

Confidential

**REPORT**

**OF**

**THE COMMITTEE**

**ON**

**CO-OPERATIVE SUGAR FACTORIES**

**IN**

**MAHARASHTRA**

March 1999

### COMPOSITION OF THE COMMITTEE

1. **Dr. Madhav Godbole**, Former Home Secretary, Government of India, Chairman
2. **Dr. D. C. Wadhwa**, Former Director, Gokhale Institute of Politics and Economics, Pune, Member
3. **Shri N. Borgaonkar**, Chairman, Maharashtra Co-operative Sugar Factories Federation, Member ( He resigned as chairmann of the Federation in December 1998 but the Federation has conveyed that he should continue to represent the Federation.)
4. **Shri Appasaheb alias S. R. Patil**, Chairman, Dutt Shirole Co-operative Sugar Factory, Kolhapur, Member
5. **Dr. Dyanadev G. Hapse**, Former Director General, Vasantdada Sugar Institute, Pune, Member
6. **Dr. S. D. Tupe**, Professor, Sinhgad Institute of Management, Pune, Member
7. **Dr. A. P. Kansal**, Vaikunth Mehta National Institute of Co-operative Management, Pune, Member
8. **Shri Ajitsinh Ghatge**, Managing Director, Yeshwant Co-operative Sugar Factory, Theur, Member
9. **Shri S. S. Hussain**, Secretary, Department of Co-operation and Textiles, Member
10. **Shri M. D. Pendse**, Secretary, CADA, Member
11. **Shri K. D. Hodavdekar**, General Manager, Industrial Development Bank of India, Member
12. **Shri R. S. Rajput**, Chief General Manager, The Industrial Finance Corporation of India, Member
13. **Shri D. L. Creado**, Managing Director, The Maharashtra State Co-operative Bank Ltd., Member
14. **Dr. Sudhirkumar Goyal**, Commissioner of Agriculture, Member
15. **Shri Rajiv Agarwal**, Commissioner, Pune Municipal Corporation, Member
16. **Shri Arvind Reddy**, Commissioner of Sugar, Member Secretary.

## PREFACE

The Government of Maharashtra, by its order dated 12 August 1997, appointed this expert committee with the following terms of reference:

- i) To suggest remedial measures for dealing with sickness of co-operative sugar factories in the state, keeping in view the continued financial losses incurred by them due to mismanagement and other reasons, in spite of the financial involvement of crores of rupees of the state government, thereby casting further avoidable financial burden on it;
- ii) To suggest actions for removing the difficulties faced by the co-operative factories;
- iii) To suggest whether sick and unviable sugar factories should be closed;
- iv) To examine comprehensively the various aspects of sickness and to suggest measures for tackling the neglect of sugar factories so as to make them financially viable; and
- v) To suggest measures to strengthen the co-operative sugar factories in the state.

2. The committee held 31 meetings which included visits to Aurangabad, Nagpur and Mumbai, discussion with Vasantdada Sugar Institute (VSI), Maharashtra Co-operative Sugar Factories Federation, National Bank for Agriculture and Rural Development (NABARD), and day-long seminars organised at the Sinhgad Management Institute and the Deccan Sugar Technologists' Association (DSTA), at Pune. The committee greatly benefited by these intensive interactions and would like to place on record its deep appreciation for the valuable time spared by all the concerned persons for sharing with the committee their views on and assessment of the complex issues facing the sugar factories.

3. The committee also benefited by the report of the High Powered Committee on Sugar Industry (Mahajan Committee), appointed by the Government of India, received in April 1998.

4. In a sense, the committee's deliberations were overtaken by two significant decisions-- one by the supreme court upholding the decision of the state government diluting the restrictions on zoning of sugarcane areas, and the other of the central government to delicense the industry. Both these have large implications for the future of the co-operative sugar industry in Maharashtra. Mention must also be made of yet

another straw in the wind, namely, decontrol of sugar as recommended by the Mahajan Committee. Though a final decision on this recommendation is yet to be taken by the central government, it shows the direction in which the wind is blowing. Coupled with this are the new policies being pursued on economic liberalisation and globalisation which have an inexorable logic of their own. All this has created a new environment in which sugar industry in India will have to operate in the coming years. This is particularly relevant and important for the co-operative sector which has enjoyed unlimited benefits and advantages in the past. The coming years will, therefore, be years of culture shock for this sector. The working of co-operative sector will call for major structural changes. In making its recommendations, the committee has carefully borne in mind all these factors.

5. The committee believes that any major changes in this sector, which is so very crucial for the rural economy of the state, can come about only by greater public education and intensive public debate on issues facing co-operative sugar industry, devoid of political over-tones and semantics. There is clearly a need for reasserting the importance of democratic, open, transparent, accountable and responsible management in the co-operative sugar factories in the true spirit of the co-operative movement underlined by its founding fathers. Towards this end, the committee would recommend that the report of the committee should be placed on the table of the Legislature and widely publicised as soon as possible.

6. There has been sharp deterioration in the health of the co-operative sugar factories in the state during the last few years. The number of sugar factories which are very sick, sick or on way to becoming sick now total 48 or 41 per cent of the factories in production. Unless expeditious action is taken to mend the matters, many more factories will face similar situation. This is all the more important in view of the delicensing of the industry. What is therefore at stake is the very survival of co-operative sector in this industry.

7. Against this background, the committee hopes that its deliberations and wide-ranging recommendations will receive careful and prompt attention of the state government. The committee would suggest that an empowered committee of secretaries under the chairmanship of chief secretary may be appointed to process the recommendations of the committee rather than leaving them to be examined in a

routine manner at clerical levels. This alone will make the hard work put in and precious time spent by the members of the committee on this task worthwhile.

8. The committee would like to place on record its appreciation of the co-operation extended to the committee by the sugar commissioner and his officers. But for their willing and whole-hearted co-operation, this report could not have been completed so expeditiously.

Madhav Godbole

Chairman

Committee on Co-operative Sugar Factories in Maharashtra

February 1999

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## CHAPTER 1

### SUGAR INDUSTRY --AN OVERVIEW

#### Introduction

1.1 India has made spectacular progress in production of cane sugar. It has moved from a position of the third largest producer, following Brazil and Cuba, in 1976 to number one position in 1996, and contributed 19.47 per cent of world's cane sugar production in that year.<sup>1</sup> Maharashtra takes the lead by producing about 1/3 rd of the annual sugar production in the country. But, it is, by no means, the most efficient producer of sugar in the world.

1.2 Sugar industry is the second largest agro-based industry in the country next to cotton textiles. Yet another important feature of the sugar industry is that, as opposed to the cotton textile industry which is mostly located in urban areas, the sugar industry is located in rural areas. It gives direct employment to 3-5 lakh workers and generates additional employment through allied activities, and is the single largest employer in the rural areas. The annual wage bill of the sugar industry is around Rs 1,000 crore and farmers realise approximately Rs 5,500 crore annually as a value for their produce supplied to this industry.<sup>2</sup>

1.3 As on 28 February 1998, there were 460 installed sugar factories in the country. Of these, 254 were in the co-operative sector. Co-operative sugar sector accounts for more than 60 per cent of the total sugar production in India. Of the total co-operative sugar factories (CSFs), Maharashtra accounted for 116.

#### Sugar Industry in Maharashtra

1.4 The CSFs in Maharashtra have truly transformed the rural areas-- socially, economically, industrially, educationally and even culturally. A vociferous, articulate and vibrant new grass-root leadership has come up through the CSFs which has made a world of difference to the governance of local self government institutions, co-operative banks, market societies and so on. Many political leaders working at the

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<sup>1</sup> Unless stated otherwise, the data given in this report are from the concerned departments of Government of Maharashtra.

<sup>2</sup> V. S. Baviskar and V. M. Rao, *Sickness in Co-operative Sugar Industry. Reading Material for the Seminar on Managing Sickness in Co-operative Sugar Industry*, August 18-21, 1998, Vaikunth Mehta National Institute of Co-operative Management, Pune. Mimeo. p.1.

state level in Maharashtra have been the erstwhile office-bearers of CSFs. These externalities must be borne in mind in any assessment of the impact of CSFs.

1.5 The first sugar factory in Maharashtra, the Belapur Sugar and Allied Industry Limited, was started in private sector in 1919. Thereafter, the number of sugar factories in the private sector went up to 12 in the pre-Independence period. The first CSF, Pravara Sahakari Sakhar Karkhana Limited, was registered soon after Independence in 1948. As can be seen from Table 1.1 below, the number of CSFs, registered and installed, upto 1998, increased rapidly to 172 and 119, respectively. During the same period, the number of private sector sugar factories declined from 12 to 3.

Table 1.1

## Growth in Number of Sugar Factories in Maharashtra

Sr. No.	Year	Registered sugar Factories			Installed Units
		Private	Co-operative	Total	
1	1951	12	01	13	13
2	1961	12	20	32	26
3	1971	11	48	59	40
4	1981	11	71	82	71
5	1991	08	93	101	96
6	1998	03*	172	175	119

\* Excluding the closed Belapur Sugar Factory.

Source: Commissioner of Sugar, Government of Maharashtra.

1.6 According to the latest estimates, there were 16, 02, 677 shareholders of CSFs. Of these, 14, 53, 328 were sugarcane growers. Thus, non-grower members accounted for 9.3 per cent of the total members.

1.7 Of the registered 175 sugar factories in the state, 112 are in Western Maharashtra, 47 in Marathwada and 16 in Vidarbha.

1.8 Sugarcane crop is taken in 23 districts in the state. In terms of sugar recovery, the state is divided in three zones:

A. **High Recovery Zone** (more than 11.5 per cent): Kolhapur, Sangli and Satara.

**B. Medium Recovery Zone** (10.5 to 11.5 per cent): Pune, Solapur, Ahmednagar and Nashik.

**C. Low Recovery Zone** (below 10.5 per cent): Dhule, Jalgaon, and seven districts each of Vidarbha and Marathwada.

1.9 In the high recovery zone, the area under sugarcane has increased over the years. But, since sugarcane is a traditional crop in this zone, large tracts of land have been adversely affected by repeated use of the land for the same crop and excessive use of water leading to salinity and water-logging. Of the three districts in this zone, the productivity of sugarcane is the lowest in Kolhapur district.

1.10 Some of the factors which attract the farmers to the sugarcane crop are: more liberal scale of crop loans for sugarcane as compared with other crops; a common misconception that much less effort is required on the part of the farmer for growing sugarcane crop--it is popularly known as a lazy man's crop; sugarcane cutting and transportation arranged by the factories; prompt payment of the price of sugarcane by factories; and the social standing and prestige attached to being a sugarcane cultivator.

1.11 Area under sugarcane increased steeply from 1.91 lakh ha (1966-67 to 1970-71) to 4.60 lakh ha (1991-92 to 1995-96). However, the area under sugarcane has varied a great deal from year to year. Since 1990-91, the lowest area under sugarcane was recorded in 1993-94 (3.5 lakh ha.). The maximum area under sugarcane was in 1995-96 (6.75 lakh ha.).

1.12 There have been large fluctuations in the production of sugarcane from year to year. Area under sugarcane is largely influenced by the availability of water, the pattern of monsoon, and the price for sugarcane given by the sugar factories in the preceding year. Yet another factor influencing the area under sugarcane is the difficulties experienced by the cultivators in the acceptance of their sugarcane by the sugar factories. As a result, in some years, the sugar factories had to run much below their installed capacity. In some other years, the crushing season had to be extended leading to low sugar recovery, higher cost of sugarcane transportation, and financial difficulties for the sugar factories. Thus, while in 1995-96, gross days for which the sugar factories worked were 218, in 1996-97 the number came down sharply to 137. The capacity utilisation in the two years was 89.61 per cent and 85.97 per cent,

respectively. Sugar recovery was 10.48 per cent and 11.11 per cent and sugar loss was 2.25 per cent and 2.11 per cent, respectively.

1.13 Record sugarcane was crushed in 1995-96 season. Table 1.2 below gives some salient data regarding sugar industry in Maharashtra:

Table 1.2  
Area, Productivity and Yield of Sugarcane in Maharashtra

Sr. No.	Item	1950-51	1995-96
1	Sugarcane area in lakh ha.	0.84	5.80
2	Productivity in M.T./ha.	63	80
3	Sugarcane production in lakh M.T.	53.02	466.59
4	Cane crushed in lakh M.T.	10.03	514.61
5	Sugar produced in lakh M.T.	1.14	53.94
6	Sugar recovery (%)	11.65	10.48

1.14 During 1995-96 season, unprecedented sugar production of 165 lakh M.T. was recorded in the country, with Maharashtra accounting for 54 lakh M.T. Table 1.3 gives the comparative position of the industry in India as compared with Maharashtra:

Table 1.3  
Sugar Industry in India and Maharashtra

Sr. No.	Particulars	1994-95		1995-96		1996-97	
		India	Mah.	India	Mah.	India	Mah.
1	Running factories (No.)	408	107	416	107	412	101
2	Installed capacity (lakh M.T. per day)	24.83	2.44	25.31	2.40	26.56	2.41
3	Cane crushed (lakh M.T.)	1476	460	1747	515	1304	310
4	Sugar produced (lakh M.T.)	146	50	165	54	129	35
5	Sugar recovery percentage	9.2	10.9	9.4	10.5	9.9	11.1

1.15 At present, there are 119 installed sugar factories in the state with a crushing capacity of 2.82 lakh M.T. per day. On the basis of a crushing season of 160 days in a year, the present sugar factories require 433.6 lakh M.T. of sugarcane for crushing. Looking to the fact that some factories run on more than 100 per cent capacity, the total requirement of sugarcane each year is of 450 lakh M.T. In addition to this is the requirement of sugarcane for manufacture of *Khandsari* and *gur*, and for extraction of juice as a soft drink. However, except for 1994-95 and 1995-96, the cane production during each of the years since 1990-91 has been much lower than this figure. Even during 1995-96, which was the year of record sugarcane production, it was only in Central Maharashtra that the availability of cane was higher than the requirement of the sugar mills in the region. The other regions in the state did not have enough cane to meet the requirements of the mills for a viable operation.

1.16 The sugarcane requirement after the commissioning of all the remaining licensed sugar factories (63) will be 732 lakh M.T., inclusive of the requirement of cane for production of *Khandsari*, *gur* and sugarcane juice for sale as a soft drink. Looking to the average productivity of cane during the last ten years (83 M.T./ha.), total area of 8.82 lakh hectares will have to be brought under sugarcane by the end of the Ninth Five Year Plan. On the contrary, if the productivity of cane can be stepped up to 95 M.T. per hectare, it will suffice if only 7.70 lakh hectares of area can be brought under sugarcane. As will be discussed later in this report, this will have large implications for agriculture and irrigation in the state. To achieve this level of production and productivity will be one of the main challenges which will have to be addressed by the sugar industry in Maharashtra in the coming years.

1.17 One of the main constraints in this behalf will be that of availability of water. Of the net sown area of about 185 lakh hectares under cultivation in the state, only about 27 lakh ha (15 per cent) is under irrigation. Wells account for 55 per cent of irrigation, with remaining 45 per cent area being irrigated through canals, tanks and other sources. Of the irrigated area, nearly 20 per cent of the area is under sugarcane. Even though substantial financial investment is being made on creation of new irrigation potential in the state, due to the serious shortage of water resources, the state is bound to continue its present policy of providing only eight-monthly irrigation. In fact,

equity in water use and its distribution will certainly be the main areas of concern of public policy in the 21st century in Maharashtra. As a result, sugarcane crop will have to be largely dependent on well irrigation, apart from some lift irrigation and canal irrigation. In this context, the importance of drip irrigation cannot be over-emphasised as it can lead to saving of 50 to 55 per cent of water, increase in efficiency of fertiliser use by 25 to 30 per cent, increase in sugarcane yield by 25 to 30 per cent and improvement in sugar recovery by 0.5 to 1 per cent.

1.18 Another worrisome factor is the decline in productivity of sugarcane. The increase in sugarcane production since 1991-92 has been mainly due to the increase in the area under sugarcane in the state. Sugarcane production per hectare in Maharashtra has steadily declined, except in a few years, from 97 M.T. in 1981-82 to 86 M.T. in 1990-91 and further to 75 M.T. in 1996-97. In the tropical belt, Tamil Nadu recorded highest mean sugarcane productivity (107 M.T./ha), followed by Karnataka (86 M.T./ha). Maharashtra ranked third with mean productivity of 82.8 M.T./ha. There is large variation in the productivity of sugarcane in the various regions of the state. While in Western Maharashtra, it is about 88 M.T./ha., in Aurangabad and Latur regions in Marathwada it is 62 M.T./ha. and 68 M.T./ha respectively. In Amravati and Nagpur regions of Vidarbha, it is 75 M.T./ha. and 62 M.T./ha. respectively.

1.19 The study made by the Technology Information, Forecasting and Assessment Council (TIFAC), Department of Science and Technology, Government of India, has indicated the gap between the present and achievable sugarcane yield for major sugarcane producing states in the country. While the productivity has increased in most Northern states, it has declined in Gujarat and Maharashtra. The study showed that sugarcane productivity of 110 M.T./ha should be achievable in Maharashtra as compared with the productivity level of about 82.8 M.T./ha. As Dr. Hapse has brought out, if all factors are favourable, the physiological yield potential of 12 months sugarcane crop is worked out to be 340 M.T./ha. Many farmers in tropical region of India achieve yield of sugarcane around 250 M.T./ha. In national crop competitions, the farmers of Maharashtra obtained 338 M.T./ha cane yield.<sup>3</sup>

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<sup>3</sup> Dr. D. G. Hapse, Strategies for Efficient Utilisation of Resources and Minimisation of Constraints in Sugarcane Productivity, *Agricultural Seminar Papers, 46th Annual Convention Part I, 1997*, The Deccan Sugar Technologists' Association, Pune, pp. SA 6-13.

1.20 The TIFAC study had also underlined that sugar recovery could be stepped up to 12.5 per cent as compared with the present average level of 11 per cent. Some sugar factories have recorded commendable sugar recovery percentages. It is seen that three sugar factories in the state which recorded highest sugar recovery in 1995-96 were H. K. Ahir (12.58 per cent), K. Kasari (12.35 per cent) and Vignahar (12.06 per cent). The three factories recording highest sugar recovery figures in 1996-97 were H. K. Ahir (13.19), Chhatrapati Shahu (12.69), and T. Kore, Warana (12.56).

1.21 A special mention may be made of the observation of the Premkumar Committee in respect of the competing and alternative crops for sugarcane. Cotton and soybean are often considered such crops. In Vidarbha and Marathawada, cotton crop is taken on a large scale. Sugarcane is considered a non-traditional crop. Sugar recovery is low in these regions. With proper land and water management and adoption of new techniques, there is considerable scope to increase the production of sugarcane in these regions. But, if the rain is unsatisfactory and sugarcane does not fetch good price, the farmer turns to the cotton crop. According to the committee, cotton and soybean are not the competitive crops.<sup>4</sup>

#### **In the All India and World Context**

1.22 Typically irrigated regions such as Burdekin in Australia have yields averaging 125 tonnes per hectare and irrigated crops in Southern Africa in Zimbabwe, Swaziland and Malawi typically achieve yields of over 100 tonnes per hectare as against about 80-85 tonnes in Maharashtra. A part of the increase in All India average yield during the last thirty years has been achieved because of the increase in the proportion of area under cane in Maharashtra, Tamil Nadu and Karnataka where yields are higher than U.P. and other states.

1.23 Sucrose yield in India is lower than that in Australia, Mexico and USA, though Maharashtra's yield compares favourably with that in other countries.<sup>5</sup> There has been no increase in sucrose content of cane in India during the last more than four decades. However, in all the three reference periods from 1980-81 to 1994-95, the percentage recovery of sugar was the highest in Maharashtra as compared with any other state in

<sup>4</sup> Government of Maharashtra, *Report of Premkumar Committee on Increasing Area under and Productivity of Sugarcane*, October 1997 (in Marathi).

<sup>5</sup> This section is largely based on Government of India (Ministry of Food and Consumer Affairs (Department of Sugar and Edible Oils), *Report of the High Powered Committee on Sugar Industry*, Volume I, April 1998.

India--1980-81 to 1984-85 (10.99 per cent), 1985-86 to 1989-90 (10.96 per cent), and 1990-91 to 1994-95 (11.07 per cent).

1.24 Higher sugar recovery percentage is contributed partially by two factors which are favourable in Maharashtra. As compared to other states, Maharashtra has relatively more modern sugar mills. Percentage of near-modern sugar factories is the highest in Tamil Nadu (87), followed by Maharashtra (53) and Gujarat (50). Percentage of partially-modern and old sugar factories in Maharashtra is 32 per cent and 15 per cent respectively. Also, the system of harvesting and transportation of sugarcane by the mills adopted in Maharashtra ensures fresh supply of cane to the mills.

1.25 A reference may be made to another important feature of Indian sugar industry. Unlike in many other countries, payment for cane is made in India on the basis of weight and is not related to sucrose content of cane. As the High Powered Committee on Sugar Industry appointed by the Government of India (hereinafter referred to as the Mahajan Committee) has highlighted, the basis on which growers are paid is an important determinant of the quality of delivered cane. If they are rewarded for the quantity of sucrose that they deliver, growers will take steps to raise the sucrose content of their crop. For example, growers will plant high sucrose varieties, take care to apply an appropriate mix of fertilisers, rather than just nitrogen (which boosts only the weight of the crop), and manage the transport and storage of the crop in order to minimise post-harvest losses in sucrose content if they are paid by sucrose content of cane.

1.26 The Indian sugar industry is marked by a small plant size as compared with world scales. Average crushing capacity in the country has gone up very gradually from 1,824 tonnes per day (tpd) in 1984-85 to 2,457 in 1996-97. On 28 February 1998, as many as 241 out of 460 factories were still below the stipulated minimum economic size of 2,500 tpd. Only 63 were of a capacity higher than 2,500 tpd. Of these, only 7 were of capacity above 5,000 tpd.

1.27 In so far as Maharashtra is concerned, installed cane crushing capacity per day varies from 800 tpd to 5,000 tpd in co-operative sector and 1,300 tpd to 2,000 tpd in private sector. Of the 116 CSFs, 2 factories are below 1,250 tpd capacity, 35 factories are of 1,250 tpd capacity, 9 are with capacity of between 1,250 to 2,200 tpd,

and 44 are of 2,500 tpd capacity. Nineteen are of capacity between 2,500 to 4,500 tpd. Only 7 factories are of 5,000 tpd capacity.

1.28 All over the world, sugar units have much larger crushing capacities, many times higher than the average capacity of a unit in India. In Mauritius, for example, the number of sugar factories has come down from 200 a few years ago to just 16. This will be evident from Table 1.4 below.

Table 1.4

## Cane Crushing Capacity and Sugar Production Per Unit in Various Countries

Country	No. of units	Average cane crushing per day (tonnes)	Average sugar production per unit (tonnes)
Thailand	45	10,307	14,054
Australia	28	9,216	1,83,321
South Africa	13	6,877	1,37,769
Hawaii	9	4,111	44,111
Mexico	67	4,749	71,015
Colombia	10	4,590	2,14,900
Brazil*	213	9,168	64,018
Cuba	165	4,229	45,538**
Mauritius	16	3,195	42,970
India	416	2,531	33,700

\* Only 53 units reported capacity.

\*\* The production declined substantially after the disintegration of Soviet Union in 1991-92.

1.29 It can thus be seen that the average capacity of the Indian sugar unit is way below the capacity in various other sugar producing countries. In most of these countries, the small sized units were amalgamated into larger units with reduction in the number of sugar units. Contrary to this, in India, greater emphasis has been laid on horizontal growth of the sugar mills.

1.30 A recent study of Indian sugar industry, *Priorities for Reforms (April 1997)*, conducted by the World Bank, has illustrated the influence of size of plant on milling cost. It has been found that with the higher plant size, the wages and other overhead

cost per tonne of sugar got reduced substantially. It is, to some extent, offset by increase in cost of cane transportation as mills have to obtain cane from longer distances. The lower average size of mills in India thus tends to increase the cost of production of sugar in the country.

1.31 It would be useful to keep in view the following world bench marks for the purpose of aiming at overall improvements in the technical and financial parameters of the sugar industry in Maharashtra:

- \* Sugar recovery: Australia, 14.25 per cent on cane
- \* Sugar loss in process: Australia, less than 1.3 per cent on cane
- \* Reduced mill extraction: South Africa, 98.6 per cent (Australia and South Africa--lowest 96 per cent)
- \* Energy consumption: Taiwan, bagasse consumption and saving, 13 per cent each on cane crushed
- \* By-product utilisation: Brazil, Thailand, Cuba, China and Pakistan
- \* Sugarcane yield: Hawaii, 250 M.T./ha.
- \* Production cost (in increasing order):
  - a) Field cost-- India, Australia, Thailand
  - b) Factory cost--Thailand, Australia, India
  - c) Total-- Thailand, Australia, India.

1.32 A reference may be made to the application of ceiling laws to sugar mills. In Indonesia, there is a ceiling on land holding but land can be rented and sugarcane grown by private enterprise or co-operatives. Sugar mills can rent about 50 hectares of land (against the ceiling of five hectares) for raising cane nurseries and for field trials. In the Philippines, sugar mills are not exempt from land ceilings, but there is no ceiling for R & D purpose for sugar mills. In Sri Lanka, mills are allowed to have upto 250 hectares of land for the purpose of R & D, while the ceiling is one hectare for irrigated and 1.75 hectares for rain-fed land. In Taiwan, there is ceiling on land holding but there is no restriction on the size of farms owned by sugar mills for obtaining cane for milling or by Taiwan Sugar Research Institute for R & D. There is no ceiling on land holding in Brazil, European Union and South Africa.

