(iii) There shall be an advisory Board at the State level to advise Govt. on the constitution of units and in the fixations of depots and prices. Board to include Chairman of Zila Parishads, Ministers and officials.	Cmitted completely.
(iv) State Government shall fix, after consultation with the Advisory Board price at which the Kendu Leaves shall be purchased.	after consulation with Advisory Board deleted.
(v) State Government shall place 50% of the net income derived under this act at the disposal of the Panchayat Samities having jurisdiction over the units constitution. The Samities shall retain 20%of the amounts thus received and distribute the remaining	Drafting should be made so as to make it clear that Govt. will have the absolute discretion to allocate the amounts between the Panchayat Samities as they may determine. No litigation on the

80% to Gram Panchayats comprising the block.	quantum to be received by the Panchayat or a Samiti should ensue.

The amended draft was put up to the Minister of Law (Shri Biren Mitra, by the Legal Remembrancer through the Chief Secretary on 25-9-61 who approved the same on 26-9-61. As it was a money bill it required the previous recommendation of the Governor before being introduced. Accordingly the same was obtained and the file was routed through the Chief Secretary to the Minister for Forests and the Chief Minister. On 27-9-61 a reference was made to the Ministry of Home Affairs, Government of India, for their approval. The bill had already been introduced in the legislature on the ground of urgency of the matter. To this reference a reply was received from the Ministry of Commerce and Industry on 8-11-61. It was pointed out by the Government of India :—

"The bills also attract the provisions of Article 304(b) of the Constitution. It is, however, observed from para 4 of your letter that the Bill has already been introduced in the State Legislature without obtaining the previous sanction of the President. As such the bill when passed by the State Legislature will have to be reserved for the assent of the President to remedy the Constitutional defect"

It was further observed :

"The two matters on which the courts will have to be satisfied are 'Public Interest' and 'reasonable restrictions'. The State Government appears to have relied mainly on the report of the Orissa Taxation Enquiry Committee while undertaking the proposed legislation. Even so, it is not clear that the safeguard recommended by the Committee in para 24(c) of their report has received any attention in the Bill. The Power to fix prices should not be arbitrary. Some principles have been laid down in the proviso to clauses 4 of the Bill. It is yet a question whether they will be considered adequate when Government is the sole purchaser".

The reference received from the Government of India was examined by the Legal Remembrancer who observed :

"It may be that because the bill contemplates imposing price control which may be a tether on trade and commerce, Government of India have expressed the view that Art. 304(b) will be attracted".

Instead of the earlier provisions relating to the Constitution of a well-represented Advisory Committee, the amended Clause 4(2) read as under:—

"The Government shall constitute an Advisory Committee for the State consisting of not less than 6 members as may be notified by Government from time to time.

Provided that not more than 1/3 of such members shall be from amongst persons who are growers of Kendu leaves".

The Assembly passed the bill on 27-11-61 and Shri Sadashiv Tripathi recorded a note on the same day that immediate steps to obtain the assent of the President should be taken so that the bill becomes the law in the next season. The rules be framed quickly and Advisory Board constituted. At this stage also the file was seen by the Chief Minister.

The follow up action was taken up, the rules were framed and the draft was sent to the Ministry of Home Affairs on 18-12-61 for obtaining the President's sanction expeditiously. The sanction was received on 2-1-62 and the new law was brought into force w.e.f. 5-1-1962. The rules framed had the approval of the Chief Minister dated 4-1-62.

The Chief Secretary observed in his note dated 11-1-62 addressed to the Chief Minister as under :

"Form E as now approved gives no base for comparison of the offers of the various parties. A party may offer less Commission but there is no guarantee that he will guarantee any difference in price and a minimum profit to Government. The

Form as originally submitted tried to meet this situation. I am afraid returns made on the basis of the present form will enable Government to come to any proper conclusion. There is too much left to imagination. If we leave the entire arrangement as a simple agency, then we are caught with the price fluctuations and manipulations of the dealers. Unless the agent who is the expert in this matter guarantees a maximum performance we are sunk. A simple agency cannot be run in Kendu leaves without certain safeguards. Otherwise, the entire matter may result in corruption at lower level and smuggling on a large scale. This is why I had suggested a minimum performance with some safeguards for fall in prices.

Chief Minister may please consider".

On the above note of Chief Secretary, the Chief Minister Shri B. Patnaik recorded the following minutes :—

"Sincc we know what price structure we want, there should be no difficulty in fixing the rate, with the agents who we approve. 13-1-1962".

Subsequently advice was sought from the Law Department, whether the agreement with the agent was required to be stamped and registered. The matter was discussed and after the concurrence of the Finance Department and the approval of the Chief Minister a notification dated 3-3-62 to the effect that such agreements of Kendu leaves are exempted both from the registration and stamp duty was issued. It further appears from the notings that on a proposal made by the Secretary that Forest Officers not below the rank of Foresters be authorised to search, seize and inspection for the implementation of the provisions of Kendu leaf (control & trade) Act did not meet the approval of the Chief Minister, who minuted on 21-4-62 that such a power was not necessary. The matter was again examined and the Chief Minister agreed to the powers being given to the Forest Officers and certain other categories of officials to search, seizure and inspection.

The following points emerge :..

In this note dated 11-1-62 the Chief Secretary pointed out to the Chief Minister that form "E" "approved by the Chief Minister" gave no basis for comparison of the offers of the various parties. A party may offer less commission but there, is no guarantee that he will guarantee any difference in price and a minimum profit to Govt. Returns made on the basis of the present form will not enable the Govt. to come to any proper conclusion. If the entire arrangement is a simple agency the Government would be caught with the price fluctuation and manipulations of the dealers. A simple agency with certain safeguards cannot run the Kendu trade and the entire matter may result in corruption at lower level and smuggling at a large scale. The Chief Minister, however, did not agree to make the form more specific with the result that the entire discretion to appoint the agents was left to the authority who was to grant the agency.

2. No qualifications had been laid for a period to whom the lease was to be granted and that provided room for cornuption.

3. The price structure was also left to the discretion of the authority.

4. The provisions of the Advisory Committee had to be incorporated only after the Government of India intervened but by restricting its membership the Committee could only play the secondary part and could hardly be effective in stopping the misuse by the authority.

It appears that the Advisory Committee had no hand at all in the appointment of Agents.

Rule 7 of the Orissa Kendu Leaves (Control of Trade) rules 1962, provided the manner in which agents could be appointed. It reads as under :

Rule 7

(i) Govt. shall, when they consider fit, publish a notice inviting applications from persons desirous of acting as agents to be submitted by such date as may be specified therein.

(ii) An application for agency shall be in form 'E' and submitted to such authority and in such manner as may be specified in the above notice.

(iii) Every such application shall be accompanied by a Treasury Challan showing the deposit of Rs. 500 only by applicant as earnest money.

(iv) It shall be open to Govt. to accept or reject any application so received without assigning any reason, thereof. Further, when the applications received in respect of a unit are not found to be suitable or satisfactory, it shall be open to Govt. to negotiate with one or more applicants in respect of that unit.

(v) On appointment as Agent, the person appointed shall execute an agreement, in such form as Govt. may direct within 10 days of the date of receipt of the order of appointment failing which the appointment shall be liable to cancellation and the amount deposited as earnest money, liable to forfeiture.

The Advisory Committee was only to be comsulted:
"(a) for fixation of the price at which Kendu Leaves shall be purchased by the Govt. or by any officer or agent from growers of Kendu leaves during any years".

'Section 4'

"The business of the Advisory Committee shall be conducted in such manner and the members shall be entitled to such allowances, if any, as may be prescribed".

Agents now appointed:

Government of Orissa, Department of Cooperation & Forestry vide Gazette notification dated 11-1-62, invited applications for appointment as Agents in form 'E'. The Government reserved the right to reject any or all applications in respect of any unit without assigning any reason whatsoever, and also the right to negotiate with any applicant when the applications in respect of any unit are found to be suitable or satisfactory. The applications were to reach the Chief Conservator of Forests, Orissa, Cuttack by 30-1-62. This date was extended to 2-2-62 as certain amendments were made in the Constitution of units notified earlier.

2. Vide a copy of D.O. Secretary, Cooperation and Forestry Department, Orissa, asked Chief Conservator of Forests to send all the applications received by 1 p.m. on 2-2-63 was to reach the former's office at 3 p.m, on the same date along with the register.

3. Some units again appear to have been reconstituted and another Govt. Gazette notification dated 10-3-62 was issued, asking for fresh applications, so as to reach the C.C.F. Orissa by 3 p.m. on 14-3-62. All such applications were also required to reach the Secretary's office on the same date by evening.

4. Yet another notice dated 24-3-62 was issued by the Secretary to Government Cooperation & Forestry Department, Orissa inviting applications for certain units, numbered in the notification (83, 83A, 85A, 86A, 86B, 87, 87A, 87B, 89, 89A). These applications were required to reach C. C. F. Cuttack by 3 p.m. on 27-3-62.

5, Chief Conservator of Forests Cuttack had on 2-2-62 forwarded all the 598 covers containing applications to the Secretary Forestry Department, Bhubaneshawar.

The above shows that "all decisions for appointment of agents were taken by the Ministry themselves, not by the Chief Conservator of Forests.

(i) The dates were being extended from time to time.

probably to bring in some 'favourite' applications.

(ii) The time given for filing applications has always been kept very short—perhaps with purpose.

(iii) Government reserved the right to reject any application without assigning any reason and it was also empowered to negotiate with any applicant when, in any unit, the applicants were not found suitable or satisfactory.

All the above circumstances appear to have been created to facilitate the appointment of "desirable" as agents.

The crux of the allegation is that in the appointment of agents, illegal gratification was taken, and favours were shown and favourites were appointed. In order to ascertain the truth or otherwise of this allegation, it would be necessary to study the files relating to the appointment of agents. The official record received so far does not throw any light on this matter.

Allegation No. 10

Report on the establishment of a Saw Mill on the illegally occupied Government land at Cuttack by Shri Biren Mitra.

Mr. Mitra has established in the name of his wife a Saw Mill for manufacture of furniture on Government land which was forcibly occupied in the town of Cuttack. The land in Cuttack is valued at Rs. 2,50,000/- and the State Government proposed transferring this land to Mrs. Mitra and their associates on payment of this amont although the occupation was illegal.

In a memorandum dated 21-9-64 submitted by Shri R. N. Singh Deo and and other Memorialists, it has further been stated that Mr. Mitra had misused his official power in getting the plan of structure for the Saw Mill approved by Cuttack Municipality without verification about the proprietorship of land. Similarly, the Industries Department gave licence for the factory and the Electricity Department gave power connection without any verification under the impression that it was a concern of Shri Mitra. When the matter came up with State Assembly, an attempt was made to lease out the land to Shri S. C. Bose, Secretary, Cuttack Motor Assn, as the encroacher to whom the Saw Mill had been transferred in benami after the winding up of encroacher and demolish the unauthorised structure as it belongs in fact to Shri Mitra.

The State Government, requested to make the the relvant official record available, have handed over the files which appear to relate to an Assembly question No. 3619—subsequently renumbered 2606—raised by Shri Bidhar Behara in August 1964 in which the Minister Irrigation and Power was asked to state whether permission had been given to the proprietor of the Saw Mill (Jobra) to start the Saw Mill and erect permanent structure on PWD land near Talanadand canal, and whether the proprietor has undertaken construction without taking permission and if so the steps taken by the Government to proceed against the proprietor. Two files regarding illegal occupation of Government land, and further encroachments on Government land by Shri S. C. Bose and Shri Gobinda Behera, have also been made available by the State Government. These official records do not indicate the connection, if any, of Shri Mitra or Mrs. Mirta with the land which admittedly had been under illegal occupation.

The scrutiny of the official record shows that in answer to the above noted Assembly question, which was taken up by the Revenue Minister, it was stated on the floor of the Assembly that there were two Saw Mills near Jobra (Cuttack), that permission had been given to none and that the proprietors had undertaken construction without permission. Shri S. C. Bose had encoarched on one more and 10 centa of Government land and also on some further land on the Canal Bank Road, by constructing a pucca compound well, a gate and a watchman's shed. Shri C. C. Behera had similarly encroached upon A.C.O. 60.5 of Government land.

It appears from the record that portion of land in plot No. 253, measuring one acre, situated on the Left Bank of Talandanda Canal, at Cuttack was leased out to Shri S. C. Bose in the year 1948-49, by the Executive Engineer, Mahanadi South Division of the Irrigation Department, for installation of a stone crusher machine, at the annual rent of Rs. 250/-. He was also permitted to construct a temporary shed only but there was no permission for the construction of a Saw Mill or for erecting any permanent structure. The lease period expired on 31-3-52, and it is stated in the files that on the expiry of the lease, Shri Bose was asked to vacate the land which was required for widening the Canal Bank Road, but he did not do so and on the other hand constructed pucca buildings consisting of a Saw Mill with an attached office and residential quarter. When exactly these permanent structures were erected is not clear in the file. No further action appears to have been taken by the Irrigation and Power Department and the illegal occupation continued undisturbed. It was only in January '63 that a notice was served on Shri S. C. Bose again, for vacating the illegally occupied land. From Shri Bose's letter dated 1-2-63 to the Executive Engineer, Mahanadi South Divison, Cuttack, it was contended by Shri Bose that when he had been the Executive Engineer, the latter had assured him that since the matter was under consideration he did not have to worry about the renewal of the lease which would be done in due course and then the arrears of rent due would also be accepted. Shri Bose had pointed out in that letter that while the lease of the adjoining plot of Shri Behera had been renewed and Shri Behera had even been allowed to start a flour mill, and a Saw Mill on permanent structures, for over two years, his own lease had not been renewed and had in fact been cancelled without demanding even the arrears of rent from him. The

Executive Engineer in his letter dated 19-4-63 to his Superintending Engineer, while denying that he gave any such assurance to Shri Bose, as contended by the latter had stated, that Shri Bose who was an influential business man of the locality had put up permanent structures on the land without even the courtesy to obtain prior permission and had further encroached on the road side for personal benefit. The Executive Engineer, however, suggested that since the land in question was no longer required by the Department, it may be relinquished in favour of Shri Bose for Rs. 1,65,000 at the rate of Rs. 1200/- per acre, and Shri Bose may be asked to leave out a 20 ft. strip on each side for further development.

