

approved. The proposals to open Long-Distance Public Call Offices at Kadegaon, Bhilavdi, Mahuli and Aitavade in Sangli District are under examination.

**FINANCIAL ASSISTANCE TO WEAKER SECTIONS OF SOCIETY**

662. SHRI G. R. PATIL : Will the Minister of FOOD AND AGRICULTURE be pleased to state :

(a) whether there is any proposal under Government's consideration for giving financial assistance to the weaker sections of society through the medium of cooperatives; and

(b) if so, the details of the proposal?

THE MINISTER OF STATE IN THE MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEVELOPMENT AND COOPERATION (SHRI M. S. GURUPADSWAMY) : (a) and (b) Government of India have been providing through the State Governments financial and other assistance to the cooperatives of weaker sections viz. Cooperative Farming societies, Labour Cooperatives, Rickshaw Pullers Cooperatives, Rehra Pullers' Cooperatives and Washermen's Cooperatives. Details have been mentioned in the annual reports of the Department of Cooperation which are placed on the Table of the House every year.

As regards credit facilities to cultivators including weaker section, the Crop Loan System which has been adopted by the cooperative credit structure in almost all the States, would enable all cultivators including cultivators who are tenants or belong to the weaker sections to obtain their credit requirements because loans are advanced with reference to their production requirements and repaying capacity as distinct from the assets or property owned by them. In addition to this, there is already the scheme of outright grants to primary agricultural credit societies and Central Banks whereunder State Governments with assistance from the Centre make available outright grants @ 12% and 4% to primary societies and central cooperative banks respectively towards their special bad debt reserves on the basis of additional loans issued at the level of the primary credit societies to weaker sections which has been defined as those cultivators, whether owners or tenants, whose individual maximum credit limit does not exceed Rs. 200.

This reserve is intended to cover likely defaults in repayments due to inability to repay and is an incentive to the institutions to liberalise their loaning policies and extend credit to tenants and small cultivators.

†FERTILIZER FACTORY AT KANDLA

142. SHRI N. R. MUNISWAMY :  
DR. B. N. ANTANI :

Will the Minister of FOOD AND AGRICULTURE be pleased to state :

(a) what progress has so far been made in the establishment of a fertilizer factory in Kandla; and

(b) when is it scheduled to be commissioned?

THE MINISTER OF STATE IN THE MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEVELOPMENT AND COOPERATION (SHRI M. S. GURUPADSWAMY) : (a) The site for the plant has been finalised. A definitive engineering study has also commenced. Negotiations regarding the Cooperation Agreement to be entered into with the Cooperative Fertilizer International for construction and operation of the plant are still continuing. Besides, negotiations are also going on for the loan to be raised through the Bank of America. The Board of Directors of IFFCO has been nominated.

(b) The factory is likely to be commissioned in 1971-72.

‡ABOLITION OF RICKSHAW PULLING

218. SHRI LOKANATH MISRA :  
SARDAR RAM SINGH :  
SHRI S. S. MARISWAMY :

Will the Minister of LABOUR AND REHABILITATION be pleased to state :

(a) whether any proposal was mooted by the Government of India to abolish rickshaw pulling throughout the country;

(b) whether the opinion of the State Governments was obtained in the matter; and

†[Transferred from the 23rd July, 1968.

‡Transferred from the 24th July, 1968.

(c) if so, whether replies from the State Governments have been received and whether the same would be laid on the Table of the House?

THE MINISTER OF LABOUR AND REHABILITATION (SHRI JAISUKHLAL HATHI): (a) and (b) The Labour Ministers' Conference in 1955 having recommended gradual abolition of rickshaw pulling, the Government of India had advised the State Governments accordingly and had suggested model regulations also. The matter was under correspondence with State Governments. Subsequently, the Government of India was advised that restrictions contemplated may raise legal issues about constitutionality. It was then left to the State Governments to decide the question of constitutionality of undertaking necessary legislation in the matter in consultation with their legal Departments ;

(c) A copy of the Government's letter (with enclosure) dated 9th February 1966 addressed to the State Governments is laid on the Table of the House. No replies were called for.

*Copy of the letter No. LWI (I) 30 (29)/62, dated the 9th February, 1966 from the Ministry of Labour and Employment addressed to all State Governments/Union territory Administrations.*

SUBJECT.—Abolition of rickshaw-pulling—Organisation of cooperatives of rickshaw-pullers.

I am directed to refer to this Ministry's letter No. LWI (I) 30(29)/62, dated the 11th April 1963 on the subject noted above and to say that a question has been raised as to whether it would be un-constitutional:—

(i) to grant new licences only to co-operatives of actual rickshaw pullers, and

(ii) to renew licences only of those rickshaw owners who are actual pullers.