1.33 The Government of Maharashtra decided in April 1997 to relax the zoning restrictions for compulsory supply of cane to sugar factories by non-members as also

by members of CSFs beyond their share holding. This order was upheld by the supreme court in November 1997. There are two diametrically opposite views in Maharashtra on the desirability or otherwise of zoning. In this context it will be useful to refer to the policies followed in some other countries. For example, out of the twelve countries studied by the Mahajan Committee, there is a system of cane zoning in Australia, Indonesia, Mauritius and Taiwan, while there is no system of cane zoning in European Union, Mexico, Philippines, South Africa, Thailand and USA. In certain countries like Brazil, there is a binding contract between millers and growers. In Sri Lanka, allottee farmers are obliged to supply cane to the respective mills, but private growers can supply their cane to a mill of their choice.

1.34 The Mahajan Committee has observed that Thailand provides the best illustration of how the absence of zoning affects the industry:

- Mills compete openly for cane, bidding up the cane price (through the payments of price supplements) in order to secure supplies.
- Millers cannot effectively schedule cane deliveries, because it is in the growers interest to deliver cane at the peak of the sucrose curve, when they receive the highest price for their cane.
- There is little co-operation between millers and growers in terms of cane development, infrastructure development or agricultural extension work. This is because millers are reluctant to work with individual growers since it is quite possible that they will not deliver cane to the millers.

1.35 The Government of India has announced in August 1998 its decision to delicense the sugar industry in the country. This has caused consternation in a large section, in particular, of the co-operative sugar industry. Fears have been expressed that this will harm the interests of both the sugarcane growers and the industry. There are serious apprehensions that this will give a body blow to the co-operative sugar mills and effectively close the door for their consolidation or expansion. This is considered to be particularly serious in the context of the large scale sickness among the CSFs. This issue has been discussed at length later in the report. It would, therefore, be relevant to briefly review the policies followed by other countries on this subject. The policy pertaining to licensing is not uniform across countries. Of the twelve countries referred to above, no license is required for setting up a sugar mill in Australia, Brazil,

European Union, South Africa and USA, whereas it is needed in other countries. License is generally not required for expansion of capacity except in Taiwan and Thailand. In Thailand, however, this is not vigorously enforced and unlicensed expansions have occurred. There is no restriction on minimum or maximum capacity of a new sugar factory in any country.

1.36 It is interesting to note that no incentive/concession for setting up of new sugar factories or expansion of existing factories is given in any of the above twelve countries. However, in Philippines, tariff free import of machinery and tax holiday are provided for setting up of new sugar factories or substantial expansion of existing factories.

1.37 Sugar industry in India is bound under the Government notification to produce certain limited grades and quality of sugar, whereas a large number of sugar producing countries in the world produce a variety of sugars. There is considerable scope for improvement in sugar quality, particularly for those sections of industry which, by virtue of location, are well placed to export to the world market. A rapidly expanding food processing sector may also create substantial domestic demand for high quality sugar.

1.38 It is against this background that the committee has examined in the following chapters the formidable challenges facing the sugar industry in Maharashtra. Market forces have been unleashed, in the real sense, for this industry, for the first time, with the two-pronged government decisions of delicensing the industry and dezoning of the sugarcane areas. This is a new ball game altogether and will make a sea-change in the working of the CSFs. If Maharashtra sugar industry in the co-operative sector is to emerge as a global player, it will have to look inwards as also outwards intensely to make radical changes in its working. If it refuses to take cognisance of these new realities and compulsions and continues to rely on the crutches of the government, the prospects of the industry will be bleak and its future in serious jeopardy.

## CHAPTER 2

### SICKNESS IN INDUSTRY--EARLIER REPORTS

2.1 Three committees were appointed by the Government of Maharashtra since 1980 to look into the sickness in CSFs. The first of these was the Gulabrao Patil Committee appointed in 1980.

#### **Gulabrao Patil Committee**

2.2 The committee, in its report submitted in 1983, observed that a number of factors were responsible for the sickness of sugar factories. These included inadequate supply of sugarcane; lack of cane development programmes; natural calamities; large increase in project cost and lack of long term finance for meeting the same; lack of irrigation potential in the area of the sugar factory; inadequate water supply from irrigation schemes in the area; shortage of equity capital leading to increase in interest cost on short term loans; lack of experienced labour to work on machinery; inadequate enforcement of zoning order; injustice done to sugar factories due to low price for levy sugar; management deficiencies; absence of long term policy for sugar industry in Government of India; inadequate price paid for sugarcane; competition by *gur* and *khandsari* producers; and non-appointment of experts on the board of directors of sugar factories. Against this background, the committee made wide ranging recommendations which included the following:

- i) A scheme for rehabilitation of sick CSFs should be prepared and implemented under the guidance of the representatives of the state government, MSCB, and financial institutions.
- ii) With the intervention of Director of Sugar, steps should be taken to make available cane from the area of nearby sugar factories to enable full capacity utilisation of the sick factories.
- iii) Board of directors of the sugar factory which clandestinely takes away cane from the area of sick CSF should be suspended.
- iv) A concrete programme of cane development should be taken up to provide for full utilisation of the installed capacity of the sugar factory.
- v) A fund should be built up for cane development by making a deduction from the cane price.
- vi) A separate organisation should be built up by a sugar factory for cane development.

- vii) Meritorious staff should be appointed in this organisation and arrangements should be made for the training of this staff.
- viii) Sugar industry as also the state government should provide financial assistance for the training of the staff of CSF as above.
- ix) With the help of the state government, each CSF should establish seed farms. Supply of seed and insecticides to cane growers should be made through the sugar factories.
- x) A cell for cane development should be established in the office of Director of Sugar.
- xi) State government should undertake irrigation projects in the areas of CSFs on priority basis.
- xii) MSCB and the District Co-operative Banks (DCBs) should establish cane development fund from their own resources.
- xiii) Cane growers who are defaulters should be given loans on the basis of guarantee of CSF.
- xiv) A five year programme for the rehabilitation of defaulter cane growers should be implemented jointly by the state government, MSCB and Sugar Federation.
- xv) MSCB should give assistance to sick CSFs on the same lines as the assistance given to sick small and medium scale industrial units by the Industrial Development Bank of India (IDBI).

2.3 The committee recommended that board of directors of CSF whose finances could not be improved even after financial assistance was given by the state government in the form of purchase tax concessions and other concessions should be superseded and an administrator appointed to take over the CSF. The committee also recommended that the management of CSF whose capacity utilisation was less than its rated capacity should be taken over by the government.

2.4 The committee divided the sick factories in three groups--critically sick, very sick and sick, and suggested the scale of assistance to be given for each of these categories by the state government in the form of additional share capital; conversion of the arrears of purchase tax and past loan repayments and interest defaults into share capital contribution; reschedulement of arrears of repayment of principal amount of the loan and interest thereon; giving backward area concessions to sugar factories; and obtaining rehabilitation assistance for such CSFs from the Government of India. It was

also suggested that the difference in the price of levy sugar and open market price of sugar should be obtained from the central government for assistance to sick CSFs.

2.5 The committee also recommended steps to be taken by the sick CSFs as their share of the rehabilitation efforts. These included increasing the value of the equity share; increasing the share capital of the cane growers; deductions to be made from cane price for repayment of the medium term loan; and obtaining long term loan for cane development programme of the factory.

2.6 Some sacrifice was also expected from the labour and staff of the CSF. This was to be by way of restricting the bonus to the minimum required by the provisions of law; strictly following the norms for staffing laid down by the Sugar Federation; and not granting any pay increases.

2.7 The report also laid emphasis on certain technical aspects of the CSFs. These included, among others, energy conservation, saving in water use, reducing sugar losses, and proper inspection and maintenance of machinery and equipment.

#### **Shivajirao Patil Committee**

2.8 The Shivajirao Patil Committee appointed in 1987 submitted its report in June 1990. The committee identified 15 CSFs as 'sick' and 13 as 'very sick'. The committee adopted the Score Card Method for judging the health of CSFs and classified the factories according to the total marks obtained for certain parameters, namely, capacity utilisation, cane price paid per tonne, harvesting and transportation cost per tonne, percentage of sugar recovery, and yield of sugarcane per hectare. On this basis, the committee classified the CSFs into five groups:

A = Very healthy

B = Healthy

C = Leading to sickness

D = Sick, and

E = Needs intensive cane development activity.

The committee found that of the 91 installed CSFs, 4 were new and therefore could not be classified. Only 10 factories were in group A and 22 in group B, accounting for hardly 37 per cent of the total. The remaining 63 per cent were in the zone of sickness. As many as twenty three CSFs fell in group C. Fifteen were classified as sick. Seventeen more came in group E.

2.9 The committee felt that net worth i.e. difference between the total owned funds and accumulated losses, and current ratio i.e. the ratio of current assets to current liabilities should be taken as the two parameters for judging the sickness of a CSF. On the basis of this classification, the committee felt that CSFs falling in the categories C and D could be considered as sick.

2.10 Finally, on the basis of the study made by the committee with regard to the availability of sugarcane, financial and technical performance and managerial aspects, the committee identified 15 factories as sick and 13 very sick. Following are some of the more important recommendations of the committee.

2.11 The Government of India should give at least Rs 6 to 7 crore loan from Sugar Development Fund (SDF) to each of the sick CSF for undertaking sugarcane development work.

2.12 The cost of construction of K. T. Weirs and percolation tanks undertaken by the factories from SDF loan assistance should be reimbursed to them by the state government along with the interest thereon.

2.13 Excise duty on drip and sprinkler irrigation equipment should be abolished. A factory should be established in the co-operative sector to manufacture this equipment.

2.14 Metered supply of irrigation water should be introduced to encourage more "judicious" use of water.

2.15 Each CSF should have independent sugarcane development department as per the staffing pattern recommended by the committee.

2.16 The committee emphasised the importance of sugarcane development programme and urged adequate and co-ordinated attention to it by the CSFs, state government, research institutions and agricultural universities. It suggested that each factory should have operational research facilities and a nursery farm of minimum 40 hectares where sugarcane production package can be refined for better acceptance by the farmers.

2.17 The importance of adequate, timely and easy credit supply was underlined. The committee suggested that the first instalment of crop loan should be disbursed before planting on the basis of certificate given by the factory that the land is prepared for cane planting and the second instalment should be disbursed on plantation certificate

by the factory. This will facilitate undertaking proper tillage operations, applying basal dose of fertiliser and doing seed treatment so as to improve the sugarcane yield.

2.18 CSFs should try to achieve technical standards on various counts. For this purpose, technical staff should be given adequate training.

2.19 The sick factories should not be permitted to go in for manufacture of by-products till they achieve 100 per cent capacity utilisation and their accumulated losses are wiped off. The only exception should be when it is conclusively shown that the projected profitability of by-product unit will improve the working of the sick unit.

2.20 Concerted efforts should be made for modernisation of CSFs. MSCB and IDBI should consider grant of loan for the purpose at concessional rate of interest.

2.21 CSFs should introduce computerisation for meeting plant performance standards and various other functions.

2.22 CSFs should not have staff strength higher than that recommended by the committee. Factories which have more employees should retrench the excess staff on the basis of 'last come first out' principle. Outgoing board of directors should not be allowed to make recruitment of staff without prior permission of Director of Sugar.

2.23 CSFs should observe strict control over inventories. The committee suggested the norms for inventory holding.

2.24 CSFs should make efforts to properly arrange the marketing of free sale sugar by obtaining up-to-date market information and conducting market surveys.

2.25 The committee recommended a series of concessions by Government of India such as higher quota of free sale sugar; higher price for levy sugar; additional free sale quota for CSFs which could not get Sampath Committee incentives from August 1978 to December 1979 because of decontrol of sugar; loan from SDF of Rs 6-7 crore for each CSF to undertake sugarcane development work; increase in the transport rates by the Food Corporation of India; grant of incentives to high cost factories; and new sugar factories in Vidarbha and Marathwada should get 100 per cent free sale quota for initial period of ten years.

2.26 A number of incentives were proposed for being given by the state government. These included grant of additional share capital in the proportion of 1:9 (members' share capital: state government share capital) for sick CSFs by converting the past loans and overdues into share capital; exemption for sick CSFs from payment of

purchase tax till the cash losses are wiped out; extension of backward area benefits and concessions to CSFs; giving soft loan to the extent of the likely cash loss to sick CSFs for paying the minimum State Advised Cane Price (SACP) at least for a period of five years. This loan should be recoverable in ten annual instalments; creation of Sugar Industry Rehabilitation Fund by taking a contribution of Re 1 per tonne to Rs 5 per tonne from CSFs, depending on the sugarcane price paid. The state government should contribute equal amount to the Fund; payment of overdue interest amount to financial institutions by the state government so that the principal amount of loan could be rescheduled. This amount should be treated as soft loan to be repaid by sick CSFs in ten equal annual instalments. The state government loan should be recovered only after all the loan of the financial institutions has been repaid by the sick CSFs; a special package of incentives should be announced by the state government for by-product units of CSFs. The state government should give share capital in the ratio of 1:3 for such units; and the share capital of the state government should not be recovered till a sick CSF has been rehabilitated and its financial position improves.

2.27 Several concessions were recommended to be given by financial institutions. These included rescheduling the overdue loan amount for repayment in at least 10 annual instalments, with concessional rate of interest of 2-3 per cent per annum; concessional rate of interest which is at least 2-3 per cent lower than the normal for working capital and medium term loan to sick CSFs; waiving of penal interest and rescheduling the principal amount of the loan, once the state government agrees to pay the interest to the financial institutions; and reduction in margin for working capital from 17.5 /25 per cent to 10 per cent.

2.28 The committee recommended certain steps to be taken by sick CSFs. These covered: increasing membership, and collection of at least Rs 50 lakh from members as additional share capital within a period of two years so as to continue to be eligible for various concessions; retrenchment of excess staff; adhering to technical efficiency standards and financial standards of expenditure; increasing the value of share to Rs 2,000 per share; conducting training programmes for technical and non-technical personnel as also members of board of management; adoption of economy measures

on the lines of Ganesh Pattern<sup>6</sup>; and if the financial position of the factory does not improve within a period of two years in spite of the concessions, the board of directors should be superseded and a board of administrators comprising experts from the state government, IFCI, VSI, MSCB and Agriculture Department, should be appointed for a minimum period of four years.

2.29 There should be an independent Department of Sugar in the State secretariat. There should be a Minister for Sugar of Cabinet rank to look after co-operative sugar industry.

2.30 There should be a high powered committee headed by Minister for Sugar for policy planning and direction of rehabilitation of sick CSFs. There should also be a monitoring and review committee headed by Director of Sugar.

2.31 The post of Director of Sugar should be upgraded and redesignated as Commissioner of Sugar, who should be *ex-officio* Secretary, Sugar. The Sugar Commissioner's office should be strengthened by creation of several new posts in his office as also in the field offices.

#### **High Powered Committee**

2.32 The state government appointed a high powered committee (HPC) under Principal Secretary (Co-operation) in November 1990 to examine the recommendations of the Shivajirao Patil Committee and to make suitable recommendations to the government. The HPC submitted its report after a lapse of six years in October 1996.

2.33 As in the case of Shivajirao Committee, the HPC also determined the sickness of CSFs on the basis of the twin indicators of negative net worth and decline in the current ration below 0.75. Based on this criteria, the committee identified 15 CSFs as sick and another 8 as very sick.

2.34 As at the end of March 1995, the accumulated losses of these 23 CSFs were of Rs 368 crore. The short margin was of Rs 73 crore. The government share capital which was overdue for repayment accounted for Rs 21 crore. The outstanding state government loans to these CSFs, inclusive of interest, totalled Rs 85 crore. The

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<sup>6</sup> Members of Board of Directors shall not use vehicles of CSF; the guest house of CSF will be closed; workers and employees will accept 20 per cent less salary for four years; members will accept less cane price by Rs 30/- per tonne, and the Board of Directors will not accept any sitting fees till the cash losses are wiped out.

outstanding purchase tax due from these CSFs which was earlier converted into interest free loan amounted to Rs 39 crore.

2.35 The sickness in CSFs was attributed to a number of factors such as non-implementation of irrigation schemes, in the area of CSFs, envisaged in the project reports; shortage of water for planting of sugarcane; underutilisation of installed cane crushing due to shortage of cane; financial stringency coming in the way of modernisation of machinery and equipment; excess staff ; and lack of control over expenditure.

2.36 The committee recommended that eight very sick CSFs should be taken into liquidation so that their liabilities could be frozen. Thereafter, these may be given on lease to private parties for a period of 10 to 15 years, by calling for offers by advertisement in the newspapers. This will enable the leasees to take measures for improving the financial viability of the units. Since this will require investment of Rs 20-25 crore, it will be necessary to give these factories to private parties who are financially strong and will be able to withstand losses for the first 2-3 years of the rehabilitation period.

2.37 Efforts should be made to rehabilitate the remaining 15 sick CSFs by adopting the following rehabilitation package:

- a) Further moratorium of five years (beyond the initial moratorium of five years) be given for the recovery of government share capital of Rs 21 crore and the amount should be recovered in 15 equal annual instalments thereafter.
- b) Past government loans (Rs 55 crore) should be converted into share capital and interest thereon (Rs 30 crore) should be written off. This additional share capital should also be recovered, after a moratorium of five years, in fifteen equal annual instalments.
- c) Arrears of purchase tax amounting to Rs 11 crore which have been converted into interest free loan have now become due for repayment. The loan may be given moratorium for a further period of five years and thereafter, it may be recovered in five equal annual instalments. The outstanding purchase tax of Rs 39 crore should be converted into a soft loan with moratorium of five years and repayment thereafter in 5 equal annual instalments.

d) For modernisation of sick CSFs, loan will have to be taken by the CSFs from the financial institutions for which state government will have to give guarantee. State government may also have to give additional share capital to the extent of 50 per cent requirement of funds for modernisation.

e) There is short margin in most of the sick CSFs for repayment of which (Rs 73 crore) government will have to give guarantee.

f) The cash losses incurred by a sick CSF by paying statutory minimum price to the farmers should be reimbursed to it by the state government for a period of five years by way of a soft loan.

g) Financial institutions may be requested to write-off, fully or partly, the outstanding interest on the loan given to sick CSFs.

h) Cane development work should be undertaken in the area of each sick CSF. The state government should give assistance for this purpose. MSCB should also be persuaded to give loan for this programme, and, if necessary, government should give guarantee for the same.

i) Financially well-run CSFs should be asked to contribute at the rate of Rs 5 per bag of sugar for establishment of a fund for extending financial assistance to sick CSFs.

j) Since the assets of the sick CSFs have been fully depreciated, these may now be revalued so as to reconstruct their balance sheets. This will reduce accumulated losses, and improve their net worth and eligibility to borrow from the financial institutions.

k) It is necessary to have the participation of members of CSF and staff in the rehabilitation programme. Ganesh Pattern may be adopted for this purpose. The pay of employees may be reduced by 20 per cent. The rate of sugarcane payable to the members may be reduced by Rs 40 per M. T.

#### follow-up Action

2.38 Unfortunately, the recommendations of these committees did not receive any worthwhile attention at the state government level. Only a few recommendations of the Gulabrao Committee Report were acted upon in mid-1980s. Perhaps, the only recommendation of the Shivajirao Patil Committee which was fully implemented was that of upgradation of the post of Director, Sugar to that of Commissioner of Sugar and creation of large staff in his office as also in the field offices of the Commissionerate! To some extent this neglect of the subject may be due to the fact

that the problem of rehabilitation of sick CSFs is overwhelmingly large and daunting, requiring huge financial outlays on the part of the state government. It was as if the successive state governments wished the problem would go away by itself.

2.39 Yet another significant aspect of the matter was that there was practically no involvement of the all India financial institutions, National Bank for Agriculture and Rural Development (NABARD), Reserve Bank of India (RBI), or the Government of India in the deliberations on this critical issue. As a result, there has been no indication so far of the kind of support which these institutions may be prepared to offer in the rehabilitation of sick CSFs.

#### **Mahajan Committee**

2.40 This apathy is also evident from the fact that the Mahajan Committee has practically glossed over this serious problem in its voluminous report on sugar industry. Out of its total report comprising 429 pages, the committee has devoted just three pages (pp. 348-350), to the subject of "Sick Mills". The seriousness of the problem, on all India basis, can be gauged from the data given by the Mahajan Committee itself in its report. As on 31 March 1997, of the 237 co-operative sugar mills in the country, 157 were in losses, 74 were with negative net worth, and 81 mills had negative/inadequate net disposable resources. In the case of Maharashtra, of the 113 co-operative sugar mills, 60 mills were in losses, 20 mills had negative net worth, and 23 mills had negative/inadequate net disposable resources.

2.41 Similar information in respect of private mills was not available. However, according to the information supplied by IFCI to the Mahajan Committee, out of 157 private sugar factories assisted by IFCI, 61 were chronic defaulters, out of which 39 were considered by IFCI to be sick, that is, their accumulated loss exceeded the net worth. Nine of these companies are BIFR cases and the remaining 30 are non-BIFR cases.

2.42 The Mahajan Committee has observed that, "The financial position of the industry is not sound both in private and co-operative sectors. In government sector, UP Sugar Corporation Ltd. and Bihar State Sugar Corporation Ltd. are two major government companies running several sugar mills. Most of the sugar mills under both the corporations have large accumulated losses".

2.43 The Mahajan Committee has identified the following factors as responsible for the sickness in the industry:

- a) Many of the state governments, particularly in recent years, have fixed the cane prices at high level in the interest of cane growers without regard to the price of sugar, while the central government have been keeping the free sale prices at lower level in the interest of consumers. The free sale prices have not been allowed to rise adequately to offset the losses incurred by the mills on supply of levy sugar.
- b) Till recently, the central government exercised control on price and distribution of molasses. The control price had been kept low in the interest of the distilleries and the alcohol based industries. Even after the price control was rescinded by the central government, many of the state governments have continued to exercise control on the distribution of molasses which leads to low realisation to the mills from the sale of their molasses.
- c) Sugar industry has been experiencing wide fluctuations in output during the sugar cycle. Most of the sugar factories run into losses when there is over-production leading to fall in free sale sugar prices. During the phase of lower production, efforts are made by the Government of India to hold back the rise in free sale sugar prices, in the interest of consumers, by liberal free sale releases with the help of imports. Many factories are thus unable to recoup the losses incurred in the earlier phase of over-production.
- d) Some factories had been set up in anticipation of adequate cane becoming available but these expectations did not materialise due to various factors.
- e) Low availability of cane due to setting up of a number of units in close proximity, or due to reduced availability of irrigation, for example, due to fall in water table in Maharashtra.
- f) Delay in development of adequate cane supplies for meeting the requirement of 2,500 tpd capacity mills at the insistence of the central government.
- g) Uneconomic size of factories set up in the past and their outdated machinery, and
- h) In some cases, units have gone sick due to mismanagement and misappropriation of funds.

2.44 In the case of private and government factories, there is a provision in the Sick Industrial Companies (Special Provision) Act, 1985, for examination of their cases for possible rehabilitation by BIFR. The Mahajan Committee has emphasised that it may

not be desirable to waste funds on trying to rehabilitate potentially unviable units or to help units which have grown sick due to inefficiency or mismanagement. The Committee has recommended that the government may consider the desirability of either enacting a separate legislation for the industrial units in the co-operative sector or bringing them within the scope of the Sick Industrial Companies Act. Till such a legislation is enacted, it has suggested that, for sugar mills in the co-operative sector, a committee under Secretary, Sugar and Edible Oils, may be set up, with representatives from Department of Revenue, National Co-operative Development Corporation (NCDC), NABARD, Industrial Finance Corporation of India (IFCI), Director (STM) and National Federation of Co-operative Sugar Factories (NFCSF) as members. A representative of the concerned state government may be co-opted as its member when the case of a sugar mill from that state is considered. NCDC may act as convenor and nodal agency of the committee. This committee may consider the reasons for sickness of the unit and make necessary recommendations in case of those CSFs which are potentially viable. In the case of non-viable units, their merger with the adjoining mills, which will also provide economies of scale, may be encouraged.

## CHAPTER 3

### CO-OPERATIVES AS INDUSTRY--A CONTRADICTION IN TERMS?

#### Introduction

3.1 Co-operative movement in Maharashtra, though highly successful in some sectors, has relied heavily on government financial support. Prominent among these sectors are co-operatives spinning mills, co-operative sugar factories, and monopoly procurement of cotton scheme. It is necessary that the issues pertaining to the role and regulatory control of the government are examined carefully in the interest of devising a long term policy for the co-operatives, particularly in the processing sector. This is important in the context of the two, often conflicting objectives, of giving full autonomy to the co-operatives and reducing draconian government control, on the one hand, and safeguarding the government's large financial investment, on the other.

3.2 In February 1978, Government of India issued the National Co-operative Policy Resolution. Article 5 thereof states that co-operative movement shall be built up as an autonomous, self-reliant movement free from undue outside interference and excessive control. This was followed by the Ardhanareeswaran Committee (1987) which in its report noted that the existing Co-operative Societies Acts contain provisions which militate against the democratic character and autonomy of co-operatives and recommended removal of such provisions.