The Under Secretary, Irrigation and Power Department wrote to the Revenue Department on 13th Sept., 1963. about the illegal occupation of Government land by Shri S. C. Bose and intimated that the land in question on which Shri Bose had constructed pucca structure and saw mill, had been declared surplus by the Department and had been transferred to the Revenue Department according to Government decision.

The case of Shri Gobinda Behera appears to be identical with that of Shri S. C. Bose. Here also Shri Gobinda Behera was granted the lease of a portion of the same plot No. 253, comprising of .04 acres, in the year 1948-49 for putting up a wooden structure or a G.I. sheet shed as a show room for furniture at an annual rental of Rs. 200/-. The lease expired on 31-3-52 and although it was not renewed Shri Behera not only proceeded to construct pucca structure but also encroached upon .20 acres of more Government land. He was also in arrears of the rent to the tune of Rs. 1400/- in August 63, but the only indication of any action having been taken in the matter, is the service of a notice issued in January 1963. The letter dated 30th August 63 of the Executive Engineer, Eastern Circle, Cuttack shows that the Chief Engineer Irrigation had been pleased to order the renewal of the lease on 29-6-60 but had forbidden the construction of any permanent structures. The Executive Engineer in the above quoted letter of 30th August 1963 to his Superintending Engineer has remarked :

> "The rent levied on such purpose is on an averge Rs. 1200/- per acre. The rate is considered as concessional rate because if this is put to auction it will fetch at least three times of the present rate i.e. 3×1200 per acre. The site for instance is situated on the main road and very near to the canal as well as to the river. The Railway Station is at a distance of 1½ miles from the Saw Mill etc. The site has other advantage of first class industrial area. Cheap labour is also available nearby. The cost of this land at the market rate of the locality will be about Rs. 6900/- per month and the entire land will be of the value of Rs. 90,750/- reasonably. Further this businessman of position and influence has no courtesy to obtain prior permission for doing the job and intended to exploit the Government land for his personal benefit. As such it is proposed that the area may be sold to him for Rs. 90,750/- as the land in question cannot be utilised for the benefit of Irrigation Department. He may leave 20 ft. on each side for future development of road"

The Chief Engineer on 15th November 1963 accordingly wrote to the Irrigation and Power Department, suggesting that "if the eviction be considered by Government as not possible with the assets created by the lessee on the land unauthorisedly, then the suggestion of the Executive Engineer to sell out the land to the lessee at a price of Rs. 90750/- may be considered". The official records shows that the Additional District Magistrate Cuttack in his letter dated 2-9-64 informed the Secretary to the Revenue Divisional Commissioner Cuttack that in the light of the instructions issued by the Government, in their communication dated 7-11-63 the Sub-Divisional Officer Saddar had been asked to start encroachment proceedings and to take quick steps for eviction of the unauthorised encroaeher Shri S. C. Bose and that eviction proceedings had started but no final action could be aken as the notice had not been properly served. It wa further stated that it had been impressed on the S.D.O personally to evict the encroacher and to issue an injun tion order restraining Shri Bose from constructing an further structures on the side.

It will be seen from the above discussion of the material available on such official record as has beer made available that Shri Gobind Behera and Shri S. C. Bose, having been given lease of Government land by the Irrigation Department in 1948-49 erected permanent structures, and even established Saw Mills and the Flour Mill, in spite of the lease not having been renewed, continued their illegal occupation and even encroached upon further Government land, without any action having been taken by the Department. The lease of Shri Gobinda Behera appears to have been renewed in 1960 by the Chief Engineer but this was not done in the case of Shri S. C. Bose, who, however, nevertheless continued his illegal occupation. When exactly the permanent stuctures, the Saw Mill etc. were erected is not clear from the record, which however, shows that it was only in January 1963 that a notice was issued but without the matter being pursued further. Although the Government required the land in question originally, for widening the canal bank, in 1963 the Government suddenly found that except for 20 ft. strip, on each side, for development of the road, the rest of the land under illegal occupation, which according to the Executive Engineer was quite valuable, had become surplus to their requirements and at the instance of the Department of Settlement of this land, on the encroacher for a consideration of Rs. 1,65,000/- in the case of Shri S. C. Bose and for Rs. 90,750/- in the case of Shri Govinda Behera was being considered. It further appears that although instructions were issued, in November 1963 to evict Shri S. C. Bose even as late as September 1964 a proper notice in respect of eviction proceedings could not be served.

It has been stated in the letter of the Executive Engineer Mahanadi South Division that both Shri Gobinda Behera and Shri S. C. Bose were influential businessmen of the locality. It is difficult to say as to whether thi alone can explain the manner in which they were allowed not only to remain in illegal occupation of Government land but the department even continued to suffer further encroachements on Government land and the erection of permanent structures.

As has been stated earlier, the official record handed over does not indicate the connection, if any, of Shri Biren Mitra or Mrs. Mitra, with either of these two cases of Saw Mills, erected on Government land under illegal occupation. Shri Biren Mitra was incharge of the Department of Irrrgation and Power from 2nd October 1963 when he took over as Chief Minister. In the subsequent allegations in the Supplementary Memorandum dated 21-9-64 submitted by the Memorialists, certain additional circumstances relating to this particular case, have been cited which are of considerable relevance for the determination of the facts of this case. It will be necessary, however, in the light of these additional circumstances furnished by the Memorialists of scrutinising further relevant official records in order to araive at any conclusions. The interests if any, in the Saw Mill in question, of Shri Biren Mitra or Mrs. Mitra can also be discovered only after further scrutiny of official record and by oral enquiries.

Allegation No. 11

Report on withdrawal of prosecution of cases against steel stockists.

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Shri Neelmani Routry, Supply Minister, Orissa had caused prosecution against 11 dealers of controlled iron and steel goods to be withdrawn, against the advice of Supply Secretary and District Magistrate and without consulting the Legal Remembrancer. This was misuse of power by the Minister.

Shri Neelamani Routroy who was Minister in charge of Supply, Transport and Labour in the State Ministry of 1957, had relinquished charge of his office on 22-5-59. He rejoined the Ministry in less than two months, on 14-7-59 and was allocated the Department of Supply and Commerce. There was President's rule in the State from 25-2-61 to 22-6-61 and after the mid-term elections Shri Routroy joined the Ministry headed by Shri Patnaik on 23-6-61 as Minister in Charge of Home, Commerce, Labour and Supply Department.

The scrutiny of official records made available by the State Government shows that in May 1959, the Secretary Supply Department had himself brought to the notice of the then Supply Minister (Shri Neelmani Routroy had relinquished office on 22-5-59) public complaints of black marketing in iron and steel, and the Minister having felt strongly about this matter had himself conducted searches through the officers of the Civil Supplies Dept, on 29, 30 and 31st May 1959. A number of irregularties had been detected and after careful examination of the cases by the CSO Headquarters, the Government pleader and the office of the Iron and Steel Controller, regarding the legal position, cases were launched against the dealers concerned for contravention of Iron and Steel Control Order 1956.

Shri Neelamani Routroy reassumed office on 14-7-59, and on 27-11-59 on receipt of a representation from Orissa Chamber of Commerce and Indusrry, he observed in a note to the Secretary Supply that the representatives of the Chamber who had met him had stated that whereas other States allowed traders to deal with iron, steel and scrap materials, from unregistered re-rollers, out of imported and indigenous sources, the traders in Orissa had been prevented, from dealing in such materials, as the State Government had taken action against them a few months earlier. He was, therefore, of the view that if the other States allowed their traders to deal with such materials, no bar may be placed on the traders in Orissa State also. He required the matter to be examined to be discussed with the Chamber of Commerce and Industry.

It appears from the file that the Assistant Secretary (Supply) had been sent to Calcutta to ascertain the position obtaining there. He had prepared a note, which indicated that the Iron and Steel Controller vide his orders dated 17-11-55, had laid down that materials rolled from scrap, from uncontrolled sources, could be sold at prices above column III rates, subject to the provision which read as follows :—

> "Prices of industrial scrap or landed cost of the imported scrap including transport charges admissible for bringing it from J.T. to their mills, together with their normal conversion costs".

It was stated in the note that the Deputy Iron & Steel Controller with whom the representations of the Chamber of Commerce had been discussed had stated that whenever cases came to light, of sale of Iron and Steel materials, at prices above the authorised limits (Column III rates) it was open to the State Government to start investigation to ascertain if the higher prices were justified and authorised by the Iron and Steel Controller. Shri Doraiswamy was also of the opinion that the onus of such proof rested on the party found selling iron and steel materials at rates higher than those prescribed. Shri Moorty, Price Controller had also, it seems been consulted. He was of the view that the Iron & Steel Controller's circular of 17th November 1955 was no longer valid, after the issue of the Iron and Styel Control Order 1956. The note of the Asstt. Secretary (Supply) also indicates that although materials rolled from uncontrolled scrap, by unregistered rollers was being sold in Calcutta, at varying prices, above column III rates, periodical raids were organised on the premises of these unregistered stockists. The Secretary Supply, in his note dated 7-1-60 to the Minister, while recalling the circumstanees under which action had been taken by the previous Supply Minister observed that in allowing trade in iron and steel obtained from uncontrolled sources, at uncontrolled rates, matters could be manipulated by traders and the was likelihood of public resentment when higher rat were charged. He suggested, therefore, that the trade may be asked to agree to sell iron and steel, acquir from uncontrolled sources at rates not exceeding Rs. 8. as. per CWT in excess of the controlled rates. Sh Neelamani Routroy in his note date 14-1-60, howeve felt that there appeared to be utter confusion, in th office of Iron & Steel Controller itself about the manne in which uncontrolled materials were to be disposed o and the rates at which these could be sold and unde such a state of affairs, it was difficult to characterise th activities of the traders as black marketing. Referrin to Secretary's suggestion regarding voluntary acceptanc of certain prices, within stipulated limits, by the trade the Minister expressed the view that no such rates ha been prescribed by the Iron & Steel Controller, nor coul the State Government prescribe such rates. He felt tha while strict vigilance over the sale of controlled stock was necessary, Government's powers to prescribe rates for uncontrolled stocks, were doubtful and the prescribing of any rates was likely to lead to legal complications. He, therefore, suggested that an assurance may be called for from the Chamber of Commerce that the dealers in Orissa would not rush for undue profits and would keep themselves within the differential limits of rates as suggested by the Secretary.

The Iron & Steel Controller in a circular dated 25-1-60 in supersession of the instructions of 1955 directed all dealers to report the position of re-rollable scrap from imports as well as non-controlled sources, to the State Steel Licencing authorities and directed that these materials could not be sold at prices exceeding statutory Column III rates.

Orissa Chamber of Commerce and Industry in their letter dated 15th March 1960 addressed to the Chief Minister, Shri H.K. Mahtab referred to the above circular of Iron & Steel Controller, of 25-1-60 and requested that it would be in the fitness of things if the Governmen could condescend to withdraw the cases launched earlier against dealers. The Chief Minister, on 30-4-60 recorded the following Minutes :

"Minister (Supply)

Please examine this. If nothing is likely to come out of the cases, they may be withdrawn."

Shri Neelmani Routroy passed this on to his Secretary Supply. In the Supply Department, the Asst. Secy. observed in a note dated 26th May 1960 that the cases had already been launched and being sub-judice it was open to parties concerned to plead the fresh circular of 1960, of the Steel Controller, in their defence, and it was for the Court to decide the matter. The Secretary (Supply) in a detailed note of 28-6-60, while mentioning various points, both in favour of and against withdrawal of cases, suggested consultation with the Law Department. The Supply Minister, Shri Routroy then in his note dated 26th July 1960 to the Chief Minister observed :

"........I have carefully looked into these points. In my opinion these cases were instituted without carefully examining the Iron Control Order and instructions from the Iron & Steel Controller......It appears that Calcutta Merchants were always selling these materials at higher than the Controlled rates. There is no doubt about the fact that there was utter confusion and ambiguities in the earlier circular of Iron & Steel Controller. When there was so much confusion, the benefit of doubt may go in favour of the people who acted in pursuance of the instructions of the Iron & Steel Controller. Under these circumstances it appears to me that chances of success of cases are very remote. There is a view that when these cases have already been instituted, let them be disposed of in the law courts. This means harrassment to merchants in the court where the cases will be dragged on for a long time. If C.M. after going through these notes, as examined in the Department feels that legal opinion is necessary he may kindly consult the Law Secretary in the matter".