The Government of India have since been advised that giving licences only to cooperative societies to the exclusion of others might be viewed as discriminatory and may amount to un-reasonable restriction on freedom of others to carry on the trade of plying cycle rickshaws and that the provision of

renewing licences only to those who are actual pullers may also be hit on the ground of unreasonable restrictions on the fundamental rights of others. However, if a percentage of new licences or renewals is reserved for cooperatives of actual pullers or for members of backward classes it might not violate fundamental rights granted to citizens by the constitution. Extracts of notes recorded on this point in the Ministry of Law are enclosed.

2. It is, however, for the State Governments to decide the question of constitutionality of undertaking necessary legislation in the matter in consultation with their legal departments.

*Extracts of notes of Ministry of Law*

We are considering on this file whether restricting the grant of new licences for plying cycle rickshaws to Cooperatives of actual rickshaw pullers only and the renewal of licences only to those rickshaw owners who are actual pullers would be constitutional.

2. Most of the cycle rickshaw pullers are stated to be members of the backward classes. It is further stated that 90 to 95% of the cycle rickshaws are owned by persons who are not actual pullers and as such the pullers are at the mercy of the owners. The measure is thus envisaged to ameliorate the conditions of the Harijan pullers.

3. Licences for cycle rickshaws are granted by Local bodies in accordance with the rules/bye-laws framed for the purpose. The rules/bye-laws in order to be valid must conform to the fundamental rights secured to the citizens by the Constitution Article 14 secures to every person equality before the law. Under article 15(1) the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Clause (4), however, provides that nothing in this article shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. This provision is similar to that contained in article 16(4) which provides for the reservation of appointments or posts in favour of any backward class of citizens in the services under the State. Article 19 provides that a citizen shall have the right, *inter*

*alia*, to practice any profession or to carry on any occupation, trade or business. Clause (6) enables the State to make any law imposing, in the interest of the general public, reasonable restrictions on the freedom of trade and occupation. We have, therefore, to consider whether the proposed provision conforms to articles 14, 15 or 19 and if not whether it can be saved under clause (4) of article 15 or clause (6) of article 19.

4. The object of licensing is to regulate the citizens right to carry on trade or profession, *i.e.* to lay reasonable conditions subject to which the trade or profession may be carried on. If these conditions are satisfied by any person, he is ordinarily entitled to the licence to carry out that trade. To grant the licence to a particular person including a co-operative society and excluding others arbitrarily would offend the provisions of article 14 as well as article 19. It is, however, open to the State (which expression includes 'local authority') to make a law (which expression includes 'byelaw in the case of the local authority') providing that all conditions being equal a preference may be given to a cooperative society in the grant of a licence (As an example see section 47 of the Motor Vehicles Act). Giving preference in certain circumstances to co-operative societies would neither infringe article 19 nor article 14 of the Constitution (see A.I.R., 1962 S. C. 586). However, giving licences only to co-operative societies to the exclusion of others would be discriminatory and amount to unreasonable restriction on the freedom of others to carry on the trade of plying cycle rickshaws. Similarly the provision of renewing licences only to those who are actual pullers may also be hit on the ground of unreasonable restriction on the fundamental right of others under article 19. Here again a provision for preference only, other conditions being equal, may be justified.

5. Provisions of article 15, rule 4 would also enable reservation of a percentage of licences to be issued to members of the backward classes or to the co-operative societies, but will not support a provision of exclusive monopoly in favour of co-operative societies of Harijan rickshaw pullers. The State is only entitled to create a monopoly in favour of itself. It cannot create a

monopoly in favour of private individuals or corporations or co-operative societies not controlled by it.

(Sd.) H. K. CHAUDHARY  
Assistant Legal Adviser  
13-8-1964

J. S. and L. A. (Shri V. S. Jetley)

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We may leave it to these States to decide the question of constitutionality of the proposed legislation in consultation with their Legal Departments.

(Sd.) V. S. JETLEY  
Joint Secretary and  
Legal Adviser  
15-9-1964

† MAHARASHTRA REQUEST FOR CENTRAL ASSISTANCE FOR TUBE-WELLS AND WELLS

470. SHRI D. THENGARI: Will the Minister of FOOD AND AGRICULTURE be pleased to state:

(a) whether the Government of Maharashtra have approached the Central Government for assistance for executing a scheme for the sinking of tube-wells and drilling of wells in the various parts of the State for drinking water supply and cultivation; and

(b) if so, the amount of assistance sought from the Centre?

THE MINISTER OF STATE IN THE MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEVELOPMENT AND COOPERATION (SHRI ANNASAHEB SHINDE): (a) The Ministry of Food, Agriculture, Community Development and Cooperation has not so far received any such request from the Government of Maharashtra.

(b) Does not arise.

† MADRAS MINISTER'S STATEMENT AT THE CHIEF MINISTERS' CONFERENCE

473. SHRI S. S. MARISWAMY:  
SARDAR RAM SINGH:  
SHRI LOKANATH MISRA:

Will the Minister of FOOD and AGRICULTURE be pleased to state:

(a) whether it is a fact that in a statement made at the Chief Ministers'

† Transferred from the 30th July, 1968.