3.3 The Planning Commission constituted Brahma Prakash Committee in 1990 to review the status of co-operative movement and suggest future directions and also to consider and finalise the Model Co-operative Societies Bill drafted by the Planning Commission. The Committee submitted its report in May 1991.

#### Model Act on Self-Reliant Co-operatives

3.4 As a follow up action, the Co-operative Development Foundation (CDF), Hyderabad, constituted a committee under the chairmanship of Shri M. Ramakrishnaya, former Deputy Governor of the Reserve Bank of India, to have the co-operative law in Andhra Pradesh studied and to recommend the lines on which a new co-operative law may be drafted. Realising the difficulties in getting the existing Co-operative Societies Act amended for restoring managerial and operational freedom of co-operatives across the board, the possibilities of introducing a separate chapter in

the Co-operative Act for self-reliant co-operatives not receiving any assistance from the government was also explored in the workshop held in Hyderabad. Ultimately, a new Mutually Aided Co-operative Societies Act was passed in Andhra Pradesh in 1995. New co-operative societies not receiving any share capital from the state government could get themselves registered under this Act. Co-operatives already registered under the Andhra Pradesh Co-operative Societies Act, 1964, which had no share capital from the government could also get themselves registered under this Act. Bihar enacted similar law in 1996.

3.5 Encouraged by this success, the CDF drafted a Model Co-operative Societies Act incorporating most of the provisions of the Andhra Pradesh Mutually Aided Co-operative Societies Act, 1995, as a parallel law to the existing state co-operative laws which could be made applicable to self-reliant co-operatives. This draft was discussed clause by clause in Expert Consultations on 24-26 August 1996 in Hyderabad. The revised draft as finalised was further discussed in a meeting of experts in Hyderabad in August 1997 when strategies for getting the Act adopted in other states, with such suitable changes as may be considered necessary, were considered.

3.6 In the introduction to the Model Self Reliant Co-operatives Act, the CDF has brought out the philosophy underlying the campaign for the new law. "At a time when successive union governments express, in word and deed, their commitment to releasing companies from unnecessary rules and regulations, it seems important to focus attention on the co-operative form of business, and the unreasonable and oppressive laws that it is subjected to. In India, we have managed to distort the definition, in practice, of a co-operative business, and have begun to believe it to be a government-controlled, government-promoted, monopolistic, public service institution".<sup>7</sup>

3.7 It would be pertinent to refer to the commentary, in the above document, on some important aspects relating to "finance" in the proposed new legislation, as these have a vital bearing on the future organisation of CSFs in Maharashtra. "Equity capital, by definition, should come from owners of a business-- from members, in the case of a co-operative. It is for this reason that this Act does not permit a co-operative to raise

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<sup>7</sup> Co-operative Development Foundation, *Referential Act: 1997, Self Reliant Co-operatives Act*, Hyderabad, 1997, p.1.

equity capital from the government or from other non-members. It is often argued that but for the government share capital, several co-operatives would never have come into existence. All business, at all times, in all place, do not lend themselves to the co-operative design. If indeed potential members or [existing] members are not convinced about putting equity capital into a proposed co-operative venture, it appears illogical that an external party should bother to put that money in, and still try to run it as a co-operative with decision making rights lying with the members. It is also argued that co-operatives should be permitted to raise capital from 'the market'. Capital providers of other forms of business might be investor-owners, but are not expected to be user-owners. In case of co-operatives, all 'owners' are expected to be users, and, therefore, the question of raising equity from 'the market' does not arise".<sup>8</sup>

3.8 So far as disposal of surplus is concerned, the commentary on the Model Act says, "A co-operative is essentially an agent of its members. It either pools member produce (including labour, skills, grain, etc.), adds value where possible and markets these, or it procures inputs (including credit, fertiliser, consumer goods, etc.) based on member needs, and supplies these to them. In both the instances, it needs to hold back for itself only such margins as are needed to meet the cost of operation, or for further improvement/increase in service to members. The rest of the surplus is returned to members, since the produce was underpaid for, or the inputs overcharged. Tax laws, therefore, must distinguish between the transactions between a co-operative and its members, and between a co-operative and non-members. While the latter may be treated on par with similar transactions in other forms of business, the former must receive separate treatment, as the service is one of pooling or indenting, and not one of purchase or sale".<sup>9</sup>

3.9 Based on this logic, the Model Act repeatedly talks about *interest on share capital* and not dividend thereon as is commonly understood in financial parlance. This play on words cannot be permitted to blur the important distinction between risk capital i. e. equity and loan funds. The return on the former is a dividend while that on the latter is interest. But, obviously, this subterfuge is meant to take the co-operatives out of the purview of the income tax law. This advocacy for income tax exemption is difficult to

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<sup>8</sup> *Ibid.*, p. 49.

<sup>9</sup> *Ibid.*, p. 50.

understand in view of the CDF's plea for a level playing field for co-operatives as compared with the private sector. How can the co-operatives then ask for total income tax exemption for their income from industry or business? This is particularly relevant in the context of the recent decisions of the central government to delicense and decontrol the sugar industry and to permit free competition between the private and co-operative sectors. The question of income tax liability of co-operatives has already come to the fore in Maharashtra with income tax authorities issuing notices to some CSFs for their income based on excess price paid for sugarcane as compared to the statutory minimum price fixed by the government. *Prima facie*, this seems reasonable. But, this raises an important question of policy. It is necessary that the legal position on this subject is clarified by the central government once and for all, as it would have major implications for the future working of CSFs.

3.10 A brief reference may be made to a few salient provisions of the proposed Model Act. The usual term "bye-laws" is replaced by the term "articles of association" which are to provide exhaustively for the actual framework of the working of the society concerned. *Membership is restricted to members who need and are able to use the core services provided by the co-operatives. As such, government participation in share capital is omitted. Government loan or guarantee could however be on mutually agreed terms but only under a memorandum of understanding.* The admission or refusal of membership finally vests in the general body. Minimum use of services, as specified in the articles of association, by members is a necessary precondition for exercise of their rights as members. Disqualification to continue as director will be incurred if: a) general body is not held in time, b) Annual Report and audited annual financial statements with statutory auditor's report for previous year are not submitted to the annual general body, and c) elections are not held before the term of office of existing directors is over. Only active members, patronising the services of co-operatives, are to be allowed to be on the board of directors. Borrowing of funds from non-members is to be allowed. Annual deficit could be recovered as deficit charge from members and recovery could also be made from directors and staff to the extent they are responsible for deficit. Each general body of a society will constitute arbitral tribunal for deciding disputes.

### Dubhashi Committee

3.11 Some of the issues arising from the recommendations of the Brahma Prakash Committee were gone into by the High Power Committee relating to Co-operative Law and Co-operative Finance (hereafter referred to as Dubhashi Committee) appointed by the Government of Maharashtra in October 1990. The committee submitted its report in March 1992.<sup>10</sup> In the following paragraphs reference is made only to those recommendations of the committee which are relevant to the terms of reference of the present committee.

3.12 The committee, *inter alia*, recommended that the Co-operative Act should contain a separate chapter for non-aided co-operatives which could be given wider operational freedom consistent with co-operative principles. This will be in conformity with the present climate of liberalisation and removal of unnecessary controls.

3.13 The committee recommended that unaided society should be one whose balance sheet at the close of the previous year does not indicate any type of liability in the form of: government share capital, government loans, government guarantees, and any other form of government financial assistance (including subsidies) which remains in the balance sheet till the conditions of grant or subsidy are fulfilled. The committee felt that any financial assistance received either from a government corporation or any other financial institution should not make the society a government aided society, and recommended that the definition of a non-aided society in the Maharashtra Co-operative Societies' (M.C.S.) Act may be amended accordingly (pp. 75-76). This committee agrees with the above recommendations of the Dubhashi Committee, and would urge that very early action be taken to implement the same.

3.14 As regards inclusion of a separate chapter in the M. C. S. Act for co-operative processing societies, unfortunately, the Dubhashi Committee did not receive any response to its questionnaire on the desirability or feasibility of taking any steps in this behalf from any of the co-operative processing units. The Dubhashi Committee did not therefore make any recommendations on this subject, so far as the processing sector co-operatives were concerned. This committee, however, believed that in view of the large financial involvement of the state government in the co-operative

<sup>10</sup> Government of Maharashtra, Office of the Commissioner for Co-operation and Registrar, Co-operative Societies, *Report of the High Power (Dr. Dubhashi) Committee relating to Co-operative Law and Co-operative Finance*, 11th March 1992.

processing units, time had come to include a separate chapter on such units in the M. C. S. Act.

3.15 Dubhashi Committee Report contains a separate chapter on Public Funding of Co-operative Processing [Units]. The committee was of the view that with the rapid development of co-operative processing, it would not be possible to meet their requirements under the existing channels of financing. The committee therefore recommended a new approach under which the co-operatives will enter into the open market for mobilisation of resources.

3.16 The committee felt that it may be possible for economically viable projects to attract public financial support by way of preference share capital. The committee, therefore, recommended that the M. C. S. Act may be amended to provide for the following:

a) Definition of preference share capital on the lines of section 85 of the Companies' Act.

b) Non-availability of voting rights in the management of co-operative institutions to persons subscribing to the preference share capital of a co-operative, and

c) Furnishing of guarantee by the state government to the preference share holders in the event of failure on the part of the co-operative either to pay the guaranteed return on the due dates or to repay the principal amount on the stipulated date (pp. 96-97). The committee has rightly emphasised that such a provision would be only an enabling one and cannot, by itself, guarantee the availability of needed public support unless the co-operatives refurbish their public image.

3.17 The committee looked into the legal aspects of non-member share capital and felt that there was no objection in co-operative law for raising non-member share capital.

3.18 The committee examined the issue of co-operative processing societies accepting deposits from the public. The committee came to the conclusion that there is no legal restriction under the Co-operative Societies' Act on acceptance of deposits from the members of the public. Further, the statutory directions issued by the RBI in the matter of acceptance of deposits from the public by non-banking institutions, whether financial or otherwise, do not cover in their scope co-operative institutions. However, the RBI can statutorily regulate the acceptance of funds by way of term deposits from public by co-operative institutions. The committee recommended that it would be

worthwhile for big and reputed co-operative processing units to explore this method of raising financial resources.

3.19 The committee was not in favour of processing co-operatives mobilising resources through floatation of debentures. Instead, the committee recommended setting up of a separate state level organisation by MSCB to take over this work. This organisation could take up floatation of debentures, with state government guarantee, on behalf of co-operative processing units.

3.20 The committee also recommended the MSCB setting up a mutual fund for mobilisation of resources for giving financial support to agro-processing projects in the co-operative sector.

#### **Anand Charter for Co-operatives, 1997**

3.21 A reference may also be made in this context to the Anand Charter for Co-operatives, 1997, adopted at the National Symposium on Future of Co-operative Advocacy.<sup>11</sup> The Charter lamented that, despite the doctrine of mixed economy, the co-operative movement was not allowed to grow to its full potential. Its autonomy was destroyed by excessive official presence and control backed by anti-democratic laws. Spheres where co-operatives had proven their comparative advantage were encroached upon by the State itself besides the private sector in total defiance of the principles of mixed economy. It believed that even successful co-operatives were and continue to be harassed by draconian laws, making it difficult for them to extend their reach and coverage. The Charter asserts that it is necessary to create an environment in which co-operatives can not only survive, but in which they will thrive and face competition with confidence. The Charter delineates a few key elements basic to a good co-operative law:

- First, it should be fundamentally and inalienably consistent with co-operative principles.
- Second, it should enable, not prescribe
- Third, save where public interest is at stake-- and that is normally the concern of other laws-- co-operative law should leave matters to their members and their by-laws.

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<sup>11</sup> Co-operative Initiative Panel, *National Symposium on Future of Co-operative Advocacy*, September 2-3, 1997, at IRMA, Anand, Gujarat.

--Fourth, co-operative law should not duplicate, much less replace, other laws-- too often, misdeeds are protected by co-operative laws, and

--Fifth, co-operative law should enforce the fiduciary responsibility of elected leaders and senior managers, holding them accountable for managing the affairs of a co-operative with the same prudence and integrity as they would their own.

#### **The Committee's View**

3.22 The committee is firmly of the view that a separate law needs to be enacted for self-reliant co-operative societies on the lines of the Andhra Pradesh Act and generally on the points urged by the Co-operative Development Foundation. There is no justification to keep such co-operative societies on tight government leash. They should be left to be administered democratically under the articles of association and the by-laws adopted by their members. It is high time this reform in co-operative law is introduced in Maharashtra which is in the forefront in the co-operative movement. This will be entirely in keeping with the forces of economic liberalisation sought to be unleashed in other sectors of the economy. This alone will provide a level playing field to the co-operatives as compared with the private sector or joint sector enterprises in the respective fields.

3.23 The committee would, however, advise that while enacting the law as above, a self-reliant co-operative society should be defined as one which does not have, any longer, any government share capital, any loan from the state government, and any subsisting state government guarantee for any financial accommodation availed of by it from any other financial institution.<sup>12</sup> In short, the state government should not have any financial involvement in such a co-operative society. If a state government financial institution has extended any loan to such a co-operative, it will be disregarded for the purpose so long as it is not against any guarantee by the state government. The main advantage of this definition would be that it would encourage the co-operatives to return the outstanding government share capital, loan etc. as soon as possible so as to be out of the control of the state government. This would also imply that a co-operative society registered under the normal M.C.S. Act can, on satisfying the above criterion, be registered under the proposed new legislation.

<sup>12</sup> This may require persuading the Government of India not to insist on state government guarantee in respect of assistance to CSFs from the Sugar Development Fund and the NCDC.

3.24 Pending enactment of such a legislation, the committee would propose that CSFs which satisfy the above criterion should be freed from government control and should not be made to ask for a number of permissions and approvals from the commissioner of sugar or the state government. The audit of their accounts may be done by any chartered accountant approved by the board of directors. They may be free to undertake expansion of their capacity or go in for any project for manufacture of by-products, so long as finances are proposed to be raised on their own without any involvement of the state government. They should also be free to fix any purchase price for the sugarcane. Prior sanction of the Registrar under section 67 may not be necessary for declaration of dividend exceeding 15 per cent. This is only an illustrative list of the kind of freedom which such self reliant co-operatives will enjoy.

3.25 In the next group will be the CSFs which have a small total financial involvement of the state government, say, less than Rs 10 lakh, in any form. The committee was told that a number of these CSFs have deliberately not repaid all state government share capital as they prefer to take shelter behind the sugar commissioner in a number of matters on which they often have to face hostile annual general meetings (AGMs) of their share holders. Thus it is easier to get away with the declaration of sugarcane price by announcing that it has been approved by the sugar commissioner. This is equally true, for example, when an AGM is delayed and objections are raised by members against such delays. The committee believes that such CSFs may also be given considerable latitude in managing their affairs and, the CSFs may be freed, selectively, from certain government controls. A time limit of upto two years, depending on the amount which may be outstanding against them, may be given to such CSFs to return the government share capital and/or government/government guaranteed loan so as to be entirely free of supervision and control of the government.

3.26 In the third group will fall the CSFs which have large outstandings of government share capital, loans, guarantees, taxes and levies, and which are unlikely to be cleared in the near future. These CSFs will require much closer supervision and control than has been hitherto exercised by the commissioner of sugar. The committee finds that the existing provisions of the M.C.S. Act are inadequate to deal with such CSFs effectively. The committee would strongly recommend that a separate chapter may be incorporated in the M.C.S. Act to safeguard the government's large financial

involvement in co-operative processing and other societies such as sugar factories, spinning mills, cotton federation, and others fully, and deal firmly, and in an exemplary manner, with the managements of CSFs which indulge in malpractices, abuse of authority and even worse practices such as outright corruption. At the same time, it will have to be ensured that actions are not initiated against any CSFs due to political vendetta, groupism and insidious political motives.

3.27 If co-operatives are to work as industry and compete with the private sector, the provisions of the co-operative law, as compared with those of the Companies Act, 1956, will have to be carefully examined. Such an examination will show some significant differences. The basic objective of the Companies Act is to help the growth of companies on healthy lines, to protect the interests of creditors in view of the limited liability of the members of the company, and to safeguard the interest of the investors. The law equips the government with necessary powers to intervene in the affairs of a company in the interest of shareholders and the public. There is no reason why co-operative law need not have the same objectives. But this is not so. The basic objective of M.C.S. Act is to provide for orderly development of the co-operative movement in the State in accordance with the objective principles of State Policy enunciated in the Constitution of India. This is as amorphous and woolly as it can get. Thus the latter Act is not meant to look at co-operatives as profit-making, competitive ventures geared to withstand competition in the market. Out of this basic divergence in the objectives flow some major differences between the two enactments. More important of these can be briefly summarised as under:

(i) A public limited company is registered with the object of earning profit for its investors. The object of a co-operative society, as laid down in the M.C.S. Act is to attain economic and general welfare of its members and the general public. While companies may strive to earn profit so as to give maximum return to the investors in the company, the return on the share of a co-operative society can only be limited. What is more important is the adherence to co-operative principles. Though these have not been spelt out in the Act, these are well settled and include voluntary association, democratic management, equity, self-help, mutual help and open door policy.

- (ii) Equity share in a company is a movable property and is freely transferable subject to certain provisions and can be sold in the open market. The share of a co-operative society can be transferred only to a person who is a member of the society or whose application for membership is accepted by the society. Shareholder member of a society is primarily a member-owner and not an investor. But, there is no reason why a member-owner may not be interested in making maximum profit.
- (iii) The voting right in a company is proportionate to the shareholding, while in a society, each member has only one vote.
- (iv) The M.C.S. Act expressly states that the final authority of a society vests in the general body in its meeting and the management of a society shall vest in the duly constituted committee. The Companies Act does not state so. It indicates the business which is to be conducted by the general body meeting. As a result, maximum powers vest in the board of directors.
- (v) The directors of public companies are appointed by the shareholders in the AGM. In the case of co-operative societies, they are elected by members, for which formal elections have to be held by the Registrar/ Collector.
- (vi) Companies enjoy more autonomy in their internal working as compared with the co-operative societies.
- (vii) Due to their co-operative character, co-operative societies are viewed as chosen instruments of state policy for effecting socio-economic change and improving the lot of the weaker sections of society. They are therefore given aid by the state government and have to adhere to co-operative principles and have to abide by the directions given by the state government;
- (viii) The registrar of co-operative societies is empowered to direct amendment of bye-laws, effecting amalgamation or division of societies, issue orders of winding up of societies, and remove elected directors. The registrar of companies is not equipped with similar powers; and
- (ix) Under the Companies Act, printed copies of the annual report of the board of directors along with the auditor's report has to be circulated to all shareholders before the AGM is held. Under the M.C.S. Act, the committee is to lay before the society, among others, a balance sheet and profit and loss account for the year.

3.28 While the considerations underlying these provisions of the M.C.S. Act may still be valid for co-operatives in a number of sectors, a time has come to seriously examine whether these principles should continue to hold good for the co-operatives in the processing sector which involve huge investments. These co-operatives have to increasingly compete in the market and have to be provided with level playing field with the private sector. The committee would like to emphasise that like private sector, joint sector and public sector, the co-operative is only a form of organisation of a business or industrial entity, and it must be governed by the same principles as are applicable to the other forms of organisation. In this light, the present provisions of the M.C.S. Act need to be reviewed in their entirety. The committee would recommend this being done as soon as possible.

3.29 One of the first issues which needs to be addressed in the light of this new approach and in keeping with the basic philosophy of co-operatives is whether the state government should take any equity in the CSFs. We have earlier referred to the observations of the CDF in this behalf (para 3.7). The committee fully endorses this view. It can be seen that in the case of Maharashtra, the scale of government equity has gone up over the years from 1 (members' share):3 (government contribution) to 1:5 in the case of CSFs in Marathwada and Vidarbha. Demands are often voiced to raise it to 1:9 or even 1:10. Over 60 per cent of equity in most CSFs is held by the state government. It is further interesting to see that the state government gives an unduly long period of 15 years for the redemption of the equity. Elaborate procedures have been laid down for the creation of an equity redemption fund by each factory but the instructions have been mostly disregarded. The commissioner of sugar too has failed in ensuring compliance of the government orders. In addition, the state government has not only given guarantees for loans raised by CSFs from banks and financial institutions but has also extended loans to them directly from the state exchequer. According to the financial institutions, the state government decides the following, among other, matters pertaining to CSFs:

- Location
- Allocation of cane area
- Controlling releases of water for various crops
- Contribution to equity and guarantees to loans

- Approving cost of plant and machinery
- Approving cost of civil works
- Making choice of machinery supplier
- Selection of Managing Director, and
- Deciding payment of cane price.

The financial institutions therefore treat the state government as the promoter of a CSF. This is also because no other member (s) has large enough stake in the success of the venture. This practice is contrary to the ideals of co-operative charter advocated by leading co-operators all over the country and must be jettisoned as soon as possible. The committee therefore recommends that there should be no direct state government equity in the CSF. If the NCDC desires to take equity in CSFs, it may enter into a direct transaction with each CSF and should not route its funds through the state government. This recommendation coupled with the recommendations contained in paras 3.30 (iv) and (v) should ensure that the equity of a CSF is raised without direct financial involvement of the state government.

3.30 The other provisions to be incorporated in this chapter will have to be carefully weighed to achieve the desired objectives by strengthening the democratic, open, transparent and accountable governance of the co-operative societies. The committee would like to make the following suggestions, among others, in this behalf:

i) The genesis of mismanagement of such societies is to be found in the lack of openness and accountability in the management. This will have to be corrected by taking a number of steps. As per section 75 of the M.C.S. Act, every society is required to hold a general body meeting within six months of the close of the financial year. However, such meetings are hardly ever held within the prescribed time. In fact, it has become the general practice on the part of CSFs to ask for extension of time from the sugar commissioner. In some cases, AGM has not been held even though a period of two years has elapsed from the close of the financial year. In several cases, accounts of CSFs have not been audited since 1993-94. This must not be permitted to continue. It is necessary to ensure that, in future, AGM is invariably held within the stipulated time after the completion of the accounting year. It must be made mandatory that the annual report of the board of directors along with the audited accounts and the remarks of the auditors are printed and circulated to the shareholders

and placed before the AGM as above. The discretionary power with the sugar commissioner to give any relaxation in this behalf should not be for a period of more than three months. The Act should provide that infringement of this provision will lead to the disqualification of the board of directors and the directors will be ineligible to contest the election for a period of five years from the date of such disqualification.

ii) It must be mandatory on the board of directors to fully comply with audit objections within a period of six months from the date of receipt of the audit report. Any failure to do so should call for action against the erring board of directors, including the recovery of the loss sustained by the society.

iii) It has been noticed that a number of instructions issued by the sugar commissioner have not been acted upon by the CSFs. Thus, for example, instructions issued regarding adherence to the staffing pattern have not been followed by most of the CSFs. The Act should provide that non-compliance of directions given to CSFs would lead to supersession of the board of directors, apart from disqualification of the office bearers and/or the other directors, as the case may be, for contesting the election for a period of five years.

iv) Wherever considered necessary in the interest of raising adequate equity capital or fulfilling the requirements of the financial institutions, the concept of one member one vote may be given up. The upper limit for holding of shares by any grower member may be 26 per cent of the total equity. It is essential to introduce this major change to provide for large enough stake for some grower members in the proper running of the sugar factory.

v) However, a CSF will also have the liberty to choose the other alternative of one member one vote if it is in a position to raise adequate equity in this manner. In such an event, the CSF will have to enter into appropriate agreements with the financial institutions so as to be in a position to raise the required funds without the involvement of the state government.

vi) There is a persistent demand all over the country for the enactment of right to information. This proposal is already under active consideration of the central government. The Governments of Tamil Nadu and Goa have already enacted such a law in 1997. The Government of Madhya Pradesh enacted a legislation on right to information in 1998. The Tamil Nadu Act, for example, brings under its purview not

only the state government but also all its corporations, statutory bodies and co-operatives.

Section 32 along with section 39 and Rule 30 of the M.C.S. Act gives a list of the books and documents which can be inspected by members of the society or members of the public in the office of the society or the office of the Registrar. It is not thus clear whether the registrar or the society is barred from making available any other books and documents to the members of the society or the public. The committee was told that often applications are received by the commissioner of sugar for making available copies of the reports of inspections carried out by his office under section 83 and 89-A. This clearly calls for a totally new approach to the issue.

The proposed amendment to M.C.S. Act should make an explicit provision granting right to information to the members of a co-operative processing unit. This will mean the co-operative society publishing, *suo motu*, information, from time to time, relating to the running of the venture such as purchases made from time to time, the price at which these were made, whether competitive bidding procedures were followed and so on. The Act and the Rules thereunder should spell out the information which is to be published by a co-operative society on its own and the periodicity thereof. All financial points which affect the profitability of the factory and therefore the cane price must be made known to the members so as to enable them to judge the efficiency of the board of directors. It should also be incumbent on the board of directors and the officers of a society to furnish any other information asked by a member or a member of the public within 15 days of the receipt of the request. A scale of fees could be prescribed for the purpose. The first appeal against rejection may lie to the chairman and the second to the regional joint director of sugar. The appeal must be disposed of by the appellate authority within thirty days of its filing along with the prescribed fee. Any wilful and deliberate denial of request should lead to action against the defaulting employee or the office-bearer of the society. This alone will help bringing in accountable and transparent management in a CSF.

vii) There must be clear-cut rules regarding recruitment of staff to the CSFs and these must be formally adopted by the board of directors. It should be incumbent on the CSF to make recruitment from the list of candidates furnished by the Employment

Exchange and to observe all rules made by the government regarding reservation of posts for scheduled castes/ scheduled tribes/ other backward classes and so on.

viii) In section 77-A, the following two additional grounds may be considered for appointment of administrator:

a) Where majority of directors of the existing board have tendered their resignations; and

b) Where the election to the board of directors is cancelled by the Divisional Commissioner in deciding an election petition filed before him.