At the instance of the Chief Minister the matter was examined in the Law Department, and their opinion was that although strictly, under the law, by virtue of 1956 Control Order the executive instructions issued in 1955 lost all the force, the latest letter of 1960 of the Steel Controller appeared to proceed on the basis that there was in fact no control exercised over scrap iron and the produce therefrom. The above position, however, was subject to the condition that in each of the individual cases in question, it will have to be ascertained whether in fact the persons involved had obtained the materials from dealers in scrap and producers of materials from out of scrap iron and further that the impugned materials were in fact the product of scrap iron. Only if these two conditions were satisfied, the benefit of confusion could reasonably be made available to the persons proceeded against.

The Chief Minister observed:

> "Minister (Supply) will please see. In view of what Secretary (LAW) says the cases may be withdrawn and to satisfy the court other points raised by Secretary (Law) may be looked into."

Shri Neelmani Routroy in his minute dated 20-7-60 directed the Supply Secretary to take action as observed by the C.M. and a draft letter to District Magistrate, Cuttack, directing him to examine indiv idual cases, in the light of the opinion of the Law Department, was put up for approval of the Supply Minister who, however, directed that the District Magistrate will not be in a position to check up these matters and the Assistant Secretary dealing with the subject, would be in a better position to do so, The Asstt. Secy. after checking up the invoices of the supplying firm, gave the opinion that there was no reason to doubt the bonafides of these invoices and the Deputy Secy. thereafter suggested that if the Govt. approved, the Dist. Magistrate may be requested to advise the public prosecutor to take these facts into acount at the time of applying for the consent of the court for withdrawal of the cases, *so far as it concerned the sale of rods and bars.* Shri Neelmani Routroy in his note dated 24-9-60 however ordered that the District Magistrate Cuttack may be asked to take steps *for withdrawal of all these cases.* A draft letter to the District Magistrate was accordingly put up to the Minister Supply who added the following line, in the draft letter, in his own hand :

> "Hence Government have decided to withdraw these cases".

District Magistate Cuttack in his letter dated 23rd December, 1960 to the Deputy Secretary Supply intimated that out of the various cases lunched, 5 cases relating to contraventions under clauses 12 (ii) (a), 12 (i) and 28 (a) did not come within the purview of the Government's letter received by him and he had, therefore, ordered that those cases may continue. He also stated that the remaining 5 cases were being examined in the light of Government's advice and that action as deemed proper will be taken. Through the 5 separate letters, all dated 2-1-61 the District Magistrate Cuttack subsequently informed the Government that while 5 cases had been disposed of in accordance with the wishes of the Government, the remaining cases were of a different category. He stated that from perusal of Government's letter, and the Iron & Steel Controller's circular of 25th January 1960, it appears to be the Government's intention to give benefit of doubt regarding continuance of the validity of the instructions issued earlier by the Steel Controller in 1955. The District Magistrate was doubtful as to whether the Circular of 1955 had any validity after the promulgation of the Iron and Steel Control Order of 1956. He further added that while benefit of doubt in this regard may be given to the accused, the accused had sold certain stocks at rates varying from Rs. 960 to 1037 per ton against the authorised rate of Rs. 695 which could not be justified even in accordance with the 1955 circular and therefore, on this score there appeared to be no doubt regarding contravention of which any benefit could be given to the accused. He therefore, sought clear instructions as to whether prosecution should be withdrawn or allowed or continue. Only in one of these 5 cases where the rate charged was only Rs. 760 per ton against the authorised rate of 695 per ton, the District Magistrate felt that the difference not being very great, he had allowed that particular case only to be withdrawn. The Secretary (Supply) suggested to his Minister that it would be safe to obtain Law Department's advice before taking a decision on D.M's letter. Shri Neelmani Routroy, however, in his minute dated 21-1-61 observed :

> "When we take a decision, it should be given effect to without inordinate delay. In dragging on a matter, sometimes the grace is lost.............we may instruct the Collector to take steps to *withdraw the cases and to close the chapter once for all*".

A letter was accordingly issued to District Magistrate, Cuttack, with the approval of Minister Supply on 2nd February, 1961.

M/s Industries and Corporation Enterprise (P) Ltd. in their letter dated 8-1-62 to the Minister (Supply) complained that while the Minister had been kind to issue orders for withdrawal of all cases, 2 cases were still pendindg against them in court and the Minister may kindly order the withdrawal of these cases also. Shri Neelamani Routroy in his note to Secretary Supply observed that he was under the impression that all cases had been withdrawn and that no discrimination should be made and necessary action be taken. A note was prepared in the Supply Department which showed that prosecution had been launched against the stockists, following raids in May 1959 for contravention of various provisions of the Control Order 1956. Orissa Chambers of Commerce had represented for withdrawal of the cases on the ground that there was confusion on account of the orders which allowed unregistered re-rollers to acquire scrap materials from the open market and to charge higher rates than those specified in Column III of the Control Order. In consultation with the Law Department order had been issued for withdrawal of the cases. Thus the cases fo contravention of clauses 4, 5 and 15 had been withdraw by the District Magistrate Cuttack. In the other 5 case which were progressing in courts, against 4 parties, fo contravention of clauses 12(ii) 28(a) and 14(i) there wa absolutely no confusion, the benefit of which could be mad available to the accused, as was the position in ca se already withdrawan. It was also stated that the cases in question had already progressed in the courts and some of them were at argument stage. It was doubtful therefore, whether the court will allow the withdrawal of these cases even if the Government decided that these may be withdrawn.

Shri Neelmani Routroy, Minister Supply, then observed in his minute dated 23-4-62.

> "The intention of the Government was to withdraw all the cases but it appears that other cases have been withdrawn excepting the 4 cases mentioned at page 47/N. It is said that they come under different category. Whatever that may be, Government's intention was to withdraw all the cases and to close the chapter once for all as may be seen from my orders dated 21-1-62 on page 43/N. In the meantime the iron & steel position has also considerably improved and control on many iron materials has been relaxed. So it does not look nice to continue these cases after such a long lapse of time, say about 3 years. Therefore, we need not proceed with the cases and take steps to withdraw them immediately."

District Magistrate, Cuttack, was accordingly advised on 4-5-62 to direct the public prosecutor to withdraw these cases also with the permission of the court and to report the action taken. A reminder was also sent on 14-7-62 to the Collector but the file is silent as to what action was taken by the Collector as no reply from him is available on the file.

It will be seen from the above discussion, that on receipt of complaints of black marketing, action was taken, by the then Supply Minister against steel dealers after examining the legal position thoroughly, and afte consulting the office of Iron and Steel Controller. Thi action was taken during the brief spell, when Shr Neelmani Routroy had ceased to be the Supply Minister The observation of Shri Neelmani Routroy in his minut dated 26th July 60 that the cases had been institutec without carefully examining the Iron Control Order wa: not factually quite correct. The examination of the question of withdrawal by the Law Department, as will be clear from their note, pertained merely to the disposal of the products of uncontrolled scrap, at higher rates than those authorised by the Steel Control Order 1956, regarding which the Law Department felt, the benefit of doubt could be given to the accused. This examination does not appear to have concerned itself, with the other contraventions of the Steel Control Order 1956, regarding which, as the Collector Cuttack pointed out, there was no confusion. The Secretary's (Supply) suggestion that the point raised by Collector Cuttack may be examined in the Law Department was overruled by Shri Neelmani Routroy. Even the note prepared by the Assistant Secretary (Supply) after ascertaining the position in Calcutta, and after consulting the Deputy Iron & Steel Controller and the Price Controller, clearly showed that although some unregistered stockists were disposing of goods in Calcutta above the statutory rates, raids were being periodically organised to detect such contraventions. The view expressed by the Supply Minister therefore, that traders were being allowed, in Calcutta, to dispose of these materials at higher than the controlled rates, as if under proper sanction, was also factually not quite correct, and in any case, the illegal activities of traders in Calcutta could hardly be cited as a justification to allow such activities in Orissa State. In respect of at least the 4 out of 10 cases, it seems to be quite clear that these were ordered to be withdrawn by Shri Neelmani Routroy, as Supply Minister, without consulting the Law Department and against the views of the Supply Department and the District Magistrate Cuttack. This allegation therefore appears to be prima facie established by the material on record in the official files.

Allegation No. 12.

REPORT OF THE SALE OF PRIVATE LAND BY SHRI BRINDABAN NAYAK TO THE STATE ELECTRICITY DEPARTMENT OF ORISSA

Shri Brindaban Nayak is in possession of a vast are of land near Railway Station Berhampur. He want to dispose of the same at a very high price, which i abnormal, to the railway authorities by utilising hi power as a Minister. He has already disposed o an area at a higher cost to the Electrical Department, Queen MH School etc.

Scrutiny of the official record made available by the State Government shows that the State Electricity Department had been in need of some land, since 1955, for the construction of residential quarters for the staff of the Superintending Engineer, Behrampur. The District Collector had initiated land acquisition proceedings for acquiring land in village Goclandi and a notification under the Land Acquisition Act also appears to have been isssued but the relevant file made available contains no details as to the date of the issue of the notification or the area of the land covered by the notification. A sum of Rs. 1,32,997.26 appears however to have been deposited with the Collector by the Electricity Department by way of compensation for the land which was proposed to be acquired.

On the formation of Orissa State Electricity Board, the, Collector Ganjam, informed the Government that in the changed circumstances the land acqu'sition proceedings initiated earlier could not be continued as the State Electricity Board was a Corporate Body and not a Department of the Government, and a fresh notification under the Land Acquisition Act will be necesary. The Irrigation and Power Department communicated this information to the Superintending Engineer, Electrical Circle, Berhampur, who approached the Chairman, State Electricity

Board, Berhmapur on 12-2-63 with the request that the matter may be pursued further and he was directed by the Board to furnish declaration with necessary details of the land required so that further action for acquisition may be taken.

The Superintending Engineer, Shri B.K. Sarkar, again wrote a personal D.O. letter to Shri Kapila, Chairman, State Electricity Board, stressing the urgency of the construction of the residential quarters for the staff, but the Chairman of the Board asked the Superintending Engineer to ascertain if the required land could be purchased by private negotiation. There is no clear indication in the official files as to why exactly purchase through private negotiation was suggested, but this could have been in order to bye-pass the lengthy, and irksome land acquisition proceedings.

On 1-6-63 the Superintending Engineer wrote to the Revenue Divisional Commissioner that he had learnt that a portion of land measuring 40 acres, which had already been requisitioned by the Government for the Medical College, was no longer required and was proposed to be disposed of by the Government. He, therefore, requested that this land may be given to the Electricity Board for construction of staff quarters. This suggestion was turned down by the Revenue Department on the technical ground that the land acquired for one specific purpose could not legally be devoted to a different purpose. The Superintending Engineer apprised the Chairman State Electricity Board of this position, but expressed the view that the land in question, which was no longer required for the Medical College, was very suitable for construction of staff quarters, workshop, etc. and will also be cheaper as its valuation had been fixed at Rs. 5000/- per acre, whereas the purchase of land through private negotiations was likely to cost Rs. 15,000/- to Rs. 20,000 per acre. He requested the Chairman, Electricity Board, to persuade the District Magistrate, Ganjam, to hand over a part of this land to the Electricity Board. Shri Kapila, Board's Chairman, accordingly addressed the Collector, Ganjam, on 13th July 1963 and requested the latter to examine as to whether 15 acres out of the 40 acres of land, which ha become surplus to the Medical College, could be sold t the Board.

The matter of getting some land for the staff quarte of the Superintending Engineer at Berhampur, appears t have been discussed also on 3-7-63 by the Chief Enginee with the officers of the Electricity Board and it was the felt that two alternative sites could be considered. On of these was the land which had become surplus to th Medical College and the other was a plot belonging to Shri Brindaban Nayak in village Khodasingi. It is no clear from the official record as to why a fresh notification under the Land Acquisition Act, in respect of the land for which a sum of Rs. 1,32,997-26 had already been deposited previously by the Electricity Department, was not issued and the acquisition proceedings continued. The files also do not indicate as to whom exactly during the discussions on 3-7-63 the land belonging to Shri Brindaban Nayak came to be suggested for the construction of the staff quarters at Behrampur. There is, however, reference in the Superintending Engineer's letter dated 17th July 63, to the Chairman State Electricity Board, a D.O. letter dated 10-6-63 of Shri Brindaban Nayak, in which Shri Nayak appears to have offered the land in question and to have stated that his offer was valid only up to July 1963. The relevant D.O. letter of Shri Nayak, is however, not available on the file. This may, however, be the explanation for the sudden consideration of the land of Shri Brindaban Nayak during the discussion on 3-7-63, referred to above.

The Superintending Engineer, in his letter dated 17th July 1963 had informed the Chairman, State Electricity Board, that he had been given to understand during telephonic conversation that very day, that it would not be possible to spare the surplus land of the Medical College for the State Electricity Deptt. and the Superintending Engineer, therefore, felt that there was no choice left except to purchase the site through private negotiations. He indicated that the land offered by Shri Brindaban Nayak, Deputy Minister, at slum clearance colony, at

Rs. 20,000/-per acre or at the Engineering School a Rs. 15,000/-per acre, was the only land available, and he preferred the first plot at the slum clearance colony, as it was near the town area and on higher level. He further stated that Shri Brindaban Nayak, however owned 5 acres of land near the slum clearance colony but other persons possessing adjoining plots of land were also willing to sell it at the same rate. He stressed the need of early finalisation as Shri Nayak's offer appeared to be open up to the end of July, 1963 only.

The Chairman, Electricity Board, appears to have discussed the matter of purchase of land of Shri Brindaban Nayak, with the Addl. District Magistrate, the Land Acquisition Collector and the Tehsildar, Berhampur, on 5th August, 1963, thereafter he recorded a note an 8th Aug., 1963, in which it is stated that although originally only 5 acres of land were required for the staff quarters, this would now prove inadequate and he, therefore, was of the view that the best course would be to acquire or purchase about 10 acres of land. It will be recalled that the plot of land which the Superintending Engineer had preferred, near the slum clearance colony, consisted of only 5 acres of land belonging to Shri Brindaban Nayak but he had indicated that adjoining plots could also be purchased. This piece of land being at higher level and being more conveniently located, had been considered more suitable. It would appear, therefore, that on the ground that more than 5 acres of land would be required for the staff quarters, the other piece of land belonging to Shri Brindaban Nayak, came to the considered. The Chairman, in his above mentioned note of 8th August, 1963 has further recorded in connection with the 15 acres of land offerd by Shri Brindaban Nayak at Rs. 15,000 per acre, that Shri Nayak had sold some land in the neighbourhood at Rs. 10,000/- per acre two years earlier, but the price of land, from what he could understand from the Collector's representatives, had since risen and the value of the land in question would be about Rs. 15,000 per acre.

A formal reference was then made to the Collector, Ganjam by the State Electricity Board on August 9,1963 in reply to which A.D.M. Ganjam intimated to the Executive Engineer, Ganjam Electrical Division on 4-9-63 that the value of the land in question was Rs. 18,875 per acre. It was further indicated that the available land belonging to Shri Brindaban Nayak was 13.25 acres. This was conveyed to the State Electricity Board and the Chairman of the Board was requested to make it convenient to discuss the matter with Shri Nayak at Bhubaneshwar. It appears from the note-sheets on the file that the Addl. Chief Engineer accordingly held discussions with Shri Brindaban Nayak on 12-9-63 and Shri Nayak while emphasing that his offer of sale of land at Rs. 15,000/-per acre has been valid only up to July 1963 and the prices had since gone up further agreed, however, to sell 10 acres of land at the previously offered rate, provided part of the land adjoining the road-side, National High Way, consisting of about 3 acres was left out. It appears further that in the course of this discussion, Shri Nayak also suggested that a relation of his, possessed two acres of adjoining land and would be willing to sell the same to the Board on similar terms. This relation of Shri Brindaban Nayak, it appears from a separate note, was in fact Shri Nayak's brother-in-law. The Addl. Chief Engineer, after this discussion suggested to the Chairman, Electricity Board in his note dated 12-9-63 that since Shri Nayak had agreed to sell the land at Rs. 15,000/- per acre i.e. at about Rs. 4,000/- per acre less than the prevalent rate in the locality, as intimated by A.D.M. Ganjam; it would be desirable to get in for all the 15 acres i.e. 13 acres of Shri Nayak and two acres of Shri Nayak's brother-in-law, Shri Panigrahi, in view of the future developments at Berhampur. The Chairman, Electricity Board, appears to have himself held further discussion with Shri Nayak on 13-9-63 and Shri Nayak agreed to sell the land in question but asked for Rs. 50,000/-to be paid in advance to him and also indicated that he could not keep the offer open indefinitely. The Superintending Engineer, Berhampur, was asked to intimate his exact requirements of land and he replied back to say that the land consisting of 15.02 acres, consisting of 13.02 acres belonging to Shri Brindaban Nayak and 2 acres of Shri Brindaban Nayak's brother-in-law, may be purchased. A decision was accordingly taken on 19-9-63 to purchase 15.02 acres of land at the rate of Rs. 15,000 per acre. The sum of Rs. 1,32,997.26, formerly deposited with Collector, Ganjam, by the Electricity Department by way of compensation for the land which was than proposed to be acquired was withdrawn and the Assistant to the Chief Engineer, in his letter dated 19th September, 1963 informed Shri Brindaban Nayak, Deputy Minister, C.D. & Panchayat Raj, that the Board had decided to purchase his land and that of his brother in-law and he may, therefore, direct his agent at Berhampur to contact the Superintending Engineer, Electrical Circle, and to hand over the possession of the land,

It appears from the file that the total cost of the land purchased, including the cost of a stamp duty and registration amounted to Rs. 8,500/- and other miscellaneous expenses of Rs. 2,000/- came to Rs. 2,35,050.

It will be seen from the above discussion that the land acquisition proceedings had already been initiated for acquiring land for the Electricity Department, and a sum of Rs. 1,32,997.26 had also been deposited by the Department by way of compensation. It was then found that since the State Electricity Board was a Corporate Body and not a department of the government, a fresh notification would be necessary so that the acquisition proceedings could continue, but for reasons which are not very clear this course of action was not pursued further. In the meatime in June 1963, Shri Brindaban Nayak appears to have offered to the State Electricity Board two alternative sites of land consisting of 2 acres in one case and 13.02 acres in the other, at Rs. 20,000/-per acre and Rs. 15,000 per acre respectively. The Superintending Engineer, proferred the land near the slum clearance colony offered by Shri Brindaban Nayak at Rs. 20,000 per acre and also indicated that although Shri Nayak himself possessed only 5 acres of land, persons owning adjoining plots of land were also willing to sell the same, but this site was not purchased and instead the second alternative site, which Shri Nayak had offered at Rs.15,000 per acre, and in which he himself owned 13.02 acres, and his brother-in-law owned 2 acres, was purchased by the Department.

It has been stated in the allegation that Shri Brindaban Nayak had sold this land to the Electricity Dept. at higher than the prevalent market rates. The only material on record in this connection is the letter of Addl. District Magistrate, Ganjam, according to which the revenue authorities had valued the land at Rs. 18,875 per acre. Considering that the land in question belonged to Shri Brindaban Nayak, the possibility of the revenue authorities having over valued the land in question, can not be excluded, but in order to arrive at the facts, it will be necessary to make oral enquiries and to scrutinise the relevant record of the revenue authorities concerned.

It has also been stated that Shri Brindaban Nayak is trying to dispose of some land near Railway Station Behrampur to the Raleway authorities at a very high price. Relevant official record is not yet available and this matter, can, therefore, only be pursued when the official record is received.

Allegation No. 13

P.E.N. 4 (Sh. Sadashiva Tripathy)

Entries in the books of accounts of Mohd. Serajuddin and his Companies, showed certain payments to Shri Sadashiva Tripathy, Minister Orissa Government.

Shri Sadashiva Tripathy first became a Minister of Orissa Government in August, 1948 and was allotted the portfolio of Revenue which he has held during every period of Ministership in Orissa. He had joined 1952 Ministry also on 26-2-52 and until about 1955, matters pertaining to mine and mining leases were being dealt with, in Orissa, by the Board of Revenue under the charge of the Revenue Minister. Shri Sadashiva Tripathy resigned from Ministership on 22nd September, 1956. From 22-9-56 to 22-6-61 he held no office. He however remained a member of the Legislature till September 1959 when he resigned his membership. He joined Shri Patnaik's Ministry again on 23-6-61 and was allocated the portfolio of Revenue, Excise and Forestrv Branch of Development Department.

In the file seized from the premises of Serajuddin in the course of searches made by the Customs Officials, the following entries were found :

(1)	15-5-55	Rs. 68/8/6	Expenditure on gramophone records etc. purchased for the son of Sh. S.S. Tripathy.
(2)	1.7.59 4.7.59	Rs. 70/62	Expenditure on railway tickets.
(3)	2.7.59	Rs. 500/-	In cash
(4)	3.7.59	Rs. 12,000/-	In cash.
(5)	19.2.63	Rs. 211/-	for spectacles.

Regarding the first entry relating to the gramaphone records etc. the relevant cash memos bear on their reverse the words 'Revenue Minister's son' in the handwriting of late Shri Bunchan Nidhi Misra which has been identified by former employee of Serajuddin & Co. The relevant file also contains a statement of account rendered by Shri B.N. Misra for adjustment of his advance account for the year 1954-55 and at Serial No. 6 the account reads 'expenditure incurred in purchase of articles for the son of Revenue Minister, Orissa'.

In another file, item No. 720, is a voucher dated 1-7-59, in the hand of Shri D. N. Misra. The voucher for Rs. 62/50 relates to expenses of purchasing train tickets from Howrah to Bhubaneswar for the date 3-7-59 for Shri Sadashiva Tripathy and taxi expenses etc. Another voucher for Rs. 8.12 relates to reservation charges and the expenses in connection whith the change of first class train tickets from Madras Mail to Puri Express for 3-7-59. The relevant vouchers are countersigned by Shri M. K. Rehman nephew of Mhd. Serajuddin.

Items No. 720 is a voucher dated 2-7-59 in the handwriting of M. K. Rehman which reads as follows :—

> ",Received Rs. 500/- for payment to Sadashiva Tripathy as per verbal orders of uncle. The amount has already been paid by me.
>
> Sd/- M. K. Rehman
> 2-7-59".

The next item is another voucher showing a cash of Rs. 12,000/- written in Kaithi and signed by M. K. Rehman. This reads:—

> "Janab Ayub Saheb se Rs. 12,000/- (Bara Hazar rupaya) Sadashiva Tripathy ko ek fiat gadi kharidne ke liye diya jaraha hai. Chacha sahib se baat karne ke baad yeh rupaya dene ka faisla kiya gaya.
>
> Sd/-Mh. Dhalilur Rehman
> 3-7-59".

The last item is an entry, again written in Kaithi script, in the handwriting of Mohd. Serajuddin, and reads:—

> "Chand Khan Chashme-wala.
> Rs. 160 Chashma ek frame sahit.
> Rs. 51 Chashma ek purana ka glass badli (repairs) Shri Sadashiva Tripathy and Land Revenue Minister.
>
> Rs. 211 Dt. 19-2-63".

Shri Annaswamy, formerly P.A. of Mohd. Serajuddin, had made certain confidential disclosures which showed that account of payments made by Mohd. Serajuddin and his Campanies to various persons, used to be maintained by Mohd. Serajuddin, M. K. Rehman and Mohd. Shoeb, in separate note-books kept in their personal custody. The amount required for this purpose used to be taken out either from cash in hand with Serajuddin and Rehman or from a box containing cash which was generally termed as "Uchant Kharach". The funds of "Uchant Kharach" were the amount of "Black Money" earned in the course of business. No payment, however, could be made unless personally authorised by Mohd. Serajuddin or his nephew Rehman. Not even Mohd. Shoeb, son-in-law of Mohd. Serajuddin, could authorise such payment without approval of the above two persons. Shri Annaswamy had also disclosed that Serajuddin used sometimes to boast before him that he had merely to press the button, open his purse, to make the entire Indian Administration move according to his wishes, and used to talk freely of the huge bribes paid to some Ministers of Orissa, including Shri Neelamony Routroy and Shri Sadashiva Tripathy.

There is evidence to show that the payment made to Shri Sadashiva Tripathy, as revealed by the entries above, were from Mohd, Serajuddin's "Uchant A/c" and such payments are neither reimbursable nor do the accounts of Serajuddin show that these payments had at any time been reimbursed.

Mohd. Serajuddin & his companies are mine owners and exporters of ores. They own extensive mines in Orissa. Files of the Mining and Geology Department of Orissa Government relating to Serajuddin and his company show that Shri Sadashiva Tripathy, as Revenue Minister, had official dealings with Serajuddin and his companies and further that he had also shown favours to Serajuddin and his companies from time to time.

Serajuddin & Co had some mining leases in Keonjhar State. On the merger of this State with Orissa, Orissa State Government stopped the working of these mines on 23-5-48 and annulled the lease of this Co. The lessee filed a civil suit and the case was ultimately compromisd. Under the compomise Serajuddin & Co. was allowed to keep 100 acres of the lease area and 100 acres were surrendered by them. The State Goverement at that stage intended to work the surrendered area of chromite themselves. Even before the compromise, however, Serajuddin & Co. had applied on 16-12-49 for a fresh lease of 200 acres and for prospecting licence for chromite. This application along with the applications of others were kept pending as departmental working was being contemplated. In fact the area surrendered by Serajuddin & Co. was shown in the register of Mining Leases as reserved for Industrial purpose. Serajuddin & Co. filed another application on 10/12th October, 1953, for mining lease for chromite ore over an area of 567.65 acres in Keonjhar District, which included the 100 acres previously surrendered by them. This application, could not, therefore, take priority over several applications already kept pending by the Government. Shri Sivaraman, Member, Board of Revenue, in his note had observed that the surrendered area had not been registered for reissue and on this ground all applications may be rejected. This note was seen by Shri Sadishiva Tripathy on 31-1-54 and he approved of the same. For some unaccountable reasons, however, formal procdedings rejecting these applications were not drawn up. On 24-8-54, Shri Sivaraman, in a note to the Revenue Minister observed that during discussion with the Minister it had been felt that the special claim of Serajuddin & Co to the 100 acres they had surrendered may be taken up and the rest of the area may be reserved for the time being. As question of priority was likely to arise, special sanction of the Government of India may be taken. With Shri Sadashiva Tripathy's approval a reference was then made to the Ministry of Natural Resources and the Scientific Research, Government of India on 17-9-54.

It will be seen that the State Government contemplated working the chromite area themselves. In the intervening period no fresh ore bearing areas had been discovered or developed, to justify any change in the stand of the Government. The applications, which were pending, were proposed to be rejected on the ground that the area was reserved for industrial purposes and for special working by the State, but an exception was decided upon in the case of Serajuddin & Co. and the State Government were at pains to point out to the

Government of India that no further chromite area will be released for the time being to anyone else. This shows that special favour was being shown to Serajuddin & Co. and for that purpose the State Government had even changed their plans to work the concerned area themselves.