The past experience, except in some exceptional cases, of appointment of administrators on CSFs has been dismal. This is mainly due to appointment of a very junior officer as administrator. Appointment of administrator should be considered as a last resort when all other efforts to make the board of directors function effectively and efficiently have failed. On a rare occasion when an administrator has to be appointed, the Act should provide that an officer not below the rank of a Joint Registrar or Additional Collector will be appointed to take over the responsibility of a CSF. Senior and experienced managing directors of CSFs could also be considered for such assignments.

In the case where appointment of administrator becomes inevitable, election of a new board of directors should be held within six months at the latest. If, for any reasons, this is not considered possible, the term of the administrator may be extended by another six months, at the latest, but the reasons therefor should be clearly recorded on the file and these must be made public. The only exception could be in respect of a CSF for which a rehabilitation programme has been sanctioned and continuance of the administrator is considered necessary for speedy completion of the programme.

ix) Action against CSFs can be taken under various sections of the M.C.S. Act and Rules such as section 77 (appointment of administrator), 78 (supersession of board of directors, removal of any director), section 73-FF, 144-E and Rule 58 (disqualification for election as member of board of director), 83 (holding of statutory inquiry), 88 (appointing authorised officer for fixing responsibility), 155 (recovery of sums due to the government), and 79-A (issuing directives). Initiation of such separate inquiries becomes a time-consuming process. Also, at a time, only one type of action can be taken. It would be advisable to consolidate all these sections so that all inquiries and

actions can be initiated and taken against a society under one section. This will avoid multiplicity of proceedings and wastage of time.

x) A specific provision needs to be made for execution of agreement with non-members for sale of their sugarcane to a CSF. This practice which has come into vogue since 1980 needs to be given legal status. This will be in the interest of both the non-members as also the concerned CSF.

xi) At present, while registering the sugarcane planted by a member of a CSF, no written acknowledgement thereof is given to the member concerned. It must be made obligatory on the CSF to do so, failing which the CSF should be liable to be penalised by way of a fine.

xii) Under section 20-A, any society or societies, with the prior approval of the state government, can enter into collaboration with any society, undertaking, or any undertaking approved by the state government for carrying on any specific business or businesses including industrial investment, financial aid or marketing and management expertise. Provision may be made in this section for constitution of a joint management committee consisting of members of managing committee of the society and of the undertaking with which the society has entered into collaboration. The powers of managing the collaboration business may vest in the joint management committee.

xiii) Section 25 states that a person shall cease to be a member of a society on his resignation from the membership thereof being accepted or in the case of other circumstances mentioned therein. A provision may also be made that a person shall cease to be a member of the managing committee on his resignation from the membership thereof being accepted by the committee, or on his removal on account of disqualification and/or appointment of a new member in his place.

xiv) CSFs have to give advances to their transport contractors. Instead of granting such advances from their own or borrowed funds, it is more beneficial for CSFs to arrange loans for the contractors from commercial or urban banks or credit societies. The co-operative credit societies which agree to advance loans to transport contractors insist that the CSF should invest some funds in the credit society by way of deposit. But under section 70 (d) of the M.C.S. Act, a society can invest or deposit its funds only in any co-operative bank approved for the purpose by the Registrar. It is

suggested that the words, "or co-operative credit society" may be added after the words "any co-operative bank" to enable CSFs to deposit their funds in such societies.

xv) Section 73 (1) (b) may be amended to lay down a specific time limit, say six months, from the date of registration of a CSF, within which a provisional committee may be appointed by the state government. Such a committee should, however, not continue beyond one year, and an elected body should take over the charge as soon as possible.

xvi) In section 73-F, which pertains to member or whose near relation deals in goods for purchase of which loans are given by a society being not eligible to be on its committee, the words "deals in such goods" needs to be made explicit to avoid abuse of powers and authority by such members.

xvii) Section 73-FF states that a person who is a defaulter of any society or carries on any business of the kind carried on by the society is disqualified for membership of the committee. This can lead to difficulties in respect of CSFs. Thus, if a person being office-bearer of a CSF, signs loan documents on behalf of a CSF, he should not be treated as a defaulter under this section if the society fails to repay the loan. Similarly, the words "business of the kind carried on by the society" also need to be clarified. A CSF is engaged in the business of processing sugarcane. It may also be engaged in any other business or service activities. It needs to be considered whether all such activities, other than sugarcane processing, should be considered as business for the purpose of this business.

xviii) In most sugar factories, there are members who do not grow any sugarcane. In spite of this, they are continuing as sugarcane grower members for years together. These members who had not produced sugarcane for three consecutive years need to be put into category 'B' i.e. non-producer members. This action has, however, been stayed by the high court in some cases. The relevant provisions of the Act need to be reviewed to enable speedy action in such cases. Such members should not continue to enjoy voting rights or be eligible for holding elective office in the CSF. It is suggested that the registrar may be empowered under Section 79-B to put such non-supplier member in the category of non-producer member.

xix) Section 81 (2A) may be amended to provide for compulsory efficiency/cost audit and performance audit of CSFs.

xx) In section 88 pertaining to the power of the registrar to assess damages against delinquent promoters etc., the words, "or an inspection under section 89-A" may be added after the words, "or an inspection under section 84".

xxi) In section 89 relating to power to enforce attendance etc., section 78 may be added along with the sections 83, 84 and 88.

xxii) Section 89-A pertains to power to inspect working of a society. It may be provided therein that the findings of the inspection will be communicated to the society whose working is inspected.

xxiii) Section 102 states that interim orders of liquidation should be communicated to the society for submitting its explanation to the registrar. Provision may be made in the section for communication of interim order also to the creditors of the society, calling for their remarks.

xxiv) Section 102 may be amended to provide for appeal against orders made by regional joint directors of sugar to the commissioner of sugar.

xxv) Rule 107-C refers to the maximum amount of cash which may be handled at a time and who may be authorised for the purpose. The limit for cash on hand for CSFs is Rs 5,000. As the working hours of the factories extend beyond banking hours, this may be raised to Rs 1 lakh.

xxvi) Section 101 refers to recovery of arrears of dues to certain societies as arrears of land revenue. The societies covered include primary agricultural co-operative societies, crop protection societies, lift irrigation societies, *Bahutedar* societies, co-operative housing societies, dairy societies and urban banks. The amounts due to them can be recovered as arrears of land revenue on grant of requisite certificate by the Registrar. It is recommended that processing societies which give advances to members, transporters and staff should also be brought in the purview of this section.

xxvii) As per section 23 of M.C.S. Act, membership of a CSF is supposed to be open to all those who fulfil the requirements contained in the Act, Rules, and Bye-laws of the concerned society. But, some CSFs do not intentionally enrol some growers as members on some flimsy grounds. Often application forms are not given to those who want to apply for membership. The existing provisions of the Act, including those pertaining to filing of appeals in such cases, to force the CSF to enrol new members have not been effective. This is particularly difficult to understand when the same

sugar factories approach the state government for share capital on the ground that the society is unable to raise enough share capital from the area of the proposed sugar factory or any existing factory. The Act needs to be amended to provide for stringent action against the board of directors in such cases, including removal of directors and their disqualification for contesting fresh election. The Act should also provide for reimbursement of costs incurred by an applicant to press his claim for membership at various levels, if his application is granted by appellate authority.

xxviii) The existing provisions in the Act pertaining to the penalties are often not effective or are time-consuming as they are mostly for imposition of major penalties such as removal of a director, supersession of a board of directors, liquidation of a society and so on. It is, therefore, necessary to provide for some minor penalties such as imposition of fine on the directors or office-bearers, suspension of directorship for a few months etc. so as to be able to take expeditious action and to convey a clear message to all other CSFs that such irregularities will not be tolerated.

xxix) In far too many cases, appeals over the decisions of the regional joint registrars or the commissioner of sugar lie to the state government. It is seen that stays against actions proposed to be taken against CSFs are granted liberally by the government setting at naught the entire objective of tightening the supervision over erring and mismanaged societies. These are anachronistic provisions based on a mindset of *mayabap sarkar* dating back to the pre-Independence period. It has led to politicisation of decisions on almost all matters pertaining to CSFs. The committee would suggest that appeals over the decisions of the regional officers should lie to the sugar commissioner. Any appeal over his decisions should lie only to the co-operative court/high court. The state government should also have no power to stay initiation of any inquiry under the Act.

xxx) The committee was told of the tendency of the courts to grant *ex-party* stays liberally. The Act may be amended to provide that no stay will be granted by a court in any case unless the government has been given an opportunity to present its point of view on whether the request for stay deserves to be entertained by the court.

3.31 In so far as mobilisation of funds is concerned, it is recommended that, following the Andhra Pradesh Act (Act No. 30 of 1995), following provisions may be incorporated in the M.C.S. Act:

“(1) A co-operative society may mobilise funds in the shape of share capital, deposits, debentures, loans and other contributions from its members to such extent and under such conditions as may be permissible under the bye-laws of the co-operative society; Provided that, at the time of dissolution of the society, the amounts due to the members shall be settled only after the settlement of dues to others.

(2) A co-operative society may also mobilise funds in the shape of deposits, debentures, loans and other contributions from other individuals and institutions as may be permissible under the bye-laws;

Provided that a co-operative society shall not accept share capital from the government *but may accept other funds or guarantee from the government on such terms and conditions as are mutually agreed upon through a memorandum of understanding.*”

The provision in the italics above may, however, be deleted from the provision to be made in the Maharashtra Act for the reasons brought out in the earlier recommendations of this committee.

3.32 It would also be advisable to include in the M.C.S. Act the following provision relating to the disposable surplus, as contained in the Andhra Pradesh Act:

“(1) In any year, a co-operative society shall allocate towards a deficit cover fund, reserve funds, deferred payment to members as patronage rebate in proportion to their use of the co-operative societies’ services and payment on share capital of interest not exceeding the rate of interest paid by scheduled banks, such percentage of the surplus arising from its business transactions in the previous year, as may be approved by the general body.

(2) Reserves created under sub-section (1) shall be costed by crediting an annual interest equal to the rate paid by scheduled banks on fixed deposits.”

Earlier, in para 3.9, the committee has expressed its reservation on the use of the term “interest on share capital” as it is against all accepted canons of financial management and has urged that a final view needs to be arrived at on the income tax liability of the surplus of a co-operative society. *Prima facie*, there is no justification for giving income tax exemption to such surplus. However, depending on the final decision of the central government on this matter, the actual wording of the amendment could be settled.

3.33 Due to the cyclical nature of the sugar industry and consequent difficulties faced by CSFs, the following provision pertaining to the management of deficit contained in the Andhra Pradesh Act is salutary and could be adopted in the M.C.S. Act with advantage:

(1) Where a co-operative society is left with a deficit in any given year, the board of directors shall place before the general body in the first meeting following annual general meeting, a detailed report on the causes of deficit and the manner in which the deficit is proposed to be met.

(2) The general body of the co-operative society shall decide to have the deficit covered by setting it off against the amounts available in the deficit cover fund, and/or by debiting the deficit to the account of the members in proportion to the services they had availed or were expected to avail of the co-operative society during the year.

3.34 If a CSF has to be run as an industry, it is necessary to provide for a continuity in the management of the society. From this point of view, it may be advisable to provide for staggered terms for the directors of the board. The following provision of the Andhra Pradesh Act may be incorporated in the M.C.S. Act:

“The Directors of the Board shall have staggered terms such that at any point of time the vacancies arising as a result of the terms of the Directors coming to an end, are less than one half of the total strength of the Board;

Provided that the term of a Director shall not exceed five years:

Provided further that at the first election all the Directors shall be elected at once, and their terms staggered by drawal of lots specifying different terms”.

3.35 CSFs have adopted model bye-laws prescribed by the state government and the sugar commissioner from time to time in a routine manner. However, this mechanical approach is not appropriate. Situation in sugar factories varies from case to case. There also cannot be uniformity in the bye-laws of all sugar factories, so far as their activities other than sugar production are concerned as they differ from factory to factory. If the CSF is to run as a democratic institution in an open, accountable and transparent manner, it is necessary that utmost attention is paid to the preparation of proper bye-laws and their adoption by the society. This work has been neglected so far. An awareness campaign, therefore, needs to be undertaken by leading co-

operators, the Federation of Co-operative Sugar Factories in the state and non-governmental organisations to have proper bye-laws adopted by CSFs.

3.36 It is necessary to strengthen the management of CSFs substantially in terms of the position and status of the managing director and the technical heads of departments, the administrative and financial powers delegated to them, freedom to take decisions without undue interference from the office-bearers and directors in the day-to-day work and so on. If these matters continue to be neglected as at present, there is clearly no future for the CSFs and they will be unable to withstand the competition from the private sector and multinationals in the new era of delicensing. Following amendments may be done in the M.C.S. Act to serve this purpose:

- i) At present, the size of the board of directors is very large. As per company law, the board consists of only 8 to 10 directors. Provision needs to be made in the co-operative law to restrict the number of directors to 15, including 10 elected directors.
- ii) An enabling provision may be made for appointment of chairman-cum-managing director (CMD), wherever a CSF chooses to do so.
- iii) There should be two posts of executive directors on each board wherein the managing director and a senior technical head could be appointed.
- iv) There should be one post of director earmarked for expert to be nominated by the sugar commissioner from any of the fields such as agriculture, sugar technology, finance, management, etc.
- v) This will be in addition to the representation given to the financial institutions. The committee was told that the financial institutions have decided not to put their nominees on the CSFs, except in exceptional cases. The committee would, however, hope that the financial institutions will review this policy and continue to provide their nominee directors on the boards of all CSFs.
- vi) One post of director be earmarked for representation of factory labour.
- vii) All the above directors, along with the other elected directors, should be eligible for being appointed on the various committees of the board. However, no director should be on more than two committees at any time.
- viii) The representation of elected directors on the committees of the board should be in proportion to the strength of various groups and parties among the elected directors so as to ensure that the committees reflect the composition of the board of directors.

This is particularly relevant as most of the business of running a CSF is carried on in the committees of the board.

- ix) To make management more accountable, personal guarantees/mortgage of property of the board members may be made compulsory before sanction of loans.
- x) Guidelines may be issued to clarify powers and responsibility of the board of directors *vis-a-vis* the managing director of the factory.
- xi) The present sanctioning power of the managing director (Rs 5,000) is too limited and hampers the smooth functioning of the factory. This may be increased to Rs 1 lakh in the crushing season and Rs 50,000 in off-season.

3.37 There is yet another important matter which requires urgent attention. There has been considerable sickness in CSFs. It is time someone is held responsible for bringing sugar factories to this pass. The only way to bring in some accountability is to squarely hold the management of the concerned societies responsible for their sickness. The committee would recommend that not only the management of the sick CSF should be changed but the out-going members of the board of directors should be debarred from holding any post in the same or any other co-operative society registered under the M.C.S. Act for a period of five years from the date of termination of their term in office.

3.38 It is noticed that the representatives of the financial institutions are often not able to attend the board meetings as the meetings are held at short notice. This is also true of other out-station directors. This is a convenient ploy often adopted by office-bearers of some CSFs to get their proposals passed without any questions being raised in the board. If this is allowed to continue, the very purpose of appointment of outside experts and others on the board will be frustrated. It must, therefore be ensured that, except in the case of exceptional urgency, a notice of clear ten days is given before a meeting of the board of directors is held. Infringement of this requirement should lead to penal action against the office-bearers and concerned officers of CSF.

3.39 Providing appropriate legal framework as above to enable CSFs to work efficiently and to compete effectively in the market is only the first step towards mending matters so far as the sugar industry in Maharashtra is concerned. There are many other matters which too will require close attention for the healthy growth of this industry.

## CHAPTER 4

### PREREQUISITES FOR HEALTHY GROWTH OF CSFs

4.1 Normally no industry would be established without availability of adequate raw material. This is particularly true of resource-based or raw material-based industry. For example, a cement factory will never be established unless adequate availability of limestone is assured. Unfortunately, this is not true in the case of sugar factories as basically it is a question of what comes first--chicken or egg? Normally, sugarcane crop will not be taken up for cultivation by farmers on a large enough scale unless there is assurance that a sugar factory will come up in the area to crush and process it. This is particularly so because the sucrose content of sugarcane declines rapidly if it is not crushed in time and soon after it is harvested. It is on this logic that sugar factories have been recommended by the state government and sanctioned by the central government without adequate availability of cane in the respective areas of the proposed sugar factories. While some of these factories have become viable, though after some time lag, a number of other CSFs have become sick from day one due to shortage of cane.

4.2 The *license-permit raj* played a havoc with this industry. Each government, from time to time, had its own favourites who had to be gifted a sugar factory. Getting a license for a factory became a hallmark of one's success. With a sugar factory license, a leader was considered as having reached the pinnacle of his political carrier. In several cases, the CSF was therefore treated as a personal fiefdom or empire to be run as he pleased. The much touted co-operative management culture was nowhere to be seen.

4.3 With each success story in the initial years after Independence, there was a race for setting up CSFs. After some time, inevitably, it became a regional issue. Since Western Maharashtra had so many sugar factories, Vidarbha and Marathwada could not be left behind. Irrespective of factor endowment, vociferous demands were made for putting up sugar factories in Northern Maharashtra, Vidarbha and Marathwada, though these regions were not best suited for the purpose. It is not, therefore, surprising that there is a preponderance of sick CSFs in these regions.

4.4 The central government too had its own favourites in dispensation of this largesse. At times, CSFs were sanctioned even when these were not recommended by the state government. At times, a criterion such as a factory being promoted by women was adopted to give a license, irrespective of availability of cane in the area or other significant shortcomings!

4.5 With the financing pattern adopted in Maharashtra, the stake of the farmers in raising of equity was minimal. This stake was further diluted in respect of the sugar factories coming up in Vidarbha and Marathwada. The state government was liberal with a number of other facilities such as guarantees for loans, deferral of purchase tax, extension of loans and so on. As a result, there was no pressure to make a CSF viable and self-supporting as soon as possible.

4.6 The all India financial institutions were not as rigorous as one would have expected in respect of project appraisal or follow-up actions such as close monitoring and supervision of CSFs. This was mainly because, in their eyes, the promoter of the CSFs was the state government and not any private individual, irrespective of whose name appeared as a promoter on the loan application. Further, all the loans to the CSF were guaranteed by the state government. Therefore, these did not appear in their books as non-performing assets (NPAs). And in any case, even if these appeared as NPAs, no provision had to be made for them in their balance sheets. (It is only in the Mid-Term Review of Monetary and Credit Policy for 1998-99, announced in October 1998, that the Reserve Bank of India has directed that, "With a view to further improving the quality of asset portfolio and enhancing the financial soundness of banks, income recognition and provisioning norms on government guaranteed advances are being brought on par with those on other advances with effect from the financial year 2000-2001. Provision on existing and old government guaranteed advances which would subsequently become NPA are to be fully provided for over a period of four years beginning March 31, 1999".) As one can see, this was a convenient arrangement for all players in the field-- state government which could build large political clout by dispensing favours, the so-called "promoters" of CSF who could build their empires, and the banks and financial institutions which could lend safely without any worry of non-recovery of the loan amount. It was only the general public which was at the "receiving end"!

4.7 The committee was also disappointed with the quality of project appraisals done by various agencies. A number of assumptions such as availability of cane, cane price, harvesting and transport costs, salaries and wages, costs of utilities, consumables and stores are found to be unrealistic. The appraisals have failed to bring out, in a forthright manner, the issues critical for the success of the venture. This is evident from the number of sugar factories which have gone sick in recent years. There has also been no post-evaluation of the projects which could throw light on the deficiencies in project appraisal techniques. This major lacuna needs to be remedied in the future.

4.8 The financial institutions have not agreed with the assessment of the committee that because of the availability of state government guarantee, the institutions' appraisals were lax. They have argued that they have their own uniform standard of judging the technical and financial viability of projects regardless of the form of organisation i.e. whether it is a public/joint/private sector company or a co-operative society. Insisting for a promoter guarantee has been a well-accepted principle even while financing private sector projects. As such, just because there is a state government guarantee, the appraisal standards are never lowered. The security in the form of state government guarantee/promoter guarantee/mortgage etc. are only fall-back measures and institutions do believe that the viability of the project is the "real" security.

4.9 In so far as treating the state government as a promoter is concerned, the financial institutions are of the view that for the last 45 years, the state government has played a very important role as a promoter of co-operatives in the state. In addition, the state government has also been regulating the sugar factories on all vital matters which has a close bearing on the development, regulation and viability of the sugar factories in the state. Further, the directors' elections to the societies are held under the overall supervision of the state government. In the event of any irregularity/mismanagement, the state government has the right to supersede the board and an Administrator, who is generally a nominee of the state government, is appointed to take over the complete charge of the society. There is no stake or guarantee of the chairman or the other directors. In the light of these circumstances, the financial institutions have to necessarily recognise the state government as the promoter.

4.10 The financial institutions are of the view that if the state government is not to be treated as a promoter, the Co-operative Societies Act will have to be changed drastically, *inter alia*, to include voting rights to members in line with the Companies Act. There should also be no bar for an individual member for holding more than 26 per cent of the paid-up share capital of a co-operative society. This alone will enable the financial institutions to identify an individual or a core group of individuals who could be held responsible for overall success/failure of a society. The institutions are of the view that, in the absence of such legal changes, if the state government is not to be recognised as a promoter, the institutions will have to consider from the policy angle whether to continue financing sugar co-operatives in the state.

4.11 The committee went into quite some depth in the manner in which applications for the new factories or for expansion of capacity were processed in the sugar commissioner's office. The committee has come to the sad conclusion that the processing and examination was perfunctory, to put it mildly. Essentially, it was a question of making out a case on paper to justify a sugar factory at any cost. And even those exceptional cases which were not recommended by the sugar commissioner were finally forwarded by the state government, with its own recommendation, to the central government for grant of a license!

4.12 The most critical issue in the examination of applications for new factories is the assessment regarding availability of water and extent of the area which is likely to be brought under sugarcane. The committee found that the certificates regarding present and future water availability given by the officers of irrigation department and groundwater survey and development agency (GSDA) were very vague and at times, even misleading. Often they were given by very junior level officers, obviously under local political pressure. Unfortunately, these certificates were also not scrutinised by the sugar commissioner's office or the state government carefully. As a result, the assessment on this crucial issue has, in several cases, proved quite off the mark., leading to severe shortage of sugarcane for the respective factories.

4.13 The procedures followed for approval of project funding by financial institutions have also been unsatisfactory. In the case of multilateral financial institutions such as the World Bank and the Asian Development Bank, while sanctioning a project, a number of conditionalities are often attached in respect of points which are critical for

the success of the project. In fact, at times, these begin with the conditionalities to be met prior to appraisal of a project and include conditions to be met prior to board presentation for approval of the project, conditions to be met prior to effectivity of the project loan, prior to commencement of loan disbursement, and at periodical intervals thereafter. Default in meeting any of the prescribed conditions can lead to suspension of the loan and even its cancellation. A recent case of this kind was the loan sanctioned by the World Bank for the Chandrapur super thermal power project of the Maharashtra State Electricity Board which was first suspended and later cancelled for failure to meet the prescribed conditionalities attached to the loan. No such precautions were taken by the financial institutions while sanctioning loans to CSFs. This has undoubtedly been one of the main reasons for the sickness in this sector.

4.14 The normative costs adopted by the financial institutions for sanction of loans have often been out-of-date. The actual cost has been considerably higher. Since term loan was not available for this increased cost, it was often met by CSFs by using high cost short term funds. This, in turn, led to shortage of working capital margins. In the process of tying up funds in this manner, there were often large time and cost overruns. The data furnished by the Industrial Finance Corporation of India showed that in some cases the time overrun extended to over three years. The cost overrun was as much as Rs 8 to 13 crore, as compared to the appraised cost of Rs 26-27 crore. It is not surprising that in such cases the increased interest during construction has broken the back of the concerned CSFs.

4.15 A contributory factor to this time- and cost-overrun is the delay on the part of the state government in releasing its share of the equity capital as also giving state government guarantee for the loans sanctioned by the banks and financial institutions. This is largely due to the state government over-committing itself in this sector. The delays in the release of share capital could have been avoided by synchronising the state government's sanctions and releases of funds with those of the financial institutions. In view of the committee's recommendation that the state government should not take any equity in the new CSFs, this may be relevant only in respect of the CSFs in which the state government equity is only partly released so far.