The interest that Shri Sadashiva Tripathy was taking in the above matter will also be noticed from the following note of Shri Sivaraman recorded on 14-2-55:—

> "You wanted to see this file. The 100 acres, surrendered by Sarjuddin & Co. have been shown in the register of mining leases in the District Office as reserved for industrial purpose until further orders. The application of M/s. Serajuddin & Co. has been filed only on 12-10-53. The application of Shri S. C. Padhi dated 29-6-53 for prospecting licence, impinges on this area substantially. This is why I consider it desirable to take Government of India's orders straight to save all bother in future on the basis of conflict, claims on reviews and petitions. Shri S. C. Pahdi is the son-in-law of Shri Shanker Prasad Misra of Sambalpur."

On receipt of Government of India's approval, Shri Sivaraman sent the file to the Revenue Minister and suggested that for the grant of 100 acres only to Serajuddin & Co. we may explain that in view of the the previous holding of the area by this Company and their special pleas for consideration, Government had been pleased to relax the reservation for these 100 acres only. Shri Sadashiva Tripathy, in his note dated 28-2-55 to the Chief Minister, approved of the suggestion of Shri Sivaraman and also ordered that permission to work out the mines may also be granted as in the case of manganese leases until the lease was finally executed.

In another case of grant of mining lease for managanese and iron ores over an area of 830 acres, Serajuddin & Co. sent an application by registered post directly to Shri Sadashiva Tripathy, Revenue Minister, on 4-11-53' The area applied for had previously been surrendered by this company under a compromise, and was reserved for industrial purpose by the State Government. There were other applications having a prior claim, also and since the area was not available for being leased out, proceedings rejecting the applications were drawn up on 29-5-54. Shri Sadashiva Tripathy, Revenue Minister, appears to have again taken interest in this matter. In this case again the State Government, somehow seems to have discovered that the area was not suitable for exploitation and recommended the application of Serajuddin to the Government of India, for manganese ore only. Serajuddin & Co. than filed a representation that the concession allowed should include iron ore also, and filed a fresh application. On verification it was discovered that 500 acres out of 830 acres applied for, came within the area reserved for exploitation in the public sector, according to the report of the Exports Committee of the Government of India. On the ground that manganese and iron ore were inter-beded the State Government recommended mining lease to Serujuddin & Co. for iron ore also and this included 500 acres which were intended to be worked in the public sector.

Apart from the above two cases, in which specre favour and consideration was shown to Serajuddin & Co. by Shri Sadashiva Tripathy, when he was Revenue Minister, and therefore, officially dealing with mining leases, there are also some others cases which also indicate Shri Sadashiva Tripathy's personal interest in Serajuddin & Co.

The material on record makes out a prima facie case in respect of this allegation. There are no circumstances whatsoever to doubt the correctness of the entries in the accounts of Serajuddin & Co. There is no indication in these accounts that the amount paid to, or the expenses incurred on Shri Sadashiva Tripathy or his son, were reimbursed. It is also clear that Shri Sadashiva Tripathy, as Revenue Minister, Orissa Government had shown special favours to Serajuddin & Co. in the matter of mining lease, which came under his charge.

Allegation No. 14

Entries in the books of accounts of Mohd. Serajuddin and his Companies, show certain payments in cash and kind to Shri Neelmony Rout roy Minister, Orissa Government.

Shri Neelmony Routroy first joined as Deputy Minister on 20-2-1952. On 6-4-57 he became a Minister and was allocated the Departments of Supply, Transport and Labour. He relinquished office on 22-5-59 but rejoined as a Minister on 14-7-59 when was allocated the Departments of Supply and Commerce. He remained as a Minister until 25-2-61 when President's rule was promulgated in the State of Orissa. In the Ministry headed by Shri B. Patnaik, Shri Neelmony Routroy joined as a Minister and was allocated the Departments of Home, Commerce, Labour and Supply. On Shri Biren Mitra taking over as Chief Minister on 2nd October, 1963, Shri Neelmony Routroy was allocated the portflolios of Political and Services, Home, Supply and Labour.

In the files seized by the Customs Officials, in 1959 from the premises of Serajuddin, in the course of searches, the following entries found mention :

(i)	1-10-50	Rs. 3115/-	in cash
(ii)	18-3-54	Rs. 3000/-	in cash
(iii)	22-12-54	Rs. 432/12	Expenditure incurred for purchase of tickcts, hotels charges etc.
(iv)	23-6-59	Rs. 6000/-	in cash
(v)	11-7-59	Rs. 247/78	Gold Necklace.

Regarding cash payment of Rs. 3115/- the following entry in Kaithi script written by Mohd.Serajuddin, appears in file Item No. 13. The entry reads :

"Tarikh 1/2-10-50 Roz itwar Puri express to Cuttack Subha Paanch baje pahunch kar halt—kamm material labour logon ka vo lease chromite manganese ke liye koshish—mulakat Labour Minister, Shri Pabitra Mohan Pradhan Vo Shri Neelmony Routroy vo Shri Biren Mitra............"

Rs. 3115/- Neelmoney Routroy, Labour Union Congress Central Government ka Commissioner ka office magement voh bhalai labour ke liye Rs. 3000/- vo khudrakamm ke liye Rs. 100/- petrol ke liye Rs. 15/-.

Tarikh 1-10-50 Cuttack main hum logon ka daira main khud Routry Sahib liye raat 9-30 baje Hari Har Mahapatra Clerk Hari Babu ko jo hamare saath the."

The above entry shows that Mohd. Serajuddin had gone to Cuttack on 1-10-50 for attending to some labour matters, and in connection with matters relating to chromite and maganese mining leases. It further appears that Shri Neelmony Routory had personally gone to the camp of Serajuddin at 9-30 p.m. on the same day and the payment was made in the presense of Hari Har Mahapatra.

The second payment of Rs. 3,000/- in 1954 is also in handwriting of Serajuddin and was found in another book of account Item No. 11. This Entry reads as under:

"Rs. 3000/- 18-3-54 Neelmony Routroy",

Accounts in Item No. 11 are written date-wise and at the end of each page totals have been struck. These totals have been carried over to the nexe page. The entries in this book of account relate to normal business transactions involving payments to Central and State Government officers and VIPs.

On careful scrutiny of the accounts of Serajuddin it was found that he was maintaining the same systematically and that accounts in Item No. 11 were inter-linked wlth accounts in other books viz. Item Nos. 13, 14, 15 and 16. Serajuddin was also drawing a balance sheet at the end of the accounting period. The authenticity of these accounts appears to be verified by a check, with some credits shown in Serajuddin's accounts in the Eastern Bank Ltd., Calcutta.

There is evidence to show that the payments made to Shri Neelmony Routroy as revealed by the entry item No. 11, mentioned above and some other books of accounts were from Mohd. Serajuddin's Uchant account and such payments were neither reimbursable nor do the accounts of Serajuddin show that these payments had at any time been reimbursed.

Regarding the 3rd entry relating to the expenditure incurred for purchase of tickets, hotel charges etc. in December 1954, a statement of a/c in the handwriting of late Banchnidi Misra, a former employee of Serajuddin was found at page 51 of another file Item No. 637 recovered on the search of Serajuddin's premises in 1959. Banchnidi Misra had given the following heading to this Statement of account:

> "Accounts of expenditure incurred for entertaining Dy. Minister Home, Orissa".

The Statement of account is duly supported by another account submitted by one Shri B. K. Roy of Serajuddin, & Co. and the same in its turn is accompained by the original cash memos/bills/vouchers. One of these cash memos relates to a bill of Hotel Minerva for Rs. 67/4 which shows that Shri Neelmony Routroy stayed in Calcutta from 22-12-54 to 23-12-54. The designation of Shri Neelmony Routroy in this bill is shown as Deputy Minister of Home Orissa. The statement of account by Shri S. K. Roy and the supporting bills show that Serajuddin not only bore expenses of the Minister on this occasion but he also incurred the expenses over the entire party of officials accompanying hjm.

Along with the above bills and cash memos was also found in the file a state telegram sent by the Personal Assistant to the Deputy Minister. From this and other circumstances, it is clear that Serajuddin's representatives were close to the Minister's party and the latter did not care even leaving official papers with the former.

In file Item No. 637 a statement of account bearing a head "Serajuddin & Company's account rendered by Banchnidi Misra for adjustment of his advance for the year 1954-55" was also found which is a consolidated statement of account for a total amount of Rs. 15,715/15/3 In this statement of account the relevant item appears at page 3 and the entry reads as under :

> "28-12-54 : paid for hotel charges, taxi hire, air ticket and railway tickets for Deputy Minister Home",

It is significant that this statement of account covers a period right up to 20-3-55 which would show that the amount in question was not reimbursed to Serajuddin till that date 20-3-55 at least. In fact there is no voucher in the file concerned showing the re-imbursement of the amount.

Regarding payment of Rs. 6000/- relevant voucher in another item file No. 721 reads as under :

> "Shri Neelmony Routroy lie hain 6000 (Chheh hazar) Uchant Khata main lika hai unki bhatiji ka shadi hai.
>
> Sd/- Serajuddin.
> Dt. 23-6-59".

The voucher is in the handwriting of Serajuddin. File Item No. 721 is described as "Uchant Cash Book ka rasid file 1/6/59 se 30/6/59 tuck".

It is clear that this amount of Rs. 6000/-having been paid to Shri Neelmony Routroy from Uchant account was neither reimbursable nor do the accounts of Serajuddin show any reimbursement of the same.

The last item relate to the presentation of a gold necklace to Neelmony Routry. In yet another file Item No. 720, an invitation card from Shri Neelmony Routroy to "Mir Ms. Serajuddin" on the occasion of his niece's marriage (marriage of Runtala Kumari, daughter of Hare Krushna Routry with Nirankar s/o Late Dr. Gourahari Patro of Cuttack on 12-7-59 was found. On this invitation card, a note had been written by Mohd. Serajuddin in his own handwriting in Kaithi that a gold chain from M/s. M. B. Srikar for Rs. 200 to 250 may be sent through Misra's son with a D.O. letter that he was ill and may be excused.

In the above file a cash Memo No. B-2576 dated 11-7-59 of M. B. Srikar & Sons, Jewellers, Calcutta, is available. This cash memo is for Rs. 247/78 nP for a gold necklace including making charges of Rs. 40/-. At the back of the cash memo it is noted in Devanagri script that one gold necklace was taken to Cuttack for handing over to Shri Nilamony Routroy. This is under the signature of one Sashi Bhusan Misra and the same is dated 11-7-59.

It has already been stated that Shri Neelmony Routroy had been functioning continuously as a Minister of the Orissa Govt. since 20-5-52 when he first joined as Deputy Minister in 1952 except for two small gaps in 1959 and 1961. The cash payment of Rs. 6000/- as well as the presentation of gold necklace took place in June and July 1959 when he was not holding any office but the cash payment of 1954 as well as the expenditure incurred on his visit to Calcutta took place when he was a Minister in power. In any casc except for the two small gaps he continued to function either as a Deputy Ministcr or as a Minister. Serajuddin who is a shrewd businessman may well have incurred the various expenses merely for gaining his goodwill. It is also a fact that quite a number of Serajuddin's important mining matters were pending with the State Govt. all along for disposal. Various applications of Serajuddin and his companies for mineral concession before being dealt with in the department of Mining, were being routed the much and dealt with in the first instance by the Collector of the area in which this mineral concessions were sought to be obtained. Again for dealing with the labour problems arising in his mines from time to time Serajuddin had heavily to depend upon the help of the District Collectors and the Police. Shri Neelmony Routroy was holding important portfolios of the Govt. like Home, Labour, Supply, Transport, etc. from time to time.

The material on record appears to make out a prima facie case in respect of this allegation. There is no reason to doubt the correctness of the entries found in the accounts of Serajuddin & Co. There are also no circumstances to indicate that the amounts shown to hav been paid to Shri Neelmony Routroy, or the expense which appear to have been incurred on him, wer reimbursed. In fact, as will be clear from the abov discussion, the expenditure incurred by Mohd. Serajuddii from his Uchant a/c was not reimbursable. The total on one page were being carried over to the other page s that the authenticity of the accounts appears to b clearly established. It is true that Shri Neelmon Routroy as a Minister did not directly have to deal witl the question of mining leases in which Serajuddin & Co were interested. Matters of mining leases were howeve pending with the State Govt. and it would not be an unreasonable inference to say that Mohd. Serajuddin, as a shrewd businessman, was incurring expenses on Shri Neelmony Routroy, who had with brief spells remained continuously in Orissa Govt. as a Deputy Minister or a Minister in order to earn his goodwill and assistance.

Allegation No. 15

Scrutiny of the official records made available by the State Govt. has revealed that in connection with the loan of Rs. 97 lakhs taken by Kalinga Tubes Ltd. from the Industrial Finance Corporation of India, the State Govt. by taking over the liability in respect of the stamp duty, saved Kalinga Tubes Ltd. Rs. 97,000, which would have otherwise accrued to the State Revenue.

Kalinga Tubes Ltd., floated in 1950 with a paid up capital of Rs. 25.25 lakhs by Shri B. Patnaik and a few of his friends, with Shri Patnaik and his family having 50% of the shares, had secured a debenture loan of Rs. 16 lakhs from Indian Mutual Life Association, Madras, on the guarantee of the State Govt. for the purchase of machinery in 1952. Subsequently a further debenture loan of Rs. 20 lakhs was also obtained by this Company again on the guarantee of the State Govt. from the same Insurance Co., for the purchase of machinery in 1954. At the time of the second debenture loan of

Rs. 20 lakhs the Director of Industries Orissa after examining the position of fixed assets of the company, had observed that the company had failed to produce any competitive quotations from foreign firms and no satisfactory reasons had been advanced as to why quotations had not been obtained even for the machinery readily available in the open market. He had felt that there were no means of judging the actual value of the items except taking them at their book value; he had remarked that apart from the commission that had been amassed by the Management in purchasing the machinery worth lakhs they had extravagently spent public funds in unnecessary top heavy expenditure.

In 1956 Kalinga Tubes applied for a loan of Rs. 97 lakhs from the Industrial Finance Corporation of India for the purchase of machinery for the establishment of a tube mill for the manufacture of 6" G.I. pipes. It appears from the relevant files of the Govt. of India that applications of Kalinga Tubes Ltd. and Kalinga Industries Ltd. for loans from the Industrial Finance Corporation of India, pending consideration, exceeded Rs. 1 crore and it was not considered desirable for loans of this size to be advanced to one group of concerns. Kalinga Industries Ltd. thereafter withdrew their application for a loan of Rs. 25 lakhs and secured accommodation from the Indian Overseas Bank Ltd., Madras.

The Industrial Finance Corporation agreed to advance a loan of Rs. 97 lakhs to Kalinga Tubes Ltd., provided the State Govt. guaranteed this loan, and three of the Directors, including Shri Patnaik and Mrs. Gyan Patnaik, also stood personal guarantee. The State Govt. of Orissa agreed to furnish the required guarantee in respect of this loan and the loan was sanctioned. It appears that even before the necessary tripartite mortgage deed could be executed Kalinga Tubes Ltd. managed to secure from the Industrial Finance Corporation, on the guarantee of the State Govt., interim loans of the value of Rs. 96 lakhs.

The Industrial Finance Corporation of India sent the draft tripartite agreeement, which contained no provision regarding the liabilitity for the payment of stamp duty, presumably, as this liablity is ordinarily borne by the mortgager. In the State Industries Department, the Under Secretary, however, added a clause to the draft agreement which provided that "the stamp duty on any mortgage deed or deeds that may be executed by the Company in favour of the Corporation for Rs. 97 lakhs or any part thereof shall be borne and paid by the Government". The Law Department pointed out on 10-3-61 that the State Govt. were interested only as a guarantor, in a transaction between the Industrial Finance Corporation on the one part and the Company on the other. The transaction being mainly for the benefit of the parties and the Department to consider whether the Govt. will take over the reponsibility for the stamp duty simply for providing exemption from payment thereof. In the Industries Dept. it was stated in a note that in the case of the Kalinga Industries Ltd, the State Govt. had borne the charges and, therefore, in this case also the State Govt. may bear the the stamp duty. Shri Biswal, Under Secretary Industries Dept. also observed that Govt's. orders will be taken as to whether exemption should be allowed or not and in case Govt. decided that the stamp duty should be charged, the relevant clause in the draft agreement will be deleted. The Legal Remembrancer, however, in his note dated 15-12-61, by which time Shri Patnaik had assumed charge as Chief Minister Orissa with Industries Dept. as one of his portfolios, again pointed out that it was not clear as to what decision the Govt. had taken on the question of payment of stamp duty. Shri Biswal, Under Secretary, Industries Department, then remarked in his note dated 16th December, 1961, that in the case of grant of loan by the State Govt. to M/s. Straw Products Ltd. Government orders had been obtained that stamp duty would not be charged in the case of Government aid. It appears that Shri B. Patnaik had, only a few days earlier, on 4-12-61 recorded a minute on another file, in which it was laid down that stamp duty on Govt. aid need not be charged in any case where Govt. aid was given either directly or through the State Finance Corporation. Even this decision did not strictly apply to the loan of Rs. 97 lakhs of Kalinga Tubes Ltd. as the financial aid in this case was being provided not by the State or by the State Finance Corporation, but by the Industrial Finance Corporation of India .

The Industrial Finance Corporation informed Kalinga Tubes Ltd. on 5th Feb. 1963, that since Orissa Govt. had taken upon themselves the liability of stamp duty and registration fee, the Industrial Finance Corporation considered it necessary to get the document adjudicated by an appropriate authority U/s 31 of the Indian Stamp Act to ascertain if the deed will be exempted from payment of stamp duty. Accordingly a petition for adjudication was moved on behalf of the Kalinga Tubes Ltd. before the Collector Cuttack, who was of the view that there could be no exemption from stamp duty in this case. He however referred the matter to the Board of Revenue which decided that exemption u/s 4 of the Stomp Act could arise only in case where the Govt, being a party to the deed, became statutorily liable for the stamp duty. In the present case there could be no such exemption as the State Govt. had on their own taken upon themselves liability in respect of the stamp duty.

To overcome the difficulty on account of the above decision of the Board of Revenue, the State Govt. in the Finance Department, which was under the charge of Shri B. Patnaik, Chief Minister, issued a notification on 31st August, 1963 under section 9 of the Stamp Act exempting the State Govt. from the payment of stamp duty, amounting to Rs. 97,000/-.

It will be seen, therefore, that the State Govt took upon themselves the liability in respect of stamp duty, although they were only in the position of a guarantor and thereby saved Kalinga Tubes Ltd. in which Shri B. Patnaik's family had substantial financial interest, from the payment of stamp duty of the tune of Rs. 97,000/- which would otherwise have accrued to the State revenues.

—:o:—

Appendix-A

I forward herewith a report giving the results of the preliminary enquiry made by the C. B. I. into certain allegations against some Ministers of Orissa State. From the Memorial, Memoranda, Petitions and complaints received by the C. B. I., 58 allegations emerged. Out of these, 20 were not considered suitable for enquiry by the C. B. I., either because they were of trivial nature or because they involved political matters. In 23 allegations enquiry is held up for want of records or because they require open enquiries or for other reasons. This leaves 15 allegations into which Preliminary Enquiry has been conducted. In 3 of these, the enquiry could not be completed for want of some of the relevant records and it is not possible, on the material available, to come to any definite conclusion about them though there are some suspicious features. The 15 allegations into which enquiries have been made can be grouped into 4 main categories and these are discussed in the following paragraphs :

2. The first and the most important category consists of 8 allegations involving irregularities, improprieties or abuse of power or authority which resulted in undue and improper financial benefits to the firms or concerns in which Shri Bijoo Patnaik or Shri Biren Mitra or their wives or close relations are interested.

The allegations are :-

(i) Issue of Finance Department Memorandum in November 1961 to benefit concerns in which Ministers and their relations had personal interest.

(ii) Purchase made by the State Government from "Orissa Agents", said to be a benami concern of Shri Biren Mitra at exorbitant rates for his benefit.

(iii) Favourtism in the appointment of Shri Srinivasan as Chief Engineer-Cum - Administrator Paradeep Port.

(iv) Purchase of Tubular structures by the State Government from Kalinga Industries Ltd., without tenders.

(v) Purchase of Tubular Structures of the value of over Rs. 16 lakhs by Commerce Department of the State Government.

(vi) Advance of Rs. 13 lakhs to Kalinga Industries Ltd for Tubular Trusses for Tinkerpara Project.

(vii) Sale of low shaft furnace of Kalinga Industries to Industrial Development Corporation of Orissa.

(viii) Improper taking over of liability in respect of Stamp Duty by "Orissa Government" in connection with Kalinga Tubes Ltd.'s loan from Industrial Finance Corporation.

3. In respect of these allegations enquiries show that: (i) Shri Bijoo Patnaik has financial interests in the concerns Kalinga Tubes Ltd., Kalinga Industries Ltd, B. Patnaik Mines Ltd., and Kalinga Otto. Ltd. with which this enquiry is concerned. He had personally started or set up these concerns; he was their organiser and, prior to becoming the Chief Minister of Orissa State, he controlled and managed a number of these concerns personally either as their Chairman or Managing Director. After assuming charge as Chief Minister, Orissa, he ceased to hold any position in these concerns which were directly connected with their management but he still continues to have large financial interests in them; his wife is the Chairman of B. Patnaik Mines (P) Ltd., and also the Chairman of Kalinga Otto. Ltd.

(ii) From the records which could be scrutinised it would appear that Orissa Agents is the sole-proprietory concern of Smt. Easwaramma Mitra, wife of Shri Biren Mitra, Chief Minister, Orissa. She claims to have started this concern with her own money and by taking loans from friends. Without an open enquiry it is difficult to say how far this describes the real position and whether any funds have been invested in this concern by Shri Biren Mitra also. It is quite obvious, however, that Shri Biren Mitra had a direct interest in this concern as it belonged to his wife. He was also taking interest in its management and business activities. This is clear from certain letters exchanged between Messrs. Bengal Potteries of Calcutta and Orissa Agents and between Allied Distributors of Calcutta and Orissa Agents, Scrutiny of records of Orissa Agents and open enquires are likely to reveal further evidence of Shri Mitra's personal interest in the affairs of this concern.

(iii) The circular of 17th November 1961 which limited purchases to local manufacturers and local agents and dealers was issued in a hurry without adequate consideration & consultation. Though this circular could be said to apply to all local concerns and local dealers but in actual fact, on account of the categories of large orders placed by the various departments of Orissa Government during the particular period involved, the benefit of this circular went very largely, if not solely to, Orissa Agents, Kalinga Tubes and Kalinga Industries.

(iv) The main items purchased during this period consisted of G. I. Pipes, Tubular Structures and paints. Kalinga Tubes were the only manufacturers of G. I. Pipes in Orissa and Kalinga Industries were the only manufacturers of Tubular Structures in Orissa. Messrs. Orissa Agents were appointed local 'Agents' of Kalinga Tubes and Kalinga Industries. Similarly, Messrs. Orissa Agents were also appointed Agents for the paints of Messrs. Johnsons and Nicholsons of Calcutta for Orissa. The circular applied not only to local manufacturers but also to their local representatives as well as to local agents of outside firms. All these factors combined to ensure that the circular of 17th November 1961 would result in financial advantage and benefit to Messrs. Orissa Agents, Messrs Kalinga Tubes and Messrs Kalinga Industries which they would not have otherwise secured in open competitive market.

(v) Large financial benefits which were not due in the ordinary course of business were secured by Orissa Agents and Kalinga Tubes from the Orissa Government. This was the result of a number of irregularities like ignoring the D. G S. & D. rate, rejecting the price circular issued by the Kalinga Tubes themselves. In the items involving purchases of about Rs. 60 lakhs which were checked the undue and improper profits caused to Messrs Orissa Agents and consequent loss to Orissa Government comes to about Rs. 20 lakhs.

(vi) Similarly, undue large pecuniary benefit was caused to Messrs. Kalinga Industries in connection with the purchases of Tubular Structures by a number of Departments of Orissa Government. In respect of one item alone the loss has been found to be about Rs. 7 lakhs. Here again, there were a number of irregularities, the main one being the failure to invite tenders. In making these purchases the plea of urgency was advanced but large quantities of these tubular structures remained unutilised for over a year. In connection with these transactions payment of an abvance of 90% was also made, which to say the least is unusual.

(vii) In the purchase of the Low Shaft Furnace at Barbil by the Orissa Industrial Development Corporation there are a number of features which raise doubts and suspicions about the transaction having been in the public interest as against the interest of Messrs. Kalinga Industries. Independent, careful and thorough investigation of the working of the plant, of it profitability, of its being an economic unit and about its value does not appear to have been conducted. The liabilities which were transferred to the Orissa Industrial Development Corporation along with the Barbil Plant and the actual terms and the execution of the arrangement indicate that the interests which received particular consideration were not those of the Orissa Industrial Development Corporation.

(viii) In connection with the grant of loan to Messrs. Kalinga Tubes Ltd by the Industrial Finance Corporation on the guarantee of the Orissa State Government orders were passed which led to the saving of a sum of Rs. 97,000/- to Kalinga Tubes Ltd. which it would have had to pay as Stamp Duty.

4. Prima-facie it appears that after the formation of the new Government on 23rd June 1961 there were transactions between the Department or Orissa Government and the

Appendix-A

I forward herewith a report giving the results of the preliminary enquiry made by the C. B. I. into certain allegations against some Ministers of Orissa State. From the Memorial, Memoranda, Petitions and complaints received by the C. B. I., 58 allegations emerged. Out of these, 20 were not considered suitable for enquiry by the C. B. I., either because they were of trivial nature or because they involved political matters. In 23 allegations enquiry is held up for want of records or because they require open enquiries or for other reasons. This leaves 15 allegations into which Preliminary Enquiry has been conducted. In 3 of these, the enquiry could not be completed for want of some of the relevant records and it is not possible, on the material available, to come to any definite conclusion about them though there are some suspicious features. The 15 allegations into which enquiries have been made can be grouped into 4 main categories and these are discussed in the following paragraphs :

2. The first and the most important category consists of 8 allegations involving irregularities, improprieties or abuse of power or authority which resulted in undue and improper financial benefits to the firms or concerns in which Shri Bijoo Patnaik or Shri Biren Mitra or their wives or close relations are interested.

The allegations are :-

(i) Issue of Finance Department Memorandum in November 1961 to benefit concerns in which Ministers and their relations had personal interest.