4.16 The committee understands that the financial institutions have been objecting to the levy of guarantee fee by the state government. This stand of the institutions is

difficult to understand. When the state government is called upon to honour its guarantees, there is no reason why the state government should be stopped from building up a guarantee fund by levy of a guarantee fee. Even the Government of India has started levying a guarantee fee on the guarantees extended by it. The committee would suggest that the financial institutions should review their position on the question of levy of guarantee fee by the state government. But, this will not be relevant in future if the state government accepts the recommendation of the committee that no government guarantees be extended for new CSFs.

4.17 The blame for the other contributory factor for delays in finalisation of government guarantee must be laid at the doors of the state government. The committee was told that the guarantee offered was for a limited period ending in the year 2002 and did not cover the entire period of the repayment of the loan, as was the practice in the past. The committee is of the view that the state government guarantee, if it is to serve any purpose, should extend for the whole life of the loan. The committee would urge the government to reconsider its stand on this point, though the committee has recommended elsewhere that, in future, the state government should not give any guarantees for the loans to CSFs.

4.18 The committee was also told that the state government was not inclined to provide undertaking to make good any shortfall in funding of CSFs. The committee does not find anything wrong in the stand of the state government. The state government cannot be expected to take over the responsibility to make good any shortfall in funding requirements of CSFs. It is necessary to underline that the state government is not a bank or a financial institution. In fact, it will be hazardous to treat it as such. The financial institutions should reconsider their stand on these matters.

4.19 Yet another hurdle in the sanctioning of loans by financial institutions to new CSFs, has been the refusal by the state government to give purchase tax deferment to new units. On the contrary, the financial institutions insist that in respect of new grass root sugar factories, purchase tax deferment should be granted by the state government for a period of initial five years. This condition is stipulated with a view to augment the cash flow of the co-operative society as also to achieve a favourable debt service coverage ratio (DSCR). Normally, DSCR above 1.5 per cent is treated as financially viable. This type of relief can help new CSFs to meet their commitments. The CSF

can repay the deferred tax after the institutional loans are repaid. The committee has recommended elsewhere that a suitable package scheme of incentives be evolved to replace the present pattern of financial assistance by the state government. The question of deferment of purchase tax may be considered as a part of this package.

4.20 Yet another complicating factor has been the non-payment by the state government of interest and arrears of loans due for repayment for which government guarantee had been given. As on 31 August 1997, the amount for which guarantees were recalled was of Rs 180.69 crore. As a result, the all India financial institutions have stopped sanction or disbursement of funds to new sugar factories licensed in the Eighth Plan period since March 1994. The financial institutions have argued that, according to their standard policy and prudent exposure norms, it is imperative that, before committing fresh assistance or making disbursement, the *promoter group* should clear or make settlement of the existing defaults of group companies. We have separately commented earlier on the stand of the financial institutions to treat the state government as a promoter group of all CSFs in the state, but it is not appropriate for a leading state such as Maharashtra to default on its guarantee or to dishonour its guarantee, whatever may have been the compulsions of the state government. The committee would advise that the state government should fulfil these obligations without any further loss of time. This is particularly important in the light of the state government's concerted efforts to access the market for raising financial resources for various irrigation, housing and drinking water supply, among other, projects. It is in the interest of the state government to ensure that its credit rating and market image are not adversely affected in any manner by such defaults in honouring its guarantees.

4.21 The failure of the CSFs to take up sugarcane development programme has to be accepted as one of the main reasons for the serious difficulties faced by sugar factories. Unfortunately, the sound recommendations made by all the past committees on this score have remained largely unimplemented. There has been no institutional mechanism for co-ordination of work pertaining to research, seed development, extension and so on between the Vasantdada Sugar Institute (VSI), Padegaon Research Station, agricultural universities, Council for Agricultural Research, agricultural commissioner and the sugar commissioner. A series of recommendations have been made by this committee to bridge this gap.

4.22 Lack of adequate and timely credit has been identified as one of the main reasons for inadequate productivity of sugarcane in Maharashtra. It is found that, particularly for the basal dose of fertiliser and the preparatory actions, credit supply is too little and too late. A strong view was expressed in the committee that to get over these difficulties and to make the credit available at reasonable rate of interest, credit supply may be made available to the cultivators directly by the MSCB through the CSFs. The certificate of a CSF regarding preparatory action taken by a cultivator to plant sugarcane should be considered adequate for sanction of loan to him. Recovery through the CSF would also reduce the defaults in repayment and increase the rate of recovery of loans. The committee would recommend that this should be tried in a few CSFs on a pilot basis by obtaining the approval of RBI and NABARD as soon as possible. The committee was told that MSCB had formulated a sugarcane pilot scheme on these lines for implementation in the year 1998-99 and, though it was recommended by NABARD, it is yet to be sanctioned by the RBI. The committee would urge that this be expedited. The cultivator should also have the option to avail of the credit through the normal channel of primary agricultural co-operative society, if he so desires, so that he may not be at the mercy of the CSF.

4.23 Determination of proper sugarcane purchase price is yet another critical factor in increasing the supply of sugarcane. This is all the more relevant now since zoning restrictions have now been diluted. The non-members as also members (in respect of the cane beyond their obligation to supply to the CSF) will decide as to which factory to give their cane, depending on the price they receive for the cane. At the same time, the financial health of a factory will have to be safeguarded. Unfortunately, many CSFs are paying sugarcane price which is much beyond their financial capacity merely to attract cane to their factories. This competitive populism will prove to be the bane of the weaker and financially doddering sugar factories.

4.24 According to the model bye-laws of sugar factories, the board of directors is to decide the cane price to be paid to the cultivators. But those sugar factories which have not repaid their term loans and are yet to discharge the government guarantee or have still not repaid the government equity, have to get the cane price approved by the state government. The government has appointed a committee headed by chief minister (Ministers' Committee) which takes a decision each year regarding the cane

price. The State does not have the system of State Advised Price (SAP), but the Ministers' Committee decides the first advance to be paid towards the cane price which is more or less equal to the Statutory Minimum Price (SMP) adjusted to average recovery of 11 per cent for Maharashtra and the transport and harvesting charges paid by the factory. Depending on the surplus generated, CSFs are allowed to pay one or more advances till final prices are determined. However, the committee found that there is considerable scope for the manipulation of sugarcane prices. These include unduly inflated price of sugar stock, misclassification of expenditure, capitalisation of revenue expenditure and resorting to devices like showing deferred revenue expenditure even for expenses which cannot be deferred.

4.25 In practice, the CSFs have been distributing all surpluses as cane price to avoid paying income tax and have not built up any reserves. As a result, even one bad season can some times result in a sugar factory becoming sick as it has not built any cushion. In fact, even the liability towards redeeming government equity as also repayment of loans to financial institutions and government is many a times overlooked, and entire surplus is distributed by way of higher cane price. It is seen that many factories are paying much higher price than warranted by their financial results. Final instalment of the cane price is essentially to be paid by the CSFs from their own resources/surpluses. But there is a growing tendency to deploy the surpluses elsewhere and to meet all cane price instalments from bank borrowings. When cane payments become due, the CSFs approach banks for additional/interim facilities or divert funds from working capital limits or even postpone payment of other liabilities. Probably factories are spending much more money on payment of interest to banks by trying to save on income tax. Distribution of entire profits as cane price leaves hardly any plough-back by way of reserves/surpluses as cushion during lean seasons.

4.26 The very idea underlying the fixation of cane price by the state government has thus been frustrated. The existing arrangement is also deficient in that the representatives of all India financial institutions, who have such a large stake in what purchase price is decided, are not represented on the Ministers' Committee. It is therefore necessary that some other institutional mechanism is set up to fix the cane price in a more rational and transparent manner. Otherwise, political compulsions and considerations will continue to cast increasing burden on the state government due to

defaults by the CSFs to the financial institutions and the government itself. The committee would recommend that the responsibility for fixation of cane price may be entrusted to a five member statutory committee comprising a retired high court judge as chairman and two expert members with background of agricultural economics and sugar technology. The fourth member should be a chartered accountant. The fifth member should be a representative of the all India financial institutions, and co-operative, commercial and urban banks who have extended financial assistance to the CSFs.

4.27 The present system of paying uniform sugarcane price for all varieties of cane irrespective of their sucrose content is very faulty. There is no incentive for the farmer for growing better quality cane. This is perhaps the only industry where the raw material is paid for by weight without any consideration for quality. In a number of countries, cane samplers have been developed for quickly and reliably measuring cane quality in terms of sugar content, fibre, etc. With the development of cane samplers and continuous polarimeters etc., many of the problems encountered in this behalf earlier can be overcome. It is high time this deficiency in pricing of sugarcane is rectified. The committee would suggest that a beginning be made in this direction along the following lines:

- a) The factory should, at the beginning of the planting season itself, announce the varieties of cane with very low sucrose content which would not be accepted by the factory for crushing.
- b) While it is true that sucrose content depends on a number of factors such as the time of planting, fertiliser use, weather conditions, the time of harvesting and crushing, etc. in addition to the variety of cane, to begin with, and before more sophisticated pricing techniques are evolved and used, payment for sugarcane should be differentiated at least on the basis of varieties according to their sucrose content. For this purpose, sugar factories should conduct mill tests of different varieties of cane.
- c) In the ultimate analysis, more scientific techniques may be adopted to relate the prices to sucrose content. For this purpose, pilot trials be carried out in a few factories with imported equipment to examine its suitability and consider modifications needed therein to suit the local conditions.

4.28 There is no getting away from this new pricing regime looking to the compulsions such as serious limitations on the land which can be diverted to sugarcane; competing crops such as horticulture, floriculture; serious limitations of water and so on. All CSFs will have to be exhorted to make a beginning in this direction. A firm policy will have to be laid down that all CSFs will have to change over to the pricing based on sucrose-content within three years at the latest.

4.29 Bye-laws of CSFs provide for deduction of amounts from sugarcane price payable to members to enable the factory to strengthen its equity base. In practice, non-refundable deposits deducted from cane bills have not been converted into share capital by most of the CSFs. As a result, huge interest charges are required to be paid on such deposits. This point needs to be closely followed in audit and all concerned sugar factories must be made to take appropriate action, if necessary, by issue of a directive. Non-compliance of such a directive should lead to penal action against the board of directors of the CSF.

4.30 Liquidity management has emerged as one of the principal issues of concern in CSFs. Seriousness of the problem can be gauged from the fact that, according to a study of co-operative sugar industry in Maharashtra conducted by the Agricultural Finance Corporation, the current ratio in the case of 41 out of the 79 factories was between 1.1 and 1.5, whereas in the case of 38 factories, it was less than 1 which indicated a precarious position. Many CSFs have resorted to diversion of working capital funds to provide equity or meet project cost overruns. Some mills have even implemented their projects without institutional/bank loan by supplementing their own resources with diverted funds/excess drawn funds under cash credit pledge account, or even by postponing certain essential liabilities. As is well known, normally, under pledge financing there cannot be any irregularities. However, due to drawals beyond the eligible drawing limit, irregularities were created in the pledge account, which amounted to gross indiscipline. The twin burden of clearing the liabilities and repaying dues to banks has led to serious liquidity problems, leading to requests for working capital term loans and additional/interim facilities from banks. In view of the increasing frequency of such requests, substantial diversion of funds and apparent complacency on the part of CSFs to improve their performance (total irregularities aggregated Rs 680 crore at one time), NABARD has taken a decision to withdraw

Obviously, there are strong vested interests in increasing the inventories and carrying huge burden of even slow-moving spares and components. Proper procedures for making purchases at competitive prices are observed by very few CSFs.

4.35 Another important and large item of expenditure pertains to transport and harvesting charges. These vary widely even in respect of factories which get their cane from within reasonable distance. Practice has built up, in some CSFs, over the years of giving large advances to transport contractors. Often these become unrecoverable. It is also possible that some of these advances are not genuine. Admittedly, there is considerable scope for shady practices and underhand dealings in this item of work.

4.36 In general cost consciousness is conspicuous by its absence. It is necessary that wide publicity is given, among the members of each CSF, not only to the costs incurred by each sugar factory but also the comparative figures of costs for the same items incurred by the sugar factories elsewhere and particularly those within its close vicinity. This will have to be done by the commissioner of sugar on quarterly basis by comprehensive computerisation of the data from all CSFs. He must also give wide publicity among the members to the instructions issued by him from time to time for improving the management of CSFs, normative costs prescribed, staffing pattern laid down, inventory levels proposed, and so on. Sugar commissioner must act as a catalyst in bringing about truly democratic, open and accountable administration in CSFs so that lot of questions would get asked by the members themselves. This alone will make the managements of the CSFs accountable in the true sense of the term. This responsibility to ask questions and seek answers from the management of the factories must rest on the members of the factory. This will call for their empowerment by making the right to information a reality, as proposed earlier.

4.37 The standard specifications for a 2,500 tpd plant were formulated practically ten years ago. There have been considerable technological changes since then. In some cases, financing institutions have been rigid about adherence to the old standards and deviations are not allowed. The financial institutions have, however, contested this and have pointed out that they are not rigid on these matters. But it was strongly urged before the committee that either the standards be revised or deviations backed by suitable techno-economic justification should be allowed. Among the technological advances which need to be incorporated are the following:

Electric drives for mills, falling film evaporator, high capacity centrifugals of 1000/1500 kg/charge capacity, continuous pans, sugar bin system and automatic weighing of sugar. In boilers, exit flue gas temperature of 170 degrees C has been specified. This is much too high for attaining specified boiler efficiency norms.

Quite often, new factories are handicapped in respect of finance and are generally not able to meet the initial capacity of 2,500 tpd owing to lack of cane etc. Under the circumstances, there should be a provision for deletion of some units like one or two centrifugals, batch pan or even a mill. Such deleted units could be installed later.

4.38 Presently, the purchases of machinery and equipment have to be done by CSFs from the list of approved suppliers. All firms on the list are treated on par and the lowest price offer is treated as the best offer. It was suggested to the committee that there can be no objection to having a list of approved suppliers, but a further technical evaluation, on the basis of the past performance, design features of machinery on offer etc., needs to be made a part of the process of final selection of a supplier. Many factories were reported to have suffered on account of selection of a supplier based only on his being on the approved list. The committee agrees with this suggestion. The approved list should be treated only as short-listing of suppliers. In fact, final selection of the supplier should be based on two envelop system comprising technical offer and price bid. This is a universally preferred method of evaluation of suppliers, including for the contracts on the projects assisted by multilateral financial agencies.

4.39 The attention of the committee was drawn to the provision of bank guarantee obtained from the supplier to the extent of 5 per cent of the contract price for failure to meet performance standards. It was urged that the amount is too low and is usually built into the price. As a result, fear of invocation of guarantee is not a sufficient deterrent against supply of sub-standard or faulty equipment. It was therefore suggested that more stringent conditions, such as rejection of the entire supply on failure to fulfil performance parameters and performance guarantee to the extent of 100 per cent of contract price, need to be built into the contract. While the committee shares the concern regarding inadequacy of bank guarantee, the committee feels that the remedy may be worse than the disease. Some other alternate ways may be considered to strengthen the performance guarantee by the suppliers.

4.40 The committee agrees with the suggestion that the present performance norms need to be raised further to international levels. For this purpose, the norms may be upgraded as shown in the following Table 4.1:

Table 4.1

## Upgradation of Efficiency Norms

Sr. No.	Efficiency Norm	Present	Proposed
1.	cane preparation index	85	90
2.	imbibition % fibre	220	250
3.	reduced mill extraction	95	96(Mittal)
4.	reduced boiling house extraction	90	91
5.	boiler exit flue gas temperature	170 d. C	130 d. C
6.	boiler efficiency on CV	68 %	69 %
7.	total sugar losses % cane	2	1.8
8.	capacity utilisation after 2nd season	--	100 %
9.	downtime including cleaning (% available hours)	10	7
10.	downtime excluding cleaning (% available hours)	4	2.5

The norms in respect of manpower, water, effluent, lubricants, lime for ETP, injection water, energy and fuel also need to be revised to bring down the cost of production of sugar. The committee would recommend that VSI may be consulted in the matter so as to lay down the revised norms.

## CHAPTER 5

### DEALING WITH SICKNESS IN CSFs

5.1 Dealing with sickness of CSFs poses formidable problems as compared with the sickness in any other industry since, as stated earlier, in the eyes of all India financial institutions, the state government is the promoter of all the CSFs in the state. As such, it becomes the primary responsibility of the government to evolve and implement a rehabilitation package and to shoulder the entire financial burden for the purpose. Though this was not specifically stated in their reports, the recommendations of all the three previous committees referred to earlier are mainly based on this appreciation of the problem. A point was repeatedly made to the committee in the same refrain that the state and the central government get large revenue of over Rs 1,500 crore each year from this industry. It is therefore argued that the state government should not shirk its responsibility in giving rehabilitation assistance to the sick CSFs. It is high time this mindset is changed.

5.2 The all India financial institutions have not come forth in the past to share this burden with the state government. Neither were they involved so far in any of the discussions on rehabilitation packages. The recommendations made by the previous committees which included certain reliefs to be given by the financial institutions were made unilaterally by the committees without any reference to these institutions. They do not seem to have concurred in these recommendations. Even the MSCB was not consulted in this behalf. That bank has represented to the committee that even in respect of the liquidation of certain CSFs proposed by the HPC, the bank was not consulted though it has large financial stake in these factories.

5.3 Sickness in co-operatives must be seen in the overall context of sickness in industry in the private sector as also the public sector. The number of sick industrial units reached 2,71,206 in March 1995, accounting for 13.3 per cent of total bank advances to industry. The non-performing assets (NPAs) of banks aggregate more than Rs 43,500 crore. This is over and above the large amounts which have been written off as being unrecoverable. The problem has assumed such unbelievable proportions and there is such lack of transparency in dealing with it that a public interest litigation has been filed in the supreme court by Common Cause, a leading non-government

organisation in Delhi. The committee would not like to minimise the gravity of the problem of sickness in the CSFs, in any way. This should be evident from the comprehensive recommendations of the committee on the various facets of the question. The committee, however, believes that the sickness in co-operatives must be seen as a part of this much larger malaise and the banks and financial institutions must come forward to share in the burden of rehabilitation of factories which have a reasonable chance of turning the corner. In respect of others which need to be taken into liquidation or disposed off, the resultant loss should be shared by all the parties concerned including the banks and financial institutions. The representatives of the financial institutions have urged that the state government should come out with a clear exit policy in regard to the non-viable sugar units. They should expeditiously take steps before the assets deteriorate beyond realisable value by way of privatisation, sale or lease, depending on the state of health of a particular co-operative society. The institutions have assured the committee that they would be willing to play their part in bringing to conclusion the problem by way of accepting One Time Settlements (OTS) based on certain sacrifices by all concerned.

5.4 The committee has considered the question of sickness from two angles. The first pertains to avoiding the financial sickness in future. Towards this end, a number of recommendations have been made in this report. An important related question is to set up an early warning system on the basis of which action can be initiated soon after the first signs of sickness come to notice. Unfortunately, at present, there is no such institutional mechanism and as a result, the government machinery wakes up only after the sickness has assumed life-threatening proportions or when a major surgery becomes necessary. This is not conducive to safeguarding the interests of either the government revenues or those of the farmers, labour, banks, financial institutions and the staff. The second question is how to deal with CSFs which have become sick.

5.5 It is against this background that the committee addressed the complex task of dealing with the sick CSFs. The first point for consideration pertained to defining sickness. Various definitions have been adopted for the purpose by different institutions. According to the criteria adopted by the Board for Industrial and Financial Reconstruction (BIFR), a unit is considered sick if it satisfies the three criteria, namely, being in operation for five years, has more than 50 employees, and

whose net worth has been eroded 100 per cent. A potentially sick unit is one whose net worth has been eroded to the extent of 50 per cent of the peak net worth during the previous five years.

5.6 Yet another definition for a sick unit which was suggested to the committee comprised the criteria as follows: capacity utilisation of less than 75 per cent continuously for three years, continuous cash losses with unpaid long term loans, and mounting arrears of cane price.

5.7 The RBI classifies units in four groups, as shown in Table 5.1 below, based on the twin criteria of net worth and current ratio:

Table 5.1  
RBI Criteria for Classification of Industrial Units

Category	Net Worth	Current Ratio
A (good)	More than paid-up capital	More than 1
B (average)	Partially eroded but more than paid-up capital	More than 0.75 but less than 1
C (below average)	Eroded but paid-up capital not wiped out 100 per cent	More than 0.5 but less than 0.75
D (poor)	100 per cent erosion of paid-up capital	Less than 0.50

5.8 The BIFR criteria will not be workable in the case of CSFs as some of them have gone sick from the very inception. The committee, after deliberating on the alternate criteria, has come to the conclusion that there would be a distinct advantage in applying the RBI criteria for the financial evaluation of sugar factories. These criteria have the advantage of grading the factories according to their performance and can provide a useful early warning system in respect of CSFs whose performance has deteriorated and therefore needs to be monitored carefully.

5.9 It may also be appropriate to include in the qualitative assessment of CSFs certain additional evaluation criteria. These are enlisted below:

- i) Factories whose financial position does not permit paying even the statutory minimum price (SMP) and payment of such or higher price has been at the cost of depletion of all surplus in the last three years.
- ii) Factories which are incurring losses continuously for 3 years.

- iii) Factories which are continuously running below 75 per cent capacity for over 3 years, and
- iv) Factories which are continuously in default of government dues for more than a year.

5.10 The committee would recommend that, in future, the commissioner of sugar should categorise the CSFs on the basis of their audited results each year and should give wide publicity to the same by issue of a press note and holding a press conference. The committee would emphasise the importance of this being done at the level of sugar commissioner so as to keep the important question of the financial health of the sugar factories above any political controversy. This would require getting the audited reports of all sugar factories soon after the closure of the financial year. If, for any reasons, the government auditors are not likely to complete the work within the stipulated time, as has often happened in the past, the audit of the factories be got done from chartered accountants. But it should be ensured that the results of classification of CSFs, as above, are made public within six months of the close of the financial year.

5.11 It is further recommended that a standing monitoring committee (SMC) on evaluation of CSFs be constituted by the state government as soon as possible. It should comprise sugar commissioner as chairman and have representatives of all India financial institutions, MSCB, Agricultural Finance Corporation (AFC), NABARD, VSI, Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd., commissioner of agriculture, and three experts in the areas in which the concerned sugar factories are weak. The SMC should have detailed discussion with the management of the concerned sugar factory regarding the remedial steps to be initiated. Specific time limits for implementation of various actions should be laid down by the SMC. The deliberations of the committee should be open to the public and the media. The recommendations of the SMC must be binding on the CSF. Non-compliance should automatically lead to penal action being taken against the CSF.

5.12 To put the problem in perspective, it is necessary to take a look at the total financial involvement of the state government in CSFs. Table 5.2 below brings out the details:

Table 5.2  
Financial Involvement of State Government in CSFs

(Outstanding as on 31 March 1998, in Rs crore)

Item	Amount
Equity yet to be redeemed	33.87
Purchase tax loan	185.00
Other loans	36.04
<b>Total</b>	<b>254.91</b>
Guarantees recalled and paid for	63.41
Guarantees invoked but not paid for	161.53
Outstanding guarantees	1604.29

Source: Government of Maharashtra.

5.13 Accumulated losses of CSFs on 31 March 1998 totalled Rs 698.18 crore. Large amount of equity had become overdue for being redeemed but only a small amount was actually redeemed. CSFs have defaulted in timely repayment of loans given by the government and the financial institutions. The IDBI has reported to the committee that except a few CSFs, most of the CSFs are defaulting to the IDBI in payment of dues. The IDBI believes that some of them are wilful defaulters. As on 30 September 1998, the overdues of IDBI alone amounted to Rs 117.34 crore. Of these, overdues of loans extended on government guarantee were of Rs 76.24 crore and Rs 41 crore were of loans given without government guarantee. The payments outstanding to the labour amounted to over Rs 110 crore. It is a bottomless pit indeed!

5.14 There are 57 new sugar factories which are sanctioned in the state and which are clamouring for sanction of state government's share of equity capital, and government guarantees for the loans to be raised by them from financial institutions and banks. On a rough estimate of cost of Rs 50 crore per factory, the total financial involvement of the state government by way of equity and government guarantees, which has to be reckoned as a contingent liability, will be of over Rs 2,500 crore, if the present financing pattern, including giving government guarantees, is continued in respect of these new sugar factories. If past experience of cost overruns is any guide, the actual figure is likely to be much larger. It can thus be seen that the total likely involvement of the state government in CSFs may be nearly Rs 5,000 crore. This shows the size of the problem and its gravity and seriousness.

5.15 In a sense, the CSFs have become departmental undertakings of the state government. Whenever financial accommodation cannot be found anywhere else, the state government can always be relied upon to come forth with requisite funds/guarantee. In several years, the state government is called upon to assist the sugar factories which have short margins or are unable to raise finances from the banks for pre-seasonal credit. Thus, by government resolution dated 15 May 1996, the state government sanctioned a soft loan of Rs 9.12 crore for 28 CSFs to enable them to work in the sugar season in 1995-96. The rate of interest was to be 14.5 per cent per annum and the loan was to be repaid within a year in one instalment. By another government resolution dated 31 July 1996, the government gave guarantee for pre-seasonal credit of Rs 51.31 crore to be availed of by 52 CSFs from banks. These are only illustrative cases to show how the CSFs have been continuously approaching the state government for financial support. It will not be wrong to say that the state government has effectively become a bank so far as CSFs are concerned. It is hardly proper or advisable to continue this practice in the future.

5.16 The present sickness in this sector, and continuance of this phenomenon in the future, will have large consequences for the state government budget. This is borne out by the fact that the rehabilitation proposals of just 7 sugar factories prepared by the sugar commissioner would involve an expenditure of Rs 179 crore. The impact of HPC's proposals would be over Rs 700 crore. The seriousness of the problem is further brought home by the fact that the state government has not even been able to fulfil its obligations in respect of guarantees invoked by the financial institutions since November 1994. As a result, these institutions have stopped extending further loans to the CSFs in Maharashtra.

5.17 Gulabrao Patil Committee which submitted its report in 1983 had identified 24 factories as sick. This list was revised to 28 factories by the Shivajirao Patil Committee which submitted its report in 1990. The HPC which submitted its report in 1996 identified 23 factories as sick. It is seen that 12 sugar factories appear in all the three lists and can therefore be called chronically sick. Eight factories are common in 1990 list and 1996 list. According to Mahajan Committee, of the 113 co-operative sugar mills in Maharashtra, 60 mills were in losses, 20 mills had negative net worth, and 23 mills had negative/inadequate net disposable resources.

5.18 Unfortunately, there has been no follow-up action on the rehabilitation of these factories and, as a result, they have either remained closed or have been kept on oxygen, without any effort made to implement a medium or long term programme for coming out of sickness. The only exception was of the Shree Ganesh CSF in Ahmednagar district which recorded all-round improvement in performance for some time. Unfortunately, this improvement could not be sustained.

5.19 The committee, on the basis of the RBI criteria referred to earlier and based on the latest available audited data has divided the CSFs in four groups. It is seen that of the total 116 CSFs, those falling in group C (below average) and group D (poor) is 10 and 23 respectively. Of the 23 CSFs listed as sick by the HPC, 22 continue to appear in the new list as well. Only one CSF, namely, Nashik Palase, has come out of sickness, and 11 new CSFs have got added to the list. The accumulated losses of these CSFs total Rs 429 crore. The government share capital which has become overdue is of Rs 34 crore. Government purchase tax loan which has become overdue from them is of Rs 26 crore. Other government loans which have become overdue total Rs 80 crore. The list of factories in groups C and D is given below:

#### **I. Factories in Group C**

1. Vishwas, Sangli
2. Rajgad, Pune
3. Bhogawati, Solapur
4. Vridheshwar, Ahmednagar
5. K.K.Wagh, Nashik
6. Belganga, Jalgaon
7. Chopda, Jalgaon
8. Purna, Parbhani
9. Shetkari, Dhamangaon, Amravati
10. Vainganga, Bhandara.

#### **II. Factories in Group D**

1. Yeshwant, Sangli
2. Ganesh, Ahmednagar
3. Jagadamba, Ahmednagar
4. Parner, Ahmednagar

5. Girna, Nashik
6. Panzarakan, Dhule
7. Sanjay, Dhule
8. Sindkheda, Dhule
9. Vasant, Kasoda
10. Sant Eknath, Aurangabad
11. Vinayak, Aurangabad
12. Ambejogai, Beed
13. Kada, Beed
14. Gajanan, Beed
15. Godavari, Manar, Nanded
16. Kalambar, Nanded
17. Godavari, Dudhana, Parbhani
18. Marathwada, Parbhani
19. Jai Kisan, Yeotmal
20. Balaji, Akola
21. Akola, Akola
22. Jijamata, Buldhana, and
23. Shriram, Nagpur.

5.20 On the basis of the additional evaluation criteria mentioned in para 5.9 above, it is seen that 15 more CSFs in 10 districts are apparently on way to becoming sick though they do not, so far, fall in the RBI criteria. The list of these factories is given below:

### **III. Factories Likely to become Sick**

#### Sangli district

1. Manganga
2. Tasgaon

#### Solapur district

3. Bhima Takli

#### Nashik district

4. Vasantdada

#### Dhule district

5. Satpuda Tapi

6. Shirpur

Jalgaon district

7. Madhukar

Jalna district

8. Jalna

9. Samarth

Beed district

10. Jaibhavani

Aurangabad district

11. Kannad

12. Deogiri

Osmanabad district

13. Tulja Bhavani

Yeotmal district

14. Vasant, Pusad

15. Shri Shankar.

5.21 The position in respect of capacity utilisation is particularly disturbing. In 1995-96, of the total 103 factories in operation, only 67 could achieve capacity utilisation of over 80 per cent. In 1996-97, of the 104 factories in operation, the corresponding figure was only 56. In the year 1997-98, as many as 24 factories were closed. Of the balance 91 factories, only 55 could achieve capacity utilisation of over 80 per cent. This once again highlights the problem of inadequate availability of cane, except in an year of exceptionally high production as in 1998-99.

5.22 In 1995-96, as many as 31 factories were able to pay only the statutory minimum price to their members. The corresponding figure in 1996-97 was 20. The number of sugar factories which were not in operation for over two years was 9 in 1995-96. In the following year, this number went up to 24. Fortunately, this position is likely to improve considerably in 1998-99.

5.23 The above data convincingly brings out the sharp deterioration in the financial health of the CSFs in Maharashtra over the years. The sickness has become more widespread and acute with 48 of the total 116 factories, for which data was analysed,

being very sick, sick or on way to becoming sick. This is a staggering 41 per cent of the total number of factories. The state government cannot afford to neglect this problem any longer.

5.24 The committee was told that, in the past, some CSFs had artificially tried to re-establish their financial viability on paper by recasting the balance sheet by revaluation of their fixed assets such as land, buildings, plant and machinery and miscellaneous fixed assets. By doing so, the net worth was dramatically changed from negative to positive. This is not the appropriate way of addressing the problem. Further, this will be only a temporary palliative. The committee would advise against any such action.

5.25 Suggestions were made to the committee that an institution on the lines of BIFR be established for evolving rehabilitation packages and making their acceptance mandatory by all concerned. However, the experience of BIFR has hardly been inspiring so far. The committee was told that so far only 2 cases of sick private sugar factories--one each from Rajasthan and Uttar Pradesh-- were referred to the BIFR. In both these cases, no order could be passed by the BIFR and finally the matter was settled by a dialogue between the promoters and the financial institutions on the basis of one time settlement (OTS). Further, a major question would arise in the case of CSFs as to who should be made responsible for presenting a package for rehabilitation for the consideration of such an institution. Though the state government has a large financial stake in CSFs, it cannot take over the role of a promoter. It cannot also be expected to bring in large interest free funds. It will also not be able to give any undertaking on behalf of CSF to implement any specific programme. All India financial institutions and banks, urban and commercial, will not be bound by any decision given by a body like BIFR set up under a state legislation. As stated earlier (para 2.44), the Mahajan Committee has already recommended that the Government of India should set up a new statutory body such as the BIFR or extend the jurisdiction of the BIFR to cover CSFs. It would be best to await the decision of the central government in this behalf. In the meanwhile, the committee would suggest the following course of action to deal with the question of sickness.

5.26 The committee believes that the factories falling in group C can be considered as sick where viability can be improved. Causes of sickness cannot be generalised beyond a point. These need to be studied thoroughly, case by case. Suitable measures will

have to be taken by the factory concerned to remedy the situation in a time-bound manner. Simultaneously, action would need to be taken to restructure the liabilities and infuse additional capital. The committee is clearly of the view that it would not be appropriate to recommend uniform financial reliefs in the cases of all sick sugar factories. These proposals must be case-specific. It will be counter-productive to give relief on the same scale to all sick units. Proposals for this purpose should, therefore, be formulated by SMC (see para 5.11) for being placed before a high level committee on rehabilitation for acceptance (see para 5.31). Infusion of new funds or any other financial relief will have to be subject to the acceptance by the sugar factory management and the general body of shareholders, by a special resolution, of the detailed conditionalities prescribed for compliance on a quarterly, half-yearly and annual basis. In suitable cases, this should be accompanied by a complete change in the board of directors. The compliance of conditionalities, as approved by the high level committee on rehabilitation, by each concerned agency will have to be monitored carefully by the SMC.

5.27 It is imperative that the central government shares the burden of rehabilitation of these sugar factories by making available interest free or low interest loan from the SDF. Such a loan will form part of the total funds to be provided to the sugar factory as per the rehabilitation package evolved by the high level committee under the chairmanship of the chief secretary (see para 5.31).

5.28 The CSFs falling in group D (poor) will have to be treated as beyond redemption. It will be futile to try to rehabilitate these units. In such cases, it would be best to consider the option of giving them on lease, for a long enough period of 10-15 years, or to sell them, by calling public tenders. The first priority should be to run the factory at the same location. If these efforts do not elicit response, the unit may be sold for being carted away and erected anywhere either in the state or outside the state. In a sense, this will mean the history repeating itself. Over two decades ago, private sector sugar factories were similarly taken over by co-operatives for running the factory at the same location or transferring the machinery and equipment to a new location.

5.29 Such a sale/ lease could be to a private company or another co-operative sugar factory subject to the condition that no demand will be made by the purchaser/ lessee

for financial support of any kind, including government guarantee, from the state government. To enable this being done speedily, it would be advantageous to take recourse to one time settlement of dues of lenders. This will imply the state government repaying the dues of the financial institutions and banks, wherever these are in respect of loans extended on government guarantee, subject to the institutions and banks waiving part of the interest, and foregoing totally penal interest, compound interest and liquidated damages. In this process, the unit can be handed over to the incoming purchaser/lessee free of these major encumbrances. The purchaser/ lessee will, however, have to take over all other liabilities such as the dues of the staff and labour, amounts due to sundry creditors and so on. This is likely to increase the response of the prospective buyers/lessees for the take-over of the unit. The state government can get back part of the funds spent by it on paying the dues of the financial institutions and banks from the purchase price/lease rent received from the transaction.

5.30 Where these efforts fail, the unit may be taken in liquidation. In such an event, all creditors should share the amount received from the disposal of assets in proportion to their dues, after the dues of the labour are settled in full.

5.31 It is recommended that a high level committee on rehabilitation (HLCR) under the chairmanship of chief secretary may be appointed to take decisions on rehabilitation and/or liquidation of CSFs. Secretaries of finance, co-operation and planning departments of the state government, a representative of the Ministry of Food of the central government, Maharashtra State Co-operative Sugar Factories Federation and senior representatives of the concerned financial institutions and banks should be the members of the HLCR. The sugar commissioner should be the member secretary of the committee. The responsibility for preparation of proposals for the consideration of HLCR and the follow-up action on the decisions of HLCR may be entrusted to the SMC under the chairmanship of sugar commissioner.

5.32 Being a cyclical industry, the financial health of sugar industry can be in serious jeopardy unless steps are taken to meet the shortfalls and losses in the lean years by building up surpluses and cushion in the good years. The concept of co-operative management will have to undergo a radical change if the CSFs are to work as industry. The government policy towards CSFs will have to be reoriented significantly. The whole sector will have to be depoliticised if it is to stand on its own.

## CHAPTER 6

### LOOKING INTO THE FUTURE

#### Commissioner of Sugar

6.1 It would be pertinent to begin the discussion by looking at the role of the commissioner of sugar. In spite of the strengthening of this office by creation of a large staff, including at senior levels, in the head office as also the field offices, the commissionerate has failed to make any perceptible impact on the sector. It has worked mostly as a post office and has been greatly influenced by political pressures. It has not been able to assert its independence. This is evident from its recommendations for grant of licenses to new sugar factories, declaration of cane price, follow-up action on audit objections, relaxations granted to the time limit for holding annual general body meetings, to cite only a few instances. Looking to the large financial stakes of the government in this sector, the committee believes that the commissionerate needs to be made more effective, visible and assertive. It must be given complete freedom to express its views candidly and to tender its professional advice without fear or favour. Unless this is done, it is unlikely that any improvement can be brought about in the present situation.

6.2 Currently, the commissioner of sugar has a developmental as also regulatory role. This often creates conflict in the stand he is required to take. It is distressing to record that the commissionerate has failed to show any positive results in either of the two spheres. It will not be advisable to divest the commissioner of his developmental role as ultimately it will affect the viability and financial health of CSFs. As has been brought out later, for example, the commissionerate has not so far been able to play any effective role or provide leadership on a series of points pertaining to increase in the productivity of sugarcane, increase in sugar recovery, provision of seed, more effective use of sugar development fund (SDF) and so on. It is suggested that the developmental role may be entrusted, as a full time responsibility, to a senior officer in commissioner's office. The regulatory functions should be looked after by the commissioner directly, apart from over-all supervision over the developmental activities.

6.3 It is necessary to remember that effective check over the working of the CSFs will be possible only by empowerment of the shareholders. Towards this end, the commissionerate should periodically publish as much comparative information relating to the working of the sugar factories, as possible. This should include, among others, the technical parameters achieved by factories, conversion costs, transport and harvesting charges, costs of purchases, inventory levels, prices paid for the purchases of major items, staff strength, prices at which sugar was sold, use of SDF, applications for enrolment of members which are pending and were rejected, and so on. The data compiled by the commissioner of sugar show large variations in the costs incurred by sugar factories. *Prima facie*, such wide variations are difficult to explain. It is only by increasing public vigilance that greater accountability, social responsibility and cost-consciousness can be brought about.

6.4 This will require major thrust on computerisation. This is a very weak area in the work of the commissionerate. The committee would suggest that a time-bound programme should be chalked out to complete the computerisation of all vital data within a period of two years at the latest, and preferably even earlier. This alone will help the commissionerate to discharge its responsibilities adequately.

6.5 We have recommended earlier that sugar factories which do not owe any funds to the government or do not have any government guarantees outstanding should be taken out of the purview of the commissionerate except for certain minimum statutory duties ( see para 3.24). It has also been recommended that the role of commissioner of sugar should be severely reduced in respect of sugar factories which owe small amounts to the government (para 3.25). Generally, the thrust of the direction should be to do away with the requirement of any unnecessary controls and permissions as these often lead to corrupt practices. Thus, for example, there is no reason why approval of the commissionerate should be required to commence crushing season each year or to close the operations of the factory.

6.6 Simultaneously, the commissionerate should introduce a single window system to facilitate prompt clearances, without a CSF having to approach a number of desks in the office of the commissioner.

6.7 Now that the commissionerate has its regional offices, there should be greater delegation of administrative and financial powers to these offices. These powers

should be reviewed once every two years. The first such review should be carried out in the calendar year 1999.

6.8 Having said the above, it is equally necessary to ensure that the delegated powers are used by the field officers. The committee was told that the field officers are reluctant to use their powers and prefer the easy way of referring matters to the commissionerate. This practice must be put down sternly. The committee would suggest that the officers in the field as also at the headquarters should be clearly informed that an adverse note will be taken in the annual confidential reports if the officers are found to be not using their delegated powers effectively.

6.9 The committee would also recommend creation of a post of a deputy commissioner of labour who can attend to general matters pertaining to the labour of sugar factories. This post may be filled up on deputation basis from the state cadre of such officers. It is seen that the strength of labour in sugar factories is over 1 lakh of whom over 50 per cent is permanent. The harvesting and transport labour hired through the contractors exceeds 5 lakh. As brought out in a separate section in this chapter later, there are a number of outstanding issues pertaining to labour which have been neglected for a long time. A full time officer will help the commissionerate to follow up these matters and find solutions to them.

6.10 The committee took a review of the actions initiated by the commissioner of sugar against erring managements of sugar factories and found a very disturbing picture. A number of inquiries initiated on the basis of audit reports, for example, are pending for a number of years. In exceptional cases where such inquiries were completed and penal action was ordered, the concerned persons have managed to get a stay order from the government or the co-operative court or the high court. The combined effect of these has been that most provisions of the Act pertaining to penal actions have served no purpose beyond giving some temporary headache to the managements of some factories. This will have to undergo a radical change if the management of CSFs is expected to show any perceptible improvement.

6.11 The committee found that most of the inquiries started against CSFs were initiated during the last three-four years coinciding with the installation of the present Shiv Sena- BJP coalition government in the state. Several of these inquiries pertain to the mismanagement, misuse of powers, loss caused to the factories, etc. in the previous

years. This shows that a number of these cases were overlooked in the past though they involved infringement of the provisions of the M.C.S. Act. It is also noticed that the inquiries mostly proceed at a leisurely pace. Some inquiries have taken as many as 6-8 years to complete. This makes a mockery of the powers given to the commissioner under the Act. A large number of cases are held up due to stays granted by the government and/or the courts. No efforts are made by the commissioner to get the stay vacated. It is noticed that elections of board of directors have been delayed in several cases, from time to time, due to non-crediting of the election expenses by the CSF. On this background, the committee would make the following recommendations:

- i) The provisions of the Act should be enforced without fear or favour in the future as, otherwise, the commissioner will be failing in the responsibilities cast on it under the Act.
- ii) Every inquiry should be completed within 6 months, from the date of its institution, at the latest. If parties do not respond, in spite of repeated notices, the cases may be decided *ex-parte*.
- iii) The M.C.S. Act may be amended to provide that any stay granted for the proceedings under the Act will be valid only for a period of 6 months from the date of the order and that it would not be permissible to extend the stay beyond this period.
- iv) The Act may also be amended to take away the powers of grant of stay from the government. Such powers may continue only with the courts. The committee has earlier made certain recommendations pertaining to the appellate powers of the government and grant of stays by the government and co-operative courts/tribunal (see paras 3.30 (xxix) and (xxx)). The committee would recommend prompt follow-up action thereon.
- v) The Act may also be amended to combine the inquiries under section 83 and 88 of the M.C.S. Act to do away with duplication of inquiries on the same subject, and reduce the delays in the completion of inquiries and imposition of final punishment.
- vi) Commissioner of sugar and/or collector should arrange to hold the elections of CSFs as soon as warranted, without waiting for the election expenses to be deposited by the CSF. Any delay in payment of such amount by CSF should attract interest at 24 per cent per annum.

6.12 The committee has made a number of recommendations in this report to improve the supervision, control and direction of CSFs by the commissionerate of sugar. The committee believes that a number of problems facing the CSFs which call for corrective action will have to be dealt with professionally rather than bureaucratically as at present. This will require large and continuous inputs from professional bodies, management expert, consultants and so on. It will be much more cost-effective for the government to provide the necessary financial resources to the commissionerate of sugar for this purpose rather than being faced with the colossal losses and loan defaults of the CSFs as at present. The committee would therefore recommend that an amount of Rs 2 crore may be kept at the disposal of the commissionerate of sugar each year for getting the best available advice from the market on all these matters. This will change the culture of the organisation as opposed to its functioning like a traditional field office of a co-operative department discharging its regulatory and developmental responsibilities perfunctorily.

#### **Audit of CSFs and Other Related Matters**

6.13 Audit is one of the weakest links in the chain of supervision and control in the commissionerate of sugar. One way to deal with this problem is to retain with the statutory auditors only such of the CSFs as have large outstandings (of over Rs 25 lakh) of government dues, and liabilities by way of government guarantees. Even in such cases, entire reliance should not be placed on statutory audit and audit of 25 per cent of such CSFs may be entrusted each year to chartered accountants (CAs). The choice of CA for any given CSF may be made out of the panel of CAs to be maintained for the purpose. This would mean that all CSFs in this category too will be audited by CAs once in four years, with statutory auditors doing the audit for the remaining three years. The statutory auditors will continue to do the continuous and concurrent audit of the societies even during the year in which audit is entrusted to a CA. This will provide a cross-check for judging the efficacy of both the systems of audit and help keeping closer watch over the crucial task of audit.

6.14 We have earlier recommended that in respect of CSFs which do not owe any money to the government (including any outstanding guarantees), the responsibility of audit may be entrusted to CAs of the choice of the managements of CSFs (see para 3.24).

6.15 Reference may also be invited to para 3.25 which referred to CSFs which owed small amounts (say less than Rs 10 lakh) to the government. In such cases too the statutory audit may be dispensed with. Any CA, drawn from the panel of CAs to be maintained by the director of audit, could be selected by the management of a CSF in this group to audit its accounts. However, every such CA will be changed once every two years.

6.16 The committee is happy to note that the commissionerate of sugar has introduced from the year 1997-98 standardisation in respect of formats for maintenance of accounts by societies, criteria for evaluation of societies, formats for writing audit report, account-heads for computerisation etc. These are all steps in the right direction and should help in better monitoring the performance of CSFs. But, a great deal still remains to be done.

6.17 The committee would reiterate its recommendation contained in para 3.30 (xix) that cost audit be made compulsory for all CSFs. The Government of India by its letter dated 12 February 1998 addressed to all co-operative sugar mills has underlined the importance of introducing records and reports relevant to the cost audit. The committee would suggest that VSI and DSTA should be closely involved in these efforts by drafting experts from their panels by making suitable payment to them.

6.18 The committee is keen that the audit wing of the commissionerate of sugar should be strengthened and put on par with other wings in that office. This would require reorganisation of the structure and work of the audit wing. It may also mean upgradation of some posts. This should not cast any financial burden on the government as the entire cost of audit is recovered from the CSFs.

6.19 As a part of these efforts, a separate directorate of audit should be set up in the office of commissioner of sugar. It should be headed by an officer of the rank of Accountant General to be taken on deputation from the Audit and Accounts Service of the central government for a maximum period of five years at a time. The director of audit should be fully responsible for all matters pertaining to audit of CSFs, maintaining a panel of CAs referred to earlier, selection of CAs from the panel to do the audit, and so on. If the government so desires, this directorate may also be made responsible for audit matters pertaining to other processing units such as co-operative

spinning mills. In such an event, the director of audit will report to the head of the department concerned regarding the work of audit of spinning mills.

6.20 The present voucher-based and somewhat simplistic propriety audit is clearly inadequate and needs to be supplemented with more rigorous audit scrutiny. The directorate of audit may, therefore, be made responsible for institutionalising "value for money" audit, productivity audit, performance audit and so on to keep up with the best practices, obtaining world over, in the sugar industry. The steps proposed by the committee to make computerised inter-factory comparisons on a number of items and to publish such data periodically will go a long way in strengthening these efforts (see paras 6.3 and 6.4).

6.21 A number of points need to be gone into much more in depth by the audit than has been done so far. Illustratively, these include, preparation of the annual budget on scientific lines, preparation of supplementary budget during the year, if necessary, preparation of quarterly trial balance sheets, adherence to staffing pattern prescribed by the commissioner of sugar, reasonableness of inventory levels, expenditure on civil works, and so on. Attention to these matters in audit would go a long way in reducing the cost of production of CSFs, thereby improving their financial viability.

6.22 The committee was told that, according to the guidelines laid down by NABARD, sugar factories are required to prepare quarterly cash flow budget. However, hardly any CSF follows this guideline. The committee would suggest strict adherence to these guidelines and close follow-up action thereon by the directorate of audit.

6.23 The committee was told that, in certain cases, the same auditors continue to do the audit of some CSFs for several years under pressure from the management of the concerned factories. The committee has earlier recommended (para 6.13) audit by a CA, even in respect of CSFs which owe large amounts to government, at least once in four years. This will provide an alternative mode of judging the performance of the factory. The committee would further recommend that no statutory auditor should be entrusted to do the audit of the same factory for more than three years. The relevant Rule on the same subject may be amended to this effect.

6.24 The cadre of auditors is controlled centrally by the commissioner of co-operation and this is as it should be. However, looking to the financial stakes of the government

in the co-operatives in the processing sector such as CSFs, spinning mills, cotton monopoly procurement scheme, etc., there should be a separate cadre to man the posts of auditors in this group of co-operative societies. These officers will have to be recruited through the Maharashtra Public Service Commission through competitive examinations, and provided induction training for a period of one year. Their pay-scales should be attractive enough to get the best available talent. Their periodical refresher training needs have to be assessed carefully and provided for fully. The committee finds that all these aspects have been neglected so far in spite of the fact that the state government has invested thousands of crores in such co-operative ventures, most of which have been incurring huge losses year after year. The committee would strongly recommend that an expert committee may be appointed at the earliest opportunity to go into all these aspects. The director of audit of CSFs (see para 6.19) may be the member secretary of the committee.

6.25 The committee was taken aback to note the long delays in the completion of audit of CSFs. This automatically leads to delays in holding annual general body meetings of the societies whose audits remain in arrears. Such delays understandably cause considerable uneasiness among the financial institutions. One of the reasons cited is that there are long delays in the declaration of final sugarcane price. As a result, the accounts cannot be closed and presented for audit. In contrast, companies under the Companies Act have to compile their accounts within three months of the close of the financial year. We have recommended earlier to give up the present system of announcing sugarcane prices with the approval of Ministers' Committee and to create a new independent institutional mechanism for the purpose (see para 4.26). The committee is confident that if this recommendation is accepted, it will lead to considerable improvement in the financial viability of CSFs, apart from doing away with the present inordinate delays in the declaration of the final sugarcane price.

6.26 The present delays in completion of accounts and audit are largely due to delays in the approval of final price for sugarcane by the commissioner of sugar. The end of the present financial year falls within the crushing season and creates difficulties in completion of accounts within three months thereafter for presentation to audit. This can be remedied to a considerable extent by changing the financial year of the CSFs from 1 April to 31 March as at present to 1 October to 30 September. This will also

coincide with the sugar year. With such a change, it will be possible to complete all actions of a sugar year before the year is over. It should also be laid down that final sugarcane price will be approved by the commissioner of sugar before 31 December at the latest. The committee would recommend that the M.C.S. Act may be amended to provide accordingly.