(ii) Purchase made by the State Government from "Orissa Agents", said to be a benami concern of Shri Biren Mitra at exorbitant rates for his benefit.

(iii) Favourtism in the appointment of Shri Srinivasan as Chief Engineer-Cum - Administrator Paradeep Port.

(iv) Purchase of Tubular structures by the State Government from Kalinga Industries Ltd. without tenders.

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(vii) In the purchase of the Low Shaft Furnace at Barbil by the Orissa Industrial Development Corporation there are a number of features which raise doubts and suspicions about the transaction having been in the public interest as against the interest of Messrs. Kalinga Industries. Independent, careful and thorough investigation of the working of the plant, of it profitability, of its being an economic unit and about its value does not appear to have been conducted. The liabilities which were transferred to the Orissa Industrial Development Corporation along with the Barbil Plant and the actual terms and the execution of the arrangement indicate that the interests which received particular consideration were not those of the Orissa Industrial Development Corporation.

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4. Prima-facie it appears that after the formation of the new Government on 23rd June 1961 there were transactions between the Department or Orissa Government and the

concerns in which Shri Bijoo Patnaik or Shri Biren Mitra or their close relatives were interested and that these transactions caused undue and improper financial benefits to these concerns and consequent loss to public funds.

5. The next group consists of 3 allegations involving impropriety in securing pecuniary advantage for self or for near relations. These allegations are :

(i) Irregularities relating to Mining leases of Shri B. Patnaik and the improper conferment of the rights on B. Patnaik Mines (P) Ltd.

(ii) Establishment of a Saw Mill by Mrs. Mitra on illegally occupied Government land.

(iii) Sale of private land by Shri Brindaban Nayak to the Electricity Department at higher than prevalent rates.

6. Enquiries show that there were some irregularities in the grant of mining leases to Shri B. Patnaik but that was in the year 1952, long before he became the Chief Minister of Orissa. It further appears that there was litigation between the Orissa Government and Shri B Patnaik or Messrs. B. Patnaik Mines (P) Ltd. in connection with these mining leases. The cases in court were withdrawn or dropped or not contested after Shri Bijoo Patnaik became the Chief Minister. There were some royalties due to Orissa Government but these were paid soon after Shri B. Patnaik became the Chief Minister. It may be said that because Shri Patnaik was the Chief Minister the matter relating to the mining leases of his firm were dealt with lightly but from the files which were scrutinised nothing seriously wrong has been discovered.

7. In respect of the allegations relating to the establishment of a Saw Mill by Mrs. Mitra and the sale of land by Shri Brindaban Nayak it is not possible to come to definite conclusions wthout open enquiries. From the files it does appear, however, that Shri Brindaban Nayak and his brother in law have sold land to the Electricity Department

but the main point is whether it is at rates higher than the prevalent rates and to check this point open enquiries are necessary.

8. The third group consists of the following two allegations involving favours to other parties on account of improper or corrupt considerations :-

(i) Favourtism and illegal gratification in the appointment of agents under Kandu Leaves (Control of Trade) Act 1961.

(ii) Withdrawal of prosecution of cases against Steel Stockists by Shri Nilamoni Routry.

9. All the relevant files relating to the appointment of Agents for Kendu leaves Trade have not been made available. Without these files and without making open enquiries it is not possible to come to any definite conclusion on this allegation.

10 As regards withdrawal of cases against Steel Stockists a scrutiny of the files shows that this is correct. During the period of two months when Shri Nilamoni Routry was not the Minister in charge of the Supply Department certain raids were made and cases were launched against a number of Steel Stockists of Cuttack. After assuming charge again as Supply Minister Shri Nilamoni Routry reopened this matter and got the cases withdrawn even though they had already been filed in court. In doing so the views of the District Magistrate, Cuttack, and of the Supply Department were overruled.

11. The fourth group consists of two allegations relating to certain entries in the books of Mohd. Sirajuddin which show payments, in cash or kind, to Shri Sadasib Tripathy and Shri Nilamoni Routry.

12. A scrutiny of files shows that applications from Mohd. Sirajuddin or his concerns and files relating thereto were dealt with by Shri Sadasib Tripathy during the years 1952-56 when he was the Minister in charge of Revenue. It appears further that Shri Sadasib Tripathy took perso-

nal interest in dealing with these cases and also that some favours were shown to Mohd. Sirajuddin in the grant of lease or permission for mining or prospecting. Shri Sadasib Tripathy has denied all the entries. However, he says that Mohd. Sirajuddin did arrange for an optician at his request but that the bill for the spectacle for Rs. 214/- was paid by him on 1st March 1963 and he is in possession of the receipts. In some other cases such entries in the books of Sirajuddin have been found to be correct. Further open enquiries are necessary to come to definite conclusions about them.

13. As regards the entries relating to Shri Nilamoni Routry, he has accepted all of them as correct. He has mentioned that the sum of Rs. 6,000/- was taken as a loan on the occasion of the wedding of his niece and that it was paid back. About the sum of Rs. 3,000/- he says that it was voluntary contribution by Mohd Sirajuddin for the education of poor students and helpless political workers. The present of gold necklace on the occasion of the marriage of his niece is accepted. As regards payments for tickets and hotel charge etc., Shri Nilamoni Routry has stated that sometimes tickets and hotel accomodation were arranged through Mohd. Sirajuddin but that payments have always been made for them. Without an open enquiry it is not possible to check these points. In the official files nothing has been found to indicate that any official favour were shown by Shri Nilamoni Routry to Mohd. Sirajuddin.

14. On the basis of the scrutiny of records it is not possible to say that all the allegations are unfounded, unsubstantiated or untrue. There are quite a few, and some of them rather serious, which require further enquiries to

come to definite and clear conclusions. On a number of points doubts remain.

16. Statements have been prepared containing points for clarification from the 5 Ministers or Ex-Ministers concerned in this enquiry. These and replies and comments on them could also be taken into consideration when deciding the further line of action.

Sd/- D. P. Kohli
Director, C. B. I.
15-11-1964

Secretary, M. H. A. (Shri L. P. Singh)

Director, C. B. I., U. O. No, O-665/CBI/64,
dated 15-11-64

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16. Statements have been prepared containing points for clarification from the 5 Ministers or Ex-Ministers concerned in this enquiry. These and replies and comments on them could also be taken into consideration when deciding the further line of action.

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Director, C. B. I.
15-11-1964

Secretary, M. H. A. (Shri L. P. Singh)

Director. C. B. I., U. O. No, O-665/CBI/64,
dated 15-11-64

Appendix-B

STATEMENT NO.-I

ALLEGATIONS INTO WHICH PRELIMINARY ENQUIRY IS BEING MADE

1	2	3	1
Gist of allegation	Reference to the memorandum & other documents		Remarks
1. Issue of Finance Department Memorandum in November 61 regarding purchase of vehicles, stores and other materials through local dealers within the State. It is alleged that this was done in order to benefit concerns in which Ministers and their relations had personal interest.	Para 7 of the memorial	P.E. No. I dated 10-9-64 (Shri B. Patnaik & Shri Biren Mitra)	
2. The concerns M/S Orissa Agents, standing in the name of Mrs. Biren Mitra, is a benami concern of Shri B. Mitra present Chief Minister. This concern had monopolised supplies to Govt., secured agencies of local and outside firms and charged from various departments of State Govt. exhorbitant rates. Most of the supplies were made without calling tenders. As principal distributors of Kalinga Tubes, supplies were made by this concern. without			

Departments availing of D. G. S. & D rate contract and without even availing of Kalinga Tubes own price circulars. The benefit of these transactions has gone to Shri Biren Mitra.

3. Shri Patnaik appointed Shri Srinivasan as Chief Engineer - cum - Administrator, Paradeep Port Project although Shri Srinivasan knows nothing of Marine Engineering. He advanced a sum of Rs. 50 lakhs to Shri Patnaik for supplying pre-fabricated structures to Paradeep Port Project.

Petition of Shri Yudhishtar Dass of People's Vigilance Society.

4. Kalinga Industries, in which State Govt. have a sizeable share, enjoy monopolistic position in the supply of tubular trusses manufactured out of rejected pipes of Kalinga Tubes and no tenders are called in respect of such supplies to the Government.

Para 17 to 20 of Annexure 'B' to Memorial

1	2	3	3
5. Kalinga Industries supplied tubular trusses worth Rs 16 lakhs to Commerce Department for construction of quarters at Paradeep Port. The offer was made by Kalinga Industries on their own and no tenders were invited. According to opinion of engineer Tubular structures were unsuitable for construction of quarters at Paradeep.	Para 2 of Memorial, Para 21 of Annexure 'B' and Para 12 of Annexure 'E' to Memorial		
6. State Government advanced Rs 18 lakhs to Kalinga Tubes in one day on account of tubular trusses for quarters at Tinkerpara without the project being sanctioned and special arrangements were made to bring cash from Cuttack, Puri and Bhubaneshwar branches of State Bank.	Para of the Memorial		State Govt. have stated that no file regarding any such purchase is available.
7. Sale of Low shaft furnace at Barbil by Kalinga Industries to Orissa Development Corporation. It is alleged that the plant was running at a loss, and accounts were manipulated to show profits. It is also alleged that	Para 3 of memorial. Paras 22, 23 of Annexure 'B' to Memorial. Para 3 of the petition of Shri Krishan Prasad Mahanty.		

1	2	3	4
assets valued at about Rs. 30 lakhs were taken over for a sum of nearly Rs. 1 crore without proper valuation and with all contractual liabilities of Kalinga Industries being taken over by the Industrial Development Corporation. Mrs. Gian Patnaik was the Chairman of Board of Directors of Kalinga Industries.			
8. Shri B. Patnaik having obtained working permission for exploiting certain mines, continued to work these mines in spite of permission not being renewed after 30-10-56, and was in arrears by way of rent and royalties, to the State Government. He established the concern B. Patnaik Mines (P) Ltd., and the matter went to the High Court, where during Chief Ministership of Shri Patnaik the State Government agreed to execute leases on concessional terms in favour of B. Patnaik Mines P. Ltd., and the questionable rights of Shri Patnaik Mines were consequently conferred improperly on B. Patnaik Mines P. Ltd. for the benefit of Chief Minister and his family. The working permission was granted on condition	Para 5 of Memorial Para 2 of Annexure A		

1	2	3	5
that Ferro Alloy Industry will be set up in the area. The low shaft furnace installed by Kalinga Industries, has now been transferred to Orissa Development Corporation but the Mines continue to be worked by B. Patnaik Mines P. Ltd., and have not been transferred back to the Corporation of the State Govt.			
9. Orissa Kendu Leaves (Control of Trade) Act 1961 was promulgated during Chief Ministership of Shri Patnaik ostensibly for state trading. Actually, heavy amounts were received as illegal gratification by Ministers and agents were appointed by direct negotiations by Chief Minister and State Planning Board Chairman.	Para 9 of Memorial Para 6 of Annexure A Para 16 of Annexure B	The files made available, by the State Govt. relate merely to the promulgation of Orissa Kendu Leaves (Control of Trade) Act 1961. The allegation however is about the receipt of illegal gratification in the appointment of agents under the Act. Relevant official files regarding appointment of agents	

1	2	3	6
		will have to be scrutinised and these records are awaited.	
10. Mr. Mitra has established in the name of his wife a saw mill for manufacture of furniture on Govt. land which was forcibly occupied in the town of Cuttack. The land in Cuttack is valued at Rs. 2,50,000 and the State Govt. proposes transferring this land to Mrs. Mitra and their associates on payment of this amount, although the occupation was illegal.	Para 22 of annexure		
It has further been stated that Mr. Mitra misused his official power in getting the plan of structure for the Saw Mill, approved by Cuttack Municipality, without verification about the proprietorship of land. Similarly, the Industries Department gave licence for the factory and the Electricity Department gave power connection, without any verification, under the impression that it was a concern of Shri Mitra. When the matter came up in the Assembly an attempt was made to lease out the land to	Memorandum dated 21-9-64 of Shri R. N. Singh Dev and others	In view of the further information regarding this allegation, in the supplementary memorandum some more official records will have to be consulted.	

1	2	3	7
Shri S. C. Bose, Secretary, Cuttack Motor Association as the encroacher to whom the Saw Mill had been transferred in benami after winding up of Orissa Agents. The unauthorised structure belongs, in fact, to Shri Mitra.			
11. Shri Neelamani Routroy had caused prosecution of 11 dealers of controlled iron and steel goods withdrawn against the advice of Supply Secretary, District Magistrate concerned and without consulting Legal Remembrancer.	Para 8 of memorial	P. E. No. 2 dated 10-9-64 (Shri Neelamani Routroy)	
12. He (Shri Brindaban Nayak) is in possession of vast area of land near Railway station Berhampur. He wants to dispose of the same at a very high price which is abnormal, to the Railway authorities by utilising his power as a Minister. He has already disposed of an area at a higher cost to the Electrical Department Queen M. H. school, etc.	Petition of Shri Udhishter Naik	P. E. No. 3 dated 10-9-64 (Shri Brindaban Naik)	
13. Entries in the books of account of Mohd. Serajuddin and his companies showing certain Payments to Shri Sadashiv Tripathy.		P. E. No. 4 dated 13-10-64. Shri Sadashiv Tripathi)	

1	2	3
14. Entries in the books of Mohd. Serajuddin and his companies showing certain payments to Shri Neelamani Routroy.		P. E. No. 5 dated 13-10-64 (Shri Neelamani Routroy)
15. Orissa Government had stood guarantee for a loan of Rs. 97 lakhs obtained by Kalinga Tubes Ltd. from the Industrial Finance Corporation of India. Stamp duty of about Rs. 97,000 was payable on the tripartite mortgage deed. The State Government with Shri B. Patnaik's approval took over the liability in respect of stamp duty thereby saving Kalinga Tubes Ltd. a sum of approximately Rs. 79,000	This has come to notice during scrutiny of the official records of the State Government.	