6.27 The Act may also be amended to provide that the general body meeting should be held by each CSF before 30 June of each year at the latest. The powers of the commissioner to give extension of time may extend to only three months thereafter. Board of directors of any CSF which fails to hold the meeting of the general body within this time may be made liable for action, including dismissal.

6.28 An *ad-hoc* state level audit committee of non-officials was appointed by the state government by its order dated 30 January 1971 to look into matters pertaining to the audit of co-operative societies and follow-up action thereon. Its jurisdiction extends to apex societies, sugar factories, spinning mills, all district central co-operative banks, marketing societies, urban co-operative banks, consumers' societies, societies in the field of agriculture, fisheries, animal husbandry and such other societies whose share capital is more than Rs 5 lakh and working capital is more than Rs 50 lakh. Their number is likely to be about 11,000 in 1998. This *ad-hoc* committee has worked only intermittently. It was not in existence from 1983 to 1986 and again from 1988 to 1993. By its composition as also limited powers given to it, the committee has not made any impact on the problems and issues in the field, particularly in respect of co-operative processing societies. Due to its large jurisdiction, it has also not been able to pay concentrated attention to audit matters of such societies.

6.29 Looking to the large financial involvement of the state government in the co-operative processing ventures such as CSFs and spinning mills, the committee would recommend that the legislature should appoint a separate committee of its own to supervise the work of such processing units on the analogy of committee on public undertakings (COPU), public accounts committee (PAC) and so on. The new committee to be called Committee on Co-operative Undertakings (COCU) should be serviced, in so far as CSFs are concerned, by the director of audit to be appointed from the cadre of Accountants General, with the approval of the Comptroller and Auditor General of India. Such a high level standing committee will be able to

summon the office-bearers of CSFs as also senior representatives of the government to thrash out the relevant issues. Such a committee may be able to exert much needed influence in making the recalcitrant managements of CSFs to fall in line and to take timely corrective actions. If this recommendation is accepted, the processing societies may be excluded from the jurisdiction of the state level *ad-hoc* committee.

6.30 Follow-up action on audit points is another weak area which requires urgent attention. As it is, the audit has not been able to bring into open any major misappropriations, frauds, mismanagement, etc. in spite of the system of concurrent audit. This itself goes to show the poor quality of the audit. But, whatever irregularities are brought to notice by the audit too largely remain unattended for years together. This is stated to be due to the fact that the auditors have no executive powers under the Act and all follow-up action has to be taken by the commissioner of sugar. For example, there have been large defaults in recovery of arrears of government dues from CSFs, year after year, but there has been no follow-up action by the commissioner. It was, therefore, pleaded before the committee that powers under sections 79 (Registrar's powers to enforce performance of obligations), 80 (Registrar's powers to seize records, etc.), 81 (Audit) and 82 (Rectification of defects in accounts) of the M.C.S. Act, and Rules 67 (Registrar's powers to enforce performance of obligations), 68 (Procedure to be adopted for taking possession of books, documents, securities, cash and other properties of society), 69 (Procedure for appointment of auditors and for conducting audit), and 74 (Levy of audit charges and supervision charges) may be delegated to the audit wing of the commissioner. This has been resisted all these years by the other wings in the commissioner, due to excessive preoccupation with the turf issues, rather than anything else. The committee is inclined to agree with the suggestion of the audit wing and would recommend the delegation of all such powers to the director of audit by making necessary amendments in the M.C.S. Act after the post is upgraded and an accountant general is appointed in the post. It will be futile to create a high level post of director of audit if these powers were not to be granted to him. The committee would, however, suggest that, after all requisite enquiries and actions, the director of audit should send his recommendations to the commissioner of sugar for final orders for imposing major penalties. Powers to impose minor penalties may be statutorily given to the director of audit. Any appeal

over the decision of the director of audit may lie to the commissioner of sugar. Any decision over the decision of commissioner of sugar may lie only to the co-operative court/high court.

### **Water Availability**

6.31 Extent of availability of water for sugarcane cultivation is perhaps the most critical issue for the future of sugar industry. In Maharashtra context, water is perhaps the most critical input. This position will become more acute as the pressure of population goes up and the water use by industry increases in the coming decades. Formulation of policies for the equitable distribution of water to cater to these competing demands will pose formidable challenges. Every effort must be made to conserve water and promote policies for conjunctive use of water to the maximum extent. Unfortunately, this major issue of public policy has received least attention so far.

6.32 Water availability in the state varies a great deal from region to region and river basin to river basin. For example, Buldhana, Akola, Amravati, Aurangabad, Jalna, Osmanabad, Latur as also the districts in the Konkan region have comparatively less developed irrigation systems. As a result, these areas, looked at from the point of view of irrigation projects, will have less scope for setting up sugar factories. Lower Godavari basin, and Purna, Wardha and remaining Godavari sub-basins as also Tapti basin, Upper Krishna (east) in Krishna basin, and Bhima and Sina Bori sub-basins of Ujani have low per capita water availability. In these areas too setting up of sugar factories will have to be considered carefully. In some projects the demand for water for drinking and industrial use is likely to be more than 25 per cent of the total availability of impounded water up to 2025. In such cases too setting up of sugar factories may not be advisable. According to the policy adopted by the state government, drinking water requirement is to be given first priority in the allocation of water, followed by industrial use and demands of hydro power generation. Agriculture is the last priority. As a result, the availability of water for agriculture is bound to be less and less in the future. Against this background, it is time a macro view is taken on setting up of more sugar factories in the first instance. The report of the Maharashtra Irrigation Commission which is expected to be received by June 1999 would, no doubt, provide valuable insights in this major task.

6.33 The committee has noted that nearly 80 per cent of water can become available for reuse by making conjunctive use of water. This is particularly important in the context of well irrigation on which large quantity of sugarcane is grown. Even here, care will have to be taken against excessive exploitation of groundwater, a problem which has assumed serious proportions in some parts of the state. Of the 1,505 watersheds in the state, 6 have been declared as having been over-exploited and 38 as having been developed fully.

6.34 Excessive water use has led to water-logging and increased salinity of land. Prominent examples of this are districts such as Kolhapur, Nashik and Ahmednagar in Western Maharashtra. Lack of drainage has also caused serious problems in a number of districts such as Aurangabad.

6.35 Unfortunately, the question of water availability has received the least attention so far in considering the proposals for setting up new sugar factories or expansion of the capacity of the existing sugar factories. It is not, therefore surprising that a large number of sugar factories have gone sick or have not been able to operate successive crushing seasons. The number of sugar factories which were closed in the last few years was as under: 1993-94 -- 12; 1994-95 and 1995-95 -- 3 each; 1996-97--12; and 1997-98 --24. While a few of these factories were closed due to mismanagement, the preponderant number of closures was due to non-availability of cane. This position is expected to change dramatically in the year 1998-99 due to abundant availability of cane.

6.36 The committee went into considerable details as to how availability of water is certified and found the situation scandalous, to put it mildly. Very vague certificates were often issued regarding availability of water by officers of irrigation department and the groundwater survey and development agency (GSDA) at junior levels, mostly under political pressure. The fact that the state government has been following the policy of permitting only eight-monthly irrigation and not perennial irrigation, for over a decade since mid-1980s, was conveniently lost sight of. There is presently no uniform format laid down for the certificates which are required to be obtained from these two agencies. As a result, these certificates were often vague and did not make any sense to anyone, but were found adequate by the sugar commissionerate and the

state government to recommend the proposals to the central government for grant of licenses!

6.37 At the instance of the committee, the irrigation department and GSDA have prepared standard formats in which such certificates regarding water availability would be issued in the future. The committee would recommend that necessary orders may be issued on the subject by both the concerned departments immediately.

6.38 The committee would also suggest that only officers at the district level may be authorised to issue such certificates.

6.39 There should be a standing committee on water availability (SCOWA) in the commissionerate of sugar to consider the certificates and to take a final view on whether water availability should be considered adequate for setting up a new unit or expansion of capacity of an existing unit. The committee should comprise director (development) in the commissionerate of sugar as a convenor and have representatives of irrigation, GSDA, and agriculture commissionerate (agriculture and water conservation divisions), as members.

6.40 The committee went into the question of ascertaining broadly water availability in respect of newly licensed sugar factories. The data regarding water availability from irrigation projects in respect of 52 newly licensed sugar factories showed startling results which have grave implications for the health of these proposed sugar factories. It showed that 24 proposed factories in Pune division may be able to meet their requirement of sugarcane to the extent of 43 per cent from irrigation department projects. The corresponding figures in respect of 19 proposed factories in Aurangabad division is only 7 per cent, for 3 factories in Amravati division and 5 factories in Nashik division only 3 per cent, and for the one proposed factory in Nagpur division it is barely 1 per cent. Thus, of the total proposed 52 factories for which data was compiled, as many as 28 sugar factories will have less than 10 per cent cane availability on irrigation department sources.

6.41 Allowance was made for the fact that large amount of sugarcane is grown on lift irrigation and well irrigation. Even if liberal assumptions are made in this behalf, it can be seen that more than 25 proposed factories are bound to experience serious difficulties due to non-availability of sugarcane.

6.42 The committee understands that a fresh survey of groundwater availability has been undertaken by the GSDA and that it is expected to be completed by the end of 1999. This should help in more accurate assessment of groundwater potential in the state. At the instance of the committee, the GSDA has taken up, on a priority basis, the assessment of such potential in the areas of the sick sugar factories and those which have been licensed in the Seventh and Eighth Five Year Plan period. This input should prove valuable in deciding on the rehabilitation of sick units as also the financing of new units.

6.43 The committee would like to underline the importance of continuous feedback by way of post-evaluation of the running factories to ascertain the extent to which certification regarding water availability was accurate. There is no mechanism available at present to do so. The committee would recommend that the SCOWA referred to earlier should undertake such evaluation on a continuous basis to draw lessons for the future and to make suitable changes in the formats for certification of water by the irrigation department and the GSDA.

6.44 Unfortunately, as in the past, political pressures seem to have given momentum to the setting up of new sugar factories. It is seen that of the total 57 newly licensed factories in the Seventh and Eighth Five Year Plan period, 4 have already been completed and have gone in crushing. Twelve are in advance stage of completion, and 9 more are in various stages of construction. In respect of the remaining 32 which are at very preliminary stages, option of financing (by way of equity or guarantees) is still open to the state government. The committee would urge that this option should be exercised with utmost caution as large investment of over Rs 50 crore will be involved on each of these factories. Clearly, a second look is called for in funding any more sugar factories by giving any assistance from the state government. If the promoters want to go ahead on their own, they may be free to do so but the state government should keep itself scrupulously away from funding these proposals. In fact, the emphasis in the future should be on expansion of capacity of the existing units, wherever warranted, rather than on horizontal expansion by way of setting up of new units.

### **Sugarcane Development**

6.45 The committee was told that at the end of second world war, there were 16 joint stock sugar factories in the then Bombay state which had captive farms for production and supply of sugarcane. Irrigation water was not a constraint. Being large farms having good soil and professional management, the yields were very high. Some farms were achieving average yield level of 250 M.T./ha. By comparison, the average yield of sugarcane in the state has declined and is languishing at about 85 M.T. for the last several years.

6.46 It is a travesty but sugarcane development, which is of prime importance to the growth and financial well-being of CSFs, has received minimal attention at the hands of all concerned-- the CSFs, agricultural universities, Maharashtra Agricultural Research Council, extension wings of VSI and Padegaon Research Station, agriculture commissioner and sugar commissioner. There is no institutional mechanism for co-ordinating the work of all these agencies. It is recommended that a ten year programme for cane development may be carefully drawn up and the responsibility for follow-up action thereon should be entrusted to the agriculture commissioner. He should hold quarterly meetings, at his level, of the sugarcane development committee (SDC) to be set up comprising the representatives of all these institutions and other concerned departments such as irrigation, MSCB and MSEB. It would be useful to associate three outside experts as members of this committee.

6.47 It is suggested that divisional level review meetings on sugarcane development, which have been discontinued during the last few years, may be held by the revenue commissioners twice a year at which the representatives of all concerned departments, sugar factories and others could participate.

### **Cane Development**

6.48 It is imperative that the programme for cane development is taken up simultaneously with the erection of the factory. This is important as it easily takes 4-5 years to commission a seed farm of the factory, undertake extension work in the area, arrange training of farmers, put into effect programme for construction/deepening of wells, get the soil testing done, arrange good quality seed, and so on. Unfortunately, cane development becomes important only when the factory becomes sick. At present, sugar factories under erection are not eligible for SDF loan for sugarcane development.

This is a very short-sighted policy. The committee would urge that the central government may be requested to sanction loans from SDF for these efforts, as soon as a factory places firm orders for machinery and equipment.

6.49 It is shocking that even the rudimentary requirement of firming up the techniques for ascertaining the correct area under sugarcane each year has still not been firming up. As a result, divergent figures in this behalf are put out by sugar commissioner, agricultural commissioner, irrigation department, federation of co-operative sugar factories and so on. The SDC may commission a study to go into all the issues to ensure that data in this regard are as comprehensive and consistent as possible. It would also be useful to cross-check the data compiled by field agencies with that to be obtained from the satellite imagery. The committee would suggest that a special project for this purpose may be taken up in consultation with the Department of Space of the central government. A standing sub-committee of SDC may be given the responsibility to monitor this item of work on a continuous basis.

6.50 Sugarcane is no longer the most competitive crop in all areas of the state. The study made by the agricultural commissioner shows that sugarcane with a gestation period of 18 months can give a net profit of Rs 46,000. The corresponding figure for cotton with 7 months maturity is of Rs 14,000; soybean with a maturity period of just 3 months gives net profit of Rs 17,000; tomato with a maturity of about 4 months gives a return of Rs 29,000; bananas with a maturity of 18 months gives a net profit of Rs 94,000 and potatoes with a maturity period of 4 months gives a net profit of Rs 31,000. Thus, in future, sugarcane crop is likely to meet with considerable competition from other crops. Perhaps one of the main points in its favour, in the perception of a farmer, is that it is a lazy man's crop--one need not even go to the field to see whether it has been adequately watered. You need only throw a stone and listen to its sound in the water! This perception will have to change. This indiscriminate and excessive water use will have to stop. For this purpose, it is necessary that canal water or water from lift irrigation schemes is made available on volumetric basis to conserve the use of water. Greater recourse will have to be taken to drip irrigation. The productivity of cane will have to be increased. Cane varieties with higher sucrose content will have to be planted to get better price from the factory, in the new regime of cane pricing earlier recommended in this report (see para 4.27 -

4.28). All this will mean much more scientific cultivation of sugarcane than has been the case so far.

6.51 One of the factors which has led to lesser productivity of cane is the practice of inter-cropping adopted by farmers to increase their income as also to meet their own requirements of these crops. It will not therefore be easy to persuade the farmers to give up inter-cropping. It is only by decisively increasing the sugarcane productivity that this practice can be reduced. This once again underlines the importance of extension work by the field staff of the CSFs as also the agriculture department.

6.52 Micro irrigation needs to be popularised on a much larger scale than has been achieved so far. Of the total area of about 5.5 to 6 lakh hectares under sugarcane crop, about 3.40 lakh hectares is under flow irrigation, followed by well irrigation (1.12 lakh ha) and lift irrigation (0.88 lakh ha). Due to the shortage of water, it will be difficult to increase the area under sugarcane substantially without recourse to micro irrigation. It is necessary to make it compulsory that all those farmers who take recourse to lift irrigation necessarily take to micro irrigation. The data furnished by the agriculture department show that, by the end of 1997-98, of the total area under irrigation, only 14 per cent was under drip irrigation. The scheme has been primarily effective in Western Maharashtra--Ahmednagar, Pune, Solapur, Satara and Sangli districts-- and Latur district in Marathwada. In all other districts, the area brought under sugarcane crop through drip irrigation has been insignificant. It is a shocking fact that only 40 per cent of drip irrigation equipment is actually in use and the balance has gone in disuse. There is not enough after-sales service provided by the manufacturers. In the context of serious shortage of water envisaged in the future, sprinkler, drip and micro irrigation needs to be given highest priority. The CSFs must take more interest in popularising the scheme. It is estimated that it would be possible to bring 40 per cent more area under sugarcane by making extensive use of micro irrigation on wells and lift irrigation schemes. The productivity of sugarcane is also expected to go up by 25-30 per cent by the use of micro irrigation.

6.53 The committee does not believe that the existing scale of subsidy for the drip irrigation scheme needs any liberalisation. Greater education and public awareness among farmers alone will have to be relied upon to bring about the acceptance of this technique. However, the committee would recommend that subsidy for drip/micro

irrigation may also be made available to farmers who are members of the lift irrigation schemes.

6.54 For the area of 7.70 lakh hectares which will have to be brought under sugarcane (based on production of 95 M.T. per ha) to meet the requirements of 175 factories licensed as of now, the requirement of seed will be as follows: certified seed production on 15,400 ha; foundation seed on 1,540 ha; breeder seed on 154 ha; and nucleus seed on 15.4 ha. The requirement of nucleus, breeder and foundation seed will have to be met by the agricultural universities, VSI and Padegaon Research Station. If necessary, the VSI may be requested to set up regional seed farms. The requirement of certified seed will have to be met, in a decentralised manner, by the seed farms of the sugar factories. The factories will have to place firm indents on the agricultural universities for their breeder seed requirement and these will have to be honoured under any circumstances. The chairpersons and managing directors of factories will have to be personally held responsible for the purpose.

6.55 The committee was told that no seed certification norms have been laid down so far. It is surprising that this important work has remained unattended so far. The committee would recommend that this work may be given the highest priority so that the norms can be finalised and announced as soon as possible.

6.56 The question of CSFs taking a programme of seed cultivation and distribution has come up time and again during the last ten years. Unfortunately, it has not made any headway. One of the reasons for it is that each seed farm of CSF would require an area of about 100 acres, and the state government has not granted exemption to the CSFs from the purview of the agricultural land ceiling legislation. The committee would strongly recommend that such an exemption may be granted without any further delay. The committee would also recommend that the CSFs should prepare proposals for obtaining loan from the sugar development fund for setting up such farms immediately. The target of setting up such farms in all CSFs before 2001 should be adopted and strictly adhered to. No further time should be lost in discussions on the subject.

6.57 If area under sugarcane is not to be increased disproportionately, research will have to be undertaken to develop early maturing, high yielding and high sugar content varieties of cane to meet the requirement of rapidly increasing number of sugar

factories in the state. The recently released variety (CO 86032) has high sugar content and cane yield. It is becoming popular with cultivators and sugar factories as it has proved its suitability for cultivation under seasonal, preseasonal and *adsali* conditions.

6.58 Greater emphasis needs to be placed on the use of organic manure to retain the soil fertility. Fifteen lakh tonnes of trash mulch (*pachad*) generated by sugarcane crop and the rootstock needs to be put back into the soil, instead of burning it as at present. It is also necessary to ensure crop rotation to rejuvenate the soil. Both these aspects will require considerable micro planning at the level of the factory.

6.59 The importance of extension work in this context cannot be over-emphasised. Unfortunately, after the world bank assisted training and visits project came to an end, extension work has not received adequate attention. This important input needs special attention in any programme of cane development.

6.60 The committee was told that the amount contributed by the CSFs for the education fund of the Maharashtra State Co-operative Union is not being utilised for the training of any of the persons connected with the industry. The committee would recommend that this fund may be placed at the disposal of the sugar commissioner for funding suitable training programmes for all categories of persons in the field.

6.61 Ideally a time table will have to be drawn up by each factory for the planting of the cane in its area of operation so that its harvesting can be scheduled according to the peak period of sucrose content of cane. This will mean close interaction of the factory with its members, with the staff of the factory paying frequent visits to the farms of its members and persuading them to adhere to the time table for planting of sugarcane adopted by the factory. This will require taking politics out of the running of the factory and giving equal treatment to all its members. Looking to the past experience, this will take considerable effort to achieve. But there is no getting away from it.

6.62 All these efforts will require at least a core agricultural staff for each CSF. It is noticed that most CSFs have not appointed such staff and those who have it use it for other work such as supervision over cane harvesting and transportation. The committee would like to leave it to the discretion of each CSF to decide how much staff should be appointed for cane development. But it must be ensured that this vital item of work is not neglected.

6.63 The committee has earlier recommended that the scheme of supply of crop loan through CSFs, on an optional basis depending on the choice of the members, may be tried on a pilot basis in some CSFs to make the loan available on time, to reduce its cost and also to ensure its speedy recovery (see para 4.22). As the responsibility for recovery of crop loan from the members will be taken by the factory, even erstwhile defaulters may be considered eligible for availing crop loan facilities. The committee was told that this experiment was tried in the area of Marathwada CSF in 1984 and resulted in 20-30 per cent increase in cane productivity.

6.64 If this is not found acceptable to NABARD, in the alternative, each CSF may deduct, while making payment for the sugarcane, an amount of Rs 5 per M.T. from its members and from this amount make available fertiliser to the farmers. The recovery made in this fashion for three years will be adequate to build up a revolving fund for this purpose to cover the entire cane requirement of the factory. Recovery made during the season may be added to the fund.

6.65 The committee has earlier recommended that the dues of the processing co-operatives from its members, harvesting and transport contractors and others should be eligible for being recovered as arrears of land revenue (see para 3.30 (xxvi)).

6.66 The committee was told that the present scale of credit for basal dose is inadequate and it needs to be increased. The committee understands that currently 35 to 40 per cent of the total crop loan disbursed by co-operative banks is given for the sugarcane crop. However, the requirement on the basis of loan of Rs 2,000 per ha. is substantially higher. The committee would request examination of this matter by MSCB, in consultation with NABARD, at a very early date, so as to get over any difficulties regarding exposure norms etc.

6.67 It is necessary to make more purposeful use of the Cane Development Fund for which a deduction of Rs 4 per M.T. is being made from the payment to the cane grower each year since 1984-85. It is necessary to ensure that deduction towards this Fund is made on a regular basis by the sugar factories. The Fund may be used to finance schemes such as soil analysis, supply of improved implements, green manuring, inter-culture operations, pre-tillage services, biological control of pests and diseases, development of khar and saline land, irrigation development, and farmers' tours and training for dissemination of improved technology.

### **Sweet Sorghum**

6.68 The committee found that sweet sorghum cannot be a substitute for sugarcane though it can be a supplementary crop. It has the advantage of being a rainfed crop which matures by September. It can therefore be processed for 2-3 months before the sugarcane crop is ready. Sweet sorghum cannot be used for production of sugar due to higher starch content and low sucrose content but can be used to produce syrup. However, further research needs to be undertaken in this behalf. The committee would recommend that a research project on the subject may be prepared and submitted to SDF Committee for sanction at an early date.

### **Need for Mechanisation**

6.69 There is likely to be serious shortage of harvesting labour in the coming years. It is also seen that harvesting of cane is most often not done properly and as a result, long stems of cane remain in the field. Apart from the difficulties in getting the farm labour when required, manual farming operations are becoming expensive. It is therefore necessary to develop suitable small size planters, harvesters as also other machines which can be operated in sugarcane fields with bullocks and tractor. Research projects need to be funded for this purpose. Private sector companies also need to be involved to develop and manufacture these products which can command large market.

### **Sugar Development Fund**

6.70 Sugar Development Fund can be a major source for meeting the fund requirements of CSFs. Unfortunately, the past experience of the utilisation of funds received from SDF has not been very happy. No data could be provided to the committee by the commissionerate of sugar regarding the impact of SDF on sugar industry in the state. Obviously, no such study has been attempted so far. The committee would recommend rigorous monitoring, by the commissionerate of sugar, of the proper use of these fund. Sugar factories which have misused these funds should be proceeded against for penal action.

6.71 The committee noticed that, as on 31 December 1996, the default by CSFs in the repayment of the loan taken from SDF was as high as 46 per cent. With this kind of track record, it will be difficult to draw sizeable assistance from the Fund in the future. The committee would urge that the central government may be requested to review the

present policy on use of SDF with a view to consider extending assistance for the following, among other, new areas of concern to the CSFs in the state:

- i) Development of sugarcane seed farms by CSFs,
- ii) R & D efforts by sugar factories,
- iii) Developing techniques and equipment for making payment for cane based on its quality,
- iv) Development of harvesters and other farm machinery for sugar industry,
- v) Cane development by factories under erection,
- vi) Research on sweet sorghum and beet root, and
- vii) Rehabilitation assistance to sick sugar factories.

#### **Cost of Production**

6.72 The cost of production can be divided in three groups--cost of raw material, i.e. cane price, conversion cost and overhead cost. Earlier in this report, the committee has recommended new statutory institutional arrangement for deciding cane price (see para 4.23). This should help address a number of current problems in the area of cane pricing. The new system of paying cane price according to the quality of cane, proposed by the committee (see paras 4.27-4.28), would go further to improve the financial viability of the factories.

6.73 The subject of conversion costs has not so far received the attention it deserves. The commissionerate of sugar has not undertaken any comprehensive exercise to analyse these costs and to suggest any norms for the purpose. At least in respect of some elements of conversion costs, it should be possible to lay down reasonable costs on normative basis. Effort must be made to adopt the lowest cost norm achieved by the best factory in respect of each item of cost. This will imply that wherever the actual costs are higher than the prescribed norms, the auditors will have to question the factory to seek reasonable justification for their acceptance. This will also mean computerisation of all data received from the factories from time to time. The committee would suggest that this exercise may be taken up in hand by the commissionerate of sugar immediately and kept upto date with the help of a standing advisory committee of experts to be appointed for the purpose.