Statement No-2

Ajle ation Into Which Preliminary Enquiry is Held Up For Want Of Records Of Other Reasons
No. I dated 10-9-64. Shri B. Patnaik and Shri Biren Mitra

1	2	3	9
I. Orissa Agents, as distributors of Phillips Lamps had supplied these lamps at double the price to municipalities and for Government roads in Orissa.	Para 13 of annex 'E'	State Govt. requested to make relevant files of municipalities regarding these purchases available. Files awaited.	
2. There was Vigilance Enquiry against Shri Som Nath Misra IAS and the search of the house of this officer by the CBI. Soon after 1961 election new government under Shri Patnaik transferred this officer back to Sambalpur where he had been posted previously as Deputy Commissoner when the complaints had arisen. Corrupt officials were being protected in this manner.	Para 4 of the memorial	Relevant file not yet received.	
3. a. Mrs. Mitra has purchased 9 acres of landed property in Cuttack at an average of Rs. 1000/- per acre when the prevalent market prices were Rs. 50000 per acre. Full amount of stamp duty and registration fees have not been paid due to under valuation.	Para 20, 21 of annex 'B'	Copies of purchase documents written in Orissa language have been received and are being deciphered; The main point in	

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b Mrs. Mitra has purchased 8 acres of land in Salepur at Rs. 100 per acre when the minimum cost of land there is Rs. 15.000 per acre. Full amount of stamp duty and registration charges have not been paid.	the allegation however is the reported short payment of stamp duty and registration fees through under valuation. This will require oral enquiries.
c. Tanks have been dug on the lands of Mrs. Mitra at the cost of the State Govt.	
d. A piece of land has been purchased at Calcutta in Mrs. Mitra's name for Rs. 1,52,000/-	Here also the alleged short payment of stamp duty and registration fees through under valuation will necessitate oral enquiries. Official files are awaited. Enquiries from Development Department West Bengal show that block N. 82 in Regeant Estate, Tollyganje was leased out to Smt. Easwaramma Mitra W/O Shri B. Mitra

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		and an advance of Rs. 8145 (being 50% of total premium due) was paid. No further amounts were deposited until 1-10-64 by Mrs. Eswaramma Mitra.
4. Shri Mitra, Chief Minister, takes Rs. 50,000 every month from members of Cuttack Merchants Association on the plea that he has to distribute charity to the people.	Petition of Shri Bishan Dayal, Secretary Cuttack Merchants Association	No Govt. files could exist and no progress is possible without oral enquiries
5. Orissa Agents have evaded payment of sales tax by delaying its registration and on the plea that they were acting as brokers and they were not liable to pay such taxes. Even after mysterious winding up of the concern last year it is still functioning in the guise of various benami concerns.	Para 1-E memorandum dated 21-9-64	The memorandum has been received on 6-11-64. Official records will have to be obtained and oral enquiries will be necessary.
6 In 1962, when Sri B. Patnaik was Chief Minister he leased out 93 acres of Government land in village Chowdwar to Orissa Textile Mills	Para 3 of memorandum dated 21-9-64.	Official files will be obtained from the State Government.

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for Rs. 9.300.00 only although the rate of land in this Industrial area is Rs. 25,000.00 per acre. This land belongs to Irrigation Department of which he was Minister incharge. Orissa Textile Mill has constructed compound wall around this land and forcibly enclosed a public road. On the plea of setting up another unit of the Orissa Taxtile Mill, Shri Patnaik leased out another area of 12.20 acres in village Kedarswar to the Mill for Rs. 14,030.00 only. Wrongful loss to the State Exchequer has been caused for personal benefit of Shri B. Patnaik who has interest in Orissa Textile Mill.		
7. (a) In response to the tender notice for registration of Orissa Road Transport vehicles only Shri S. Ray of Cuttack and Shri George Patnaik (Elder brother of Ex-Chief Minister, Shri Biju Patnaik) had submitted tenders. Shri Ray's tender was accepted by the Department and a cheque for payment of his commission dues was ready to be issued but under Shri Biju Patnaik's undue influence, Shri Biren Mitra, Chief Minister. stopped the cheque and the	Para 4 (a) of memorandum dated 21-9-64	This is a fresh allegation. Relevant official files will be con sulted.

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account was divided between S. Ray and Shri George Patnaik.		
(b) Caledonion Insurance Co. is not a member of the Insurance Pool. In spite of Government of India's Circular to State Governments to patronise insurance companies in the pool, the Govt. of Orissa continue to have Govt. officials fidelity bonds and motor vehicles insured with Caledonian Insurance Co. Shri George Patnaik elder brother of Shri Biju Patnaik is the agent for Caledodian Insurnace Co.	Para 4 of memorandum dated 12-10-64	This is fresh allegation. Ralevant official files will have to be consulted.
8. In 1961-62, Orissa Mining Corporation purchased 20 units of Tubular structures for Rs. 72,382.50 without calling tenders. On 12-7-62 on the offer of Kalinga Industries Ltd., themselves, the Corporation purchased 2,500 units of similar structures and paid in advance 90% of the cost. Even now 958 units have not been utilised by the Corporation. These transactions occured during Chief Ministership of Shri Biju Patnaik.	Para 1 of memorandum dated 12-10-64.	This allegation came to notice during scrutiny of the files regarding the purchase of tubular structures by the State Govt. Commerce Dept.

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		Relevant official files of Orissa Mining Corporation have already been requisitioned.
9. On 10-4-64 Rs. 35 lakhs were sanctioned from Orissa contingency fund. About 500 units of tubular trusses were purchased from Kalinga Industries Ltd. for rehabilitation camps, at a cost of 18,86,000 of which 50% was paid in advance. The purchases were made at higher rates without calling for tenders and not through D. G. S. & D. even though it had entered into rate contract with this company.	Para 1 B of Memorandum dated 12-10-64	This allegation had come to notice during scrutiny of official records of the State Govt. Relevant files of the D.G. S & D are being obtained for enquiry into the allegation.
10. From reply to question No. 3361 dated 23-9-64 in the Orissa Legislative Assembly of Shri Padma Charan Naik, it is revealed that arrears of Mining royalty and cesses amounting to Rs. 9,40,000/- against B. Patnaik Mines and Rs. 2 25,000 against C. R. Pani have remained unrealised. Since B. Patnaik Mines is Shri Biju Patnaik's company and Shri C. R. Pani is the brother of the President Utkal P.C.C. this reveals favouritism on the part of the Govt.	Para 6 of Memorandum dated 12-10-64	Allegation relating to Mining leases has been enquired into. The fresh allegation regarding nonpayment of arrears of royalty and ceses will necessitate scrutiny of further official records.

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11. Utkal Distributors have been advanced huge amounts and shown other favours. They were given a portion of Haridaspur querry on lease, but have failed to work even a small percentage of the quantity. The favouritism, in giving huge amounts of benami interest ofShri Biren Mitra, Chief Minister in the profits of holder in this concern and may have some benami interest even now.	Para 7 of the memorandum dated 12-10-64	This is a fresh allegation. Relevant official records will have to be consulted and oral enquiries will be necessary.
12 Advances were given to M/S Steel Rolling and Fabrication P. Ltd. in spite of objections regarding its stability and reliability. Subsequently the ban against this firm was removed and more advances amounting to lakhs of rupees were given in spite of poor performances of this firm in making supply regarding quantities and time schedule. This was possible because of the direct intervention of the Chief Minister Shri Biren Mitra as Shri Biju Patnaik has got benami financial interest in this concern.	Para 8 of Memorandum dated 12-10-64	This is a fresh allegation. Official records will have to be scrutinised and oral enquiries will be necessary.

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13. When Shri B. Patnaik was Chief Minist r and Shri Biren Mitra was incharge of endowments as Law Minister, Devoter lands of famous Lingaraj Temple of Bhubaneshwar, adjoining the compound of Shri Patnaik's building were irregularly transferred and registered at very low rates in the name of Mrs. Gian Patnaik, wife of Shri Biju Patnaik.	Para 4 (b) of Memorandum dated 21-9-64	This is a fresh allegation. Relevant official records will be consulted.
14. It was proposed fraudulently to nationalise Passenger Transport Service on a number of routes and the scheme had been approved during Biju Patnaik's Chief Ministership and even buses were purchased, but since Shri Biren Mitra, the then Deputy Chief Minister, his private and political secy., Shri Kafait Ullah and his other political followers had shares in Cuttack Motor Association, whose interests were going to be adversely affected by proposed nationalisation, Shri Biren Mitra, under his undue influence got the taking over of the routes put off. In 62-63, again the scheme was changed to exclude the routes Cuttack - Jagat singh pur and Cuttack - Kujangi in which	Para 4 (d) of Memorandum dated 21-9-64	This is a fresh allegation. Relevant official records will be consulted.

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the above persons were interested. Shri S. C. gose, Benami holder of the Saw Mill of 'Orissa Agents" is the Secretary of the Cuttack Motor Association.		
15. The number of foreign liquor licences has been indiscriminately increased and given out to friends, relatives and favourites and Ministers at the cost of the interests of the State.	Para 4 (g) of memorandum dated 21-9-64	This is a fresh allegation. Official records will have to be consulted
16. (a) Several crores of worth of machinery for the Balimala Project have been purchased from the Soviet Union through B. M. Khemka Pvt. Ltd. instead of through the State Trading Corporation, resulting in payment of unnecessary extra commission to a second middleman. There are good reasons for suspicion that there is favouritism and private profits motive in rescerting to such transactions.	Para 9 of the Memorandum dated 21-9-64	This is a fresh allegation. Official records will have to be consulted.
(b) Ore lifting machines worth four crores are reported to have been similarly purchased by negotiations instead of through tenders.	do.	do.

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17. Vigilance Department Orissa, in the course of investigation in a rice mill at Chandbali, had seized documents which showed payment of illegal gratification to various officers and Shri Neelmani Routroy was also shown to have received payments through an officer of the Supply Dept. Shri Neelmani Routroy got seized documents destroyed.	Para 8 of the Memorial	P. E. No. 2 dated 10-9-64 (Shri Neelmani Routroy) Official files relating to Vigilance department raid on rice mill at Chandbali have been received. The documents reported seized during this raid and which are alleged to have contained incriminanating entries have not yet become available nor has any reply been received from the State Govt.
18. Shri Mand Raj, B.D.O. Chandbali, Balasore District against whom there were charges of misappropriation, was promoted as First Class Magistrate. He victimised C.C. Roy, the informant of misappropriation case at the instigation of Shri Routroy, Minister (Home Supplies) as Shri Roy was political rival of Shri Routroy.	Para 2 of the Memorial	Relevant official files are under requisition. Not yet received.

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19. Rs. 50,000 had to be paid to Shri Neelamani Routroy by members of Cuttack Merchants Association for protection from harassment and trouble from the Government side.	Petition of Secretary Cuttack Merchants Association	No Government files could exist on this matter. No progress is possible without oral equiries.
20. In the year 1950 he had absolutely no bank balance except property worth Rs. 15,000. Now he is in possession of property worth Rs. 15 lakhs. He has never paid income tax more than Rs. 150. This money he has obtained illegally during his political career.	Petition of Shri Judhister Naik	P. E. No. 3 dated 10-9-64 Shri Brindaban Naik Oral enquiries will be necessary.
21. During 1958-59 he was Minister Works in the State of Orissa. During that period the contractor who was executing the construction of Assembly Buildings constructed one huge building for Shri Brindaban Naik at Bhubaneshwar.	-do-	-do-
22. During the same period as Transport Minister, when he ordered for vehicles, he himself purchased two Benz vehicles costing about Rs 60,000 and sold these vehicles for Rs. 80,000.	-do-	-do-
23. (a) Not with standing the fact that a circular is there to the effect that Ministers should not undertake business deals with Govt. still	Petition of Shri Judhister Naik	Official files relating to the alleged purchases from this concern

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Shri Naik has a factory in the name of his wife or himself named "Kalinga Cement Products". The Hum Pipes which are produced in this factory are being supplied to PWD Panchayat Raj and Blocks and other Engineering Departments of Orissa Government. By virtue of his power as a Minister he is selling the articles at a high rate.		have been requisitioned, but have not so far been received.
(b) Shri Brindaban Naik by misuse of his power and influence has made a lot of supplies at higher rates to the Govt. without being required to submit tenders. etc. There are also allegations against this firm of having obtained extensive quotas of cement and having sold that excess in black market and also of having exchanged quantity in solidified cement with Govt. stocks. Shri Naik has also secured two loans of Rs. I lakh and 30,000 respectively from the State Finance Corporation to carry on bussiness of R.C.C. spun pipes at Berhampur. Although the factory went into production in 1963, it obtained licence from Municipality for the factory building only in May, 1964.	Para 2 of supplementary memorandum dated 20-10-64	These are some fresh allegations which will necessitate scrutiny of additional records and the State Government is being requsted to make these available. Oral enquiries will also be necessary:

PRINTED AT NALANDA PRESS,
D-39, South Extention (Part-I)
Ring Road, NEW DELHI-3