6.74 The same holds good in respect of overhead costs. Here too, inter-factory comparisons will help a great deal in looking at the excessive costs incurred by some

sugar factories. Each item of such costs need to be gone into fully. The committee would suggest close follow up action by the commissionerate of sugar accordingly.

#### Staffing Pattern

6.75 The commissioner of sugar has prescribed the staffing pattern for sugar factories. In the case of 1,250 tpd plant, it comprises a total of 708 employees-- 365 permanent and 343 seasonal. For a 2,500 tpd plant, it is 878 employees--461 permanent and 417 seasonal. It can be seen that the staff norms are liberal. Further, there are too many permanent employees considering that it is a seasonal industry, with wide fluctuations in the size of its operations from year to year. Thus, for example, there are more than 1 lakh factory workers of whom nearly 50 per cent are permanent. World over, as the pay-scales go up and the staff costs mount, efforts are made to get the work done with lesser and lesser staff by automation including computerisation, improved work methods, delegation of powers, reduction of paperwork and so on. No such efforts have been made in this industry. On the contrary, the actual staff in position in most factories, except for some exceptions such as Manjra and Ganesh, is substantially higher than the staff norms which themselves are very liberal. In view of this alarming position, the committee would make the following recommendations for immediate implementation:

- i) Staff norms may be tightened by undertaking a careful time and motion study by an expert professional group. New staffing pattern needs to be prepared with the assistance of a professionally qualified consultant who is specialised in this field. This work may be given to a carefully selected consultant. Such consultant may be advised to suggest maximum number of areas for automation, keeping in view their financial viability.
- ii) In the meanwhile, there should be a total ban on filling up of vacancies arising out of attrition of staff by way of retirement, resignation, death etc., except in respect of critical posts, till the staff strength is reduced 20 per cent below the staff norms prescribed by the commissioner of sugar.
- iii) The number of permanent employees may be reduced considerably by making necessary adjustments in the seasonal staff.
- iv) The CSFs which have more employees than prescribed under the staffing pattern should retrench the excess staff within twelve months at the latest. Any delay in this

behalf should result in recovery of excess expenditure on such staff from the board of directors of the factory.

v) There should be a total ban on appointment of daily wagers.

vi) The commissioner of sugar should lay down the revised staffing pattern and further actions as above through issue of a directive under the M.C.S. Act with a clear warning that any violation of the directive will lead to suspension of the board of directors.

### **Inventory Management**

6.76 Excessive build up of inventory is a malaise common to almost all CSFs in varying degrees. It is obvious that there are vested interests in making purchases, often at inflated cost, for idle inventory. This means locking up of large funds with considerable interest cost, apart from loss due to the sale of such inventory in due course as a scrap. It is time this issue is got examined by an expert management consultancy firm. Such a study will, *inter alia*, list the items according to the fast and slow moving categories, pooling the inventories of CSFs in the close vicinity of each other, and so on. The committee would recommend that such a study by a competent firm may be taken up by the commissioner of sugar as soon as possible. Based on the conclusions of such a study, suitable directive under the Act may be issued by the commissioner later for strict compliance by the CSFs.

### **Technical and Energy Audit**

6.77 As in the case of financial audit, the technical audits and energy audits have been largely neglected by CSFs. This is a major area of cost-cutting which has gone by default. There is considerable scope for improving technical and energy efficiency of factories. There is need to create greater consciousness on this subject. Many more questions need to be asked to the managements of CSFs by their members for the sub-optimal performance of the machinery and equipment of their factories. The committee would suggest that annual technical and energy audits should be made statutorily compulsory for all CSFs. It must also be laid down that the results of both these audits, along with the financial audit, and comments of the board of directors thereon should be placed before the annual general body meeting each year.

6.78 The performance of VSI in this field has not been adequate. Its efforts need to be supplemented. The committee finds that the large reservoir of talent and expertise

available in the Deccan Sugar Technologists' Association (DSTA), Pune, has remained mostly untapped so far. The committee would recommend that this should be rectified and DSTA should be recognised as a parallel agency to carry out the technical and energy audits of CSFs through the panel of technologists approved by the sugar commissioner in consultation with the VSI. The services of MITCON could also be used for the purpose.

6.79 As a part of these efforts, manuals, guidelines, standing orders, and other literature needs to be prepared and up-dated for the use of all CSFs. The committee would suggest that this task may be entrusted to the VSI and DSTA on an urgent basis. It must be ensured that these are up-dated every two years and circulated to all concerned. The committee would suggest that some funds for this purpose may be placed at the disposal of the sugar commissioner from the sugarcane purchase tax fund with the government.

#### **Training**

6.80 Yet another neglected area is that of training. The training needs extend to almost all sections of people concerned with CSFs-- members of board of directors, senior officers, technical and non-technical staff, labour, and farmers. Training of operators is important if technical efficiency is to improve. To reduce labour and staff cost, it is also necessary to provide training in multi-skills to operators and other staff. The input of VSI in this field has not been adequately used so far. Further, many more organisations and institutions need to be tapped for meeting these large and diverse training needs. Thus, apart from VSI, agricultural universities, training institutions such as Yeshwantrao Chavan Academy of Development Administration, Pune, Vaikunth Mehta Institute for Co-operative Management (VMICM), Pune, Rural Institute of Management, Anand, and Indian Institute of Management, Ahmedabad, could be used to provide training. A panel of experts can also be drawn up for the purpose from among the members of the DSTA.

6.81 There is need for a centralised planning for the purpose. This responsibility should be legitimately taken over by the commissioner of sugar. Requisite grants should be placed at his disposal by the state government from the cane development fund each year. This amount could be used by him to lay down training schedule for the year for all categories as above, appoint consultants, get training modules prepared,

undertake evaluation of training, and so on. The expenditure on actual training and travel of trainees may be borne by the concerned sugar factory.

#### Central Excise

6.82 The committee noted that the central excise procedures had already been simplified considerably with introduction of self-removal procedure, personal ledger accounts, removal of staff stationed at the sugar factories and so on.

6.83 It was clarified to the committee by the central excise commissioner, Pune, that there need be no misapprehensions that steam for captive consumption in CSFs will be liable to levy of excise duty. Taxation of inputs at such intermediate levels will be contrary to the very concept of modified value added tax (MODVAT).

6.84 The committee believes that the present rate of specific duty on molasses is too high. It was noted that the duty is currently several times higher than the market price of the molasses. The committee would recommend that the state government should request the central government to have this reconsidered. The committee would also recommend that the duty should be levied on *ad valorem* basis at a rate not exceeding 20 per cent. This reform is long overdue.

#### State Excise

6.85 The first issue which needs to be addressed relates to the present practice of stationing of state excise staff at each factory. It was represented to the committee that this imposes large financial burden of Rs 5-6 lakh per year on a CSF as the cost of such staff is recovered by the state government from the factory. Often, this also leads to harassment of the factories by the excise staff. The representative of the state excise commissioner explained to the committee that installation of flow meters and level indicators by all sugar factories, as advised by the excise department in February 1998, will help in *de novo* examination of the issue of stationing of excise staff in the sugar factories. At the same time, it will have to be appreciated that the state government has large stakes in terms of excise revenue from this sector. Malpractices indulged in by some factories in the past could also not be overlooked.

6.86 After detailed discussion, the committee came to the conclusion that the issue needs in depth examination. The committee would recommend that the state government should set up an expert committee to examine the matter expeditiously. It is suggested that, apart from other members, VSI, DSTA, federation of co-operative

sugar factories, two managing directors of CSFs and sugar commissionerate may be represented on the committee. The expert committee may be given the following terms of reference:

- i) To examine the ways of maximising the capacity utilisation of distilleries in the state, including methods to avoid stoppage of production due to problem of storage of spirit;
- ii) To suggest minimum percentage of production of molasses as well as alcohol for export each year so as to maintain continuity and assurance of supply in the export market;
- iii) To reduce excise supervisory staff by installing flow metres and level indicators in the distilleries;
- iv) To fix up yield of alcohol from molasses and other than molasses-based alcohol, batchwise and for continuous fermentation distilleries;
- v) To fix distillation and fermentation efficiency, batchwise and for continuous fermentation distilleries;
- vi) to fix up percentages of losses in a) storage of alcohol, b) transportation of alcohol, and c) redistillation or production of ENA; and
- vii) To prescribe procedure for drawing of molasses samples to ascertain fermentable and reducing sugars in molasses.

6.87 It was represented to the committee that the export fee of Rs 10 per litre levied on export of potable liquor to other states was too high and it should be reduced to Rs 3 per litre. The export fee of Rs 3 per litre on rectified spirit too is quite high and needs to be reduced. The committee was told that this proposal was already under consideration of the state government. The committee would recommend early action thereon, keeping in view the very large crushing of sugarcane expected in 1998-99 as also in the next two years.

6.88 There is also a ban on grant of any new licenses for manufacture of country liquor or Indian Made Foreign Liquor (IMFL) since February 1985. It appears that no new licenses for country liquor shops or IMFL have been given in the state since 1978, though permit rooms are allowed to be operated. Both these have adversely affected the sugar industry. Further, this restriction on increasing the number of legal outlets for sale of liquor has led to clandestine production and sale of unhygienic country liquor leading to health hazards and deaths of innocent persons. The committee would

recommend a review of the present policy so as to permit manufacture as also sale of country liquor and IMFL by licensing new manufacturing units and wholesale and retail outlets.

6.89 The state needs to evolve a long term policy for export of industrial alcohol/potable alcohol to other countries. This is necessary if the sugar industry in the state is to gain a foothold in such markets. The present policy of giving *ad hoc* permits for the export of these products only during the years of surplus production of sugarcane and molasses, as is likely to be the case in 1998-99, is hardly conducive to establishing a foothold in the export markets. The committee would recommend that a basic quota of minimum quantity of industrial alcohol/potable liquor may be given to the sugar industry for export each year, irrespective of the production of these items in the year. If necessary, in bad years, the gap in domestic demand and supply may be made good by resorting to imports. The state government should announce a firm policy on the subject, in consultation with the central government, as soon as possible.

#### **Labour Matters**

6.90 The first issue which needs to be considered is to declare sugar industry as a seasonal industry. The Industrial Disputes Act (IDA), 1947, does not define the term seasonal industry but the powers to declare any industry as belonging to this category have been given by the Act to the respective state governments. This issue has to be addressed as a class action rather than for any individual CSF. The supreme court has already held that the cotton monopoly scheme in Maharashtra is a seasonal industry. The same logic should hold good in respect of the sugar industry. The average crushing season of this industry is of only 160 days. This is a cyclical industry. In several years, the season is of even less duration. Some sugar factories have to either remain completely closed in some years for want of adequate cane or have to work for much shorter crushing season. All this has large implications for the financial health of the sugar industry and consequent employment prospects of labour in this industry. The only way to find a long-term solution to the problem is to declare this as a seasonal industry. Once this is done chapter VA of IDA will not be applicable to the industry. The committee was advised that amendment of the Act will not be necessary and that this declaration can be made by the state government by issue of a

notification. The committee would strongly recommend that very early action may be taken by the state government to declare sugar industry as a seasonal industry.

6.91 Once this is done, the IDA may be amended so as to extend the provisions for permissible lay-off from 45 days as at present to one sugar year. During this period, the labour will be entitled to get 50 per cent of gross emolument as lay-off compensation. This is absolutely necessary as the period for which a factory works in a year largely depends on the availability of cane. The factory which cannot do adequate crushing cannot possibly bear the burden of payment of wages or retrenchment compensation at the scale laid down in IDA without becoming sick. This amendment is therefore necessary for the very survival of the sugar industry.

6.92 According to Standing Order (S.O.), every employee who completes 240 days of employment in a factory is deemed to be a permanent employee. This provision has created serious difficulties for the sugar industry which is a seasonal industry. The committee would therefore suggest that this S.O. may be amended so as to exclude the sugar industry from its purview.

6.93 According to a 1993 notification, issued by the state government, contract labour is prohibited in five departments of sugar factories. It is found that this provision leads to excess labour costs in a seasonal industry such as sugar industry. The committee would recommend that this notification should be modified to exclude sugar industry from its purview.

6.94 The committee has been greatly distressed to see that the arrears of payments due to the labour from CSFs amount to over Rs 110 crore. This figure includes arrears of wages, retrenchment and lay-off compensation, provident fund dues, terminal benefits and so on. The committee was told that in most cases the labour has not been reporting to the factories each day as required by law. In some cases, some labourers have taken alternate employment. All these matters will have to be resolved in discussion with the labour union, failing which action under IDA will need to be initiated. The committee would suggest that the concerned CSFs should enter into negotiations with their labour unions to arrive at an agreement on the way the dues are to be settled. This may include part waiver of dues by labour, part payment in cash immediately and balance in suitable instalments, etc. This dialogue may be commenced immediately in consultation with the state labour commissioner.

6.95 Ways need to be found to ensure that such payments to labour are not permitted to accumulate in the future. Towards this end, the committee would suggest the following course of action:

i) The M.C.S. Act may be amended to provide for creation of a salary reserve fund on the lines of a similar provision in the Municipal Act. This will mean each sugar factory keeping in this fund amount equivalent to six months salary of its employees. The amount cannot be drawn from this fund except with the prior approval of the commissioner of sugar, and

ii) A gratuity trust may be created by each sugar factory under the provisions of the Income Tax Act. This will comprise contributions, based on actuarial calculations, of the labour/staff and of the factory. The trust funds can be used only for disbursement of retirement benefits to the employees. In the alternative, the CSFs may adopt the gratuity scheme of the Life Insurance Corporation of India, wherein life insurance benefit is also given for the employees, so as to be able to discharge their obligations to the labour and staff promptly.

6.96 The provision pertaining to the representation for labour on the committees of certain societies provided in the M.C.S. Act requires a review. Section 73-BB of the Act provides for 1 seat for employees if the number of members of the committee is 11 or less; if number of members of the committee is 12 or more, one additional seat for every 10 members over and above first 11 members has been provided. But, surprisingly, what is given by one hand is taken away by the other. The explanation to the section states that "for the purposes of this section the members of the committee shall mean and include elected, appointed, nominated, co-opted as well as ex-officio members of the committee but it shall not include the representatives of the employees". As a result, they are not appointed on any of the seven committees of the board, other than the committee on the welfare of the employees.

6.97 This provision is faulty for various reasons. It cannot be said that the employees are not concerned with the proper running of a factory and that they are interested only in their own well-being. In fact, the two are closely interlinked. The employees participation schemes being operated in the country and abroad do not contain any such restrictions. World over, now the effort is to encourage the employees to take equity or stock options in the units so as to enthuse them to give their best. Finally, in

the case of CSFs, in particular, this provision is all the more ludicrous as majority of the employees are themselves the members of CSFs. The committee would strongly recommend that this archaic provision of the Act may be amended to remove the bar to the appointment of labour representatives on any other committees of the CSFs. They should stand on the same footing as any other directors so far as their eligibility for appointment on the committees of the board is concerned.

6.98 The question whether there should be a separate board on the lines of the *mathadi* board for the harvesting and transport labour is a contentious issue. *Prima facie*, it does not appear to be practicable to entrust such a board with the responsibility to arrange harvesting and transport labour for all CSFs in the state. At the same time it is necessary to make efforts to remove the middleman or labour contractor in this transaction as there have been several cases where large amounts are outstanding against such contractors. It may be worthwhile to explore, on a pilot basis, a scheme for entrusting the responsibility of supplying harvesting and transport labour to multi-purpose co-operative societies in districts of Beed, Osmanabad and Ahmednagar from where bulk of such labour becomes available. The committee would suggest that this be tried selectively in the case of some CSFs to begin with.

#### **Pollution Control**

6.99 The committee noted that as yet completely satisfactory methods for controlling, in particular, ground water pollution have not been found though considerable research is in progress. The cost of pollution control equipment is also quite prohibitive--nearly Rs 3 crore. The composting method with concreting of the floor of the tank is found to be the most preferred method though in some CSFs even this has not been fully effective. The committee would suggest that this subject should be taken up by the state pollution control authorities with the central government.

#### **Vasantdada Sugar Institute**

6.100 Maharashtra has taken a major step forward by setting up VSI. It is commendable that the CSFs have contributed to it handsomely. The contribution of VSI has also been recognised by the Mahajan Committee. That committee has recommended that the rules pertaining to sugar development fund may be modified to allow grants to be given to the regional and state level institutions such as VSI and the same need not be limited to only the institutions at the national level (pp. 274-275).

6.101 The impact of VSI on the sugar industry in the state has, however, been somewhat limited so far. This has been largely ascribed to the reluctance of the CSFs to make use of the training and research inputs from the VSI. It is necessary to analyse this carefully so as to take necessary steps to make the best use of the impressive infrastructure which has been built up with precious financial contributions by the sugar industry in the state. The committee would recommend that a study by an expert committee should be undertaken to evaluate the contribution of VSI so far, and to suggest the manner in which it can be enhanced.

6.102 Steps also need to be taken to democratise the policy-making bodies of this institution, and to make other suitable changes as under:

- i) It may be provided that the term of the board of trustees as also of the governing board should not be for a period of more than five years.
- ii) It may also be laid down that no trustee or a member of the governing council can hold office for more than two terms.
- iii) The trustees should not be ex-officio members of the governing council.
- iv) The board of trustees should not have powers to overrule the decisions taken by the governing council.
- v) Only office-bearers of CSFs may be eligible to be members of the governing council by election.
- vi) Commissioner of industries need not be ex-officio member of the governing council.. Instead, excise commissioner and secretary, irrigation (command area development) may be nominated as ex-officio members.
- vii) Similarly, chairman, national heavy engineering co-operative ltd. need not be ex-officio member. In his place, chairman, pollution control board, may be appointed as ex-officio member. But a great deal can be said for making the governing council as compact as possible.
- viii) The Director General's post should be manned by a scientist of national repute to provide the proper leadership to the institution.
- ix) Utmost care needs to be taken to ensure unbiased and fair selection of meritorious staff for the institute. All recruitment should be from open market by inviting applications from persons with suitable qualifications. Outside experts should be associated with the selection committees.

The VSI may be advised to amend its memorandum of association and rules and regulations accordingly.

The committee understands that, though several years have elapsed since the setting up of VSI, the state government has still not permitted its officers to be ex-officio members of the policy-making bodies of VSI. In view of the important role of CSFs in the state economy and the large financial involvement of the state government in the CSFs, the committee would suggest that necessary orders may be issued by the state government to permit its officers to be the members of these bodies.

6.103 The committee understands that subscriptions deducted from the payments to farmers by CSFs do not get transferred to VSI promptly and continue to be used by some sugar factories unauthorisedly for long periods. The sugar commissioner should keep a close watch over this malpractice. The supervising officers as also the auditors should be asked to get this rectified in a timely manner. Where such funds are used by factories, they should be made to pay interest at the rate of 24 per cent per annum on such amounts to VSI.

6.104 The committee would strongly recommend that there should be only one state level institution of this kind and the idea to set up another similar institution in the Marathwada region should be given up as this would mean spreading the resources thinly and uneconomically. The committee understands that there were proposals to set up regional farms and research stations of VSI in Vidarbha and Marathwada which were unfortunately not pursued. The committee would suggest that these be revived for very early implementation.

6.105 The committee understands that there are long delays on the part of the state government in release of funds to VSI from year to year. This has led to large number of research and other projects getting held up. This has also meant time and cost overrun on projects. The committee would recommend that the grants due to VSI should be released by the state government without undue delays so that its work is not hampered in any way.

#### **Cyclical Nature of Industry**

6.106 As compared to other agro-based industries, this is a cyclical industry and is faced with sharp swings in production of sugarcane. 1998-99 will be one of the years of large increase in sugarcane production. Due to ample rains this year, the next two

years may also be years of good harvest. In such years, at the insistence of the state government, the crushing of cane has to be carried on till all available cane is crushed. This often implies reduction in sugar recovery to levels as low as 3-5 per cent. The CSFs have been demanding compensation for the loss suffered by them on this account. Demands are also made by farmers for compensation for crop if the cane cannot be crushed. In the past, the state government has given such compensation by resorting to *panchanamas*, irrespective of whether sugarcane figured in the entries of crops in the VII-XII form. This led to large-scale misuse of funds. There are also years in which the sugarcane crop gets damaged due to severe drought.

6.107 The committee would suggest the following course of action to deal with the situation:

- i) It may be made mandatory on each CSF to register the cane planted by each farmer in his area.
- ii) Insurance cover may be obtained to take care of loss in recovery of sugar in the years of drought as also in the years of excess availability of cane leading to extended crushing period. The insurance premium may be contributed by the state government, each CSF and its farmer members in equal proportion. The farmers' share could be deducted from the cane price payable to them each year.
- iii) If any compensation is to be paid for cane which could not be crushed, it must be on the basis of documentary proof of registration of crop as in i) above, supported by extract of VII-XII form.

#### **Minimum Distance between Sugar Factories**

6.108 The minimum distance between two sugar factories has been progressively brought down, by policies of the central government, from 40 kms to 15 kms. It is necessary to remember that this is a raw material-based industry and excessive competition in procurement of raw material will undercut the very existence of the industry. It will also lead to all sugar factories in the close vicinity of each other coming to grief and becoming sick. The question of minimum distance is also related to the size of holdings, the administration of land ceiling laws, availability of water, other competing crops, and so on.

6.109 The committee learnt that, after the announcement of delicensing of the industry, as many as 212 applications for setting up new sugar factories in Maharashtra

have been registered by the central government for varying crushing capacity of 500 to 2,500 tpd. As often happened in the haydays of the *license-permit raj* in the past, a large number of these applications may be by way of a pre-emptive action and may not materialise in practice. Some of these may also have been made with a view to make a quick buck from those who are serious in putting up new factories. But, this rush for registration is an indicator of the likely competition in this sector. The implications of this for the future financial health of the industry in general, and co-operatives in particular, cannot be overlooked.

6.110 Looked at from this perspective, and keeping in view the important consideration of ensuring vertical rather than horizontal expansion of the industry, the minimum distance between two sugar factories needs to be increased to 40 kms, by making a representation to the Government of India. This should hold good for the period of next ten years. The matter could be re-examined thereafter in the light of experience gained. This is in keeping with the other related recommendations of this committee to encourage the CSFs to expand their capacity to 7,000 - 15,000 tpd and become global players.

6.111 It is necessary in this context to refer to the question of the membership of the CSF. The dispensation as above should also mean that every sugarcane grower should automatically become eligible for the membership of the CSF in the area, if he so desires. The discretion would no longer be available to the management of the CSF as to whether to admit him as a member or not.

#### **Minimum Capacity of the Unit**

6.112 Insistence on a minimum size of 2,500 tpd capacity crushing plants appears to be misplaced. As compared to some other countries, the size of holdings in India in general, and Maharashtra, in particular, is quite small due to the rigorous implementation of the land ceiling laws. The average operational land holding was only 2.21 hectares in 1991-92. The average area under sugarcane per sugarcane cultivator was only 0.47 hectare in 1994-95 (latest year for which data are available). Further, due to serious shortage of water, the state government has been following the policy of eight monthly irrigation. It is unlikely that this policy will be revised to make ample water available for sugarcane in the future. As a result, most of the sugarcane will have to be taken on well irrigation. With depleting water table in several parts of

the state, the sugarcane crop will have to compete with other crops for water. In view of this situation, it will be impossible to get adequate sugarcane to sustain a factory of 2,500 tpd within a radius of 15 kms of a sugar factory. Looking to the conditions in Maharashtra, it would be best to lay down the minimum crushing capacity of 1,250 tpd. As additional sugarcane becomes available, the capacity can be increased in a modular fashion. This alone will ensure that large capacity plants are not set up merely to comply with the stipulations of the central government. Otherwise, such factories will become sick from the day of their commissioning, casting unbearable financial burden on the farmers and the financial institutions.

### **Export Perspective**

6.113 India has all along been a fair-weather exporter of sugar. But, this must now change. Sugar industry in Maharashtra must be able to compete globally. For this purpose, factories have to be encouraged to undertake expansion of capacity to world class size of 7,000 to 15,000 tpd. Incidentally, the largest sugar plant in the world is of 40,000 tonnes per day capacity situated in Thailand.

6.114 The export bias is particularly important keeping in view the strategic location of Maharashtra for undertaking export of sugar by sea. This will mean creation of necessary facilities like bulk storage of sugar at factory and the selected ports, installation of suitable handling arrangements etc.

6.115 Factories will also have to be encouraged to produce niche products like refined sugar, sugar of pharma grade, soft drink grade and so on. This will mean continuous upgradation of market intelligence by the industry.

### **ISO 9000 Certification**

6.116 As a part of achieving global competitiveness and world class efficiency in production, the CSFs must endeavour to obtain ISO 9000 certification. It is unfortunate that no such effort has been made by any CSF in Maharashtra so far. It was heartening to see that a co-operative dairy in Maharashtra has been recently awarded such a certificate. The committee would urge attention to this aspect by CSFs in the coming months. The federation of co-operative sugar factories in the state should undertake this as a major programme to persuade the CSFs to apply for such certification. Apart from benefiting the factories which obtain such certificate,

these factories will act as catalysts in changing the culture and ethos of the CSFs. The committee considers this to be of utmost importance.

### **Zoning**

6.117 Though the supreme court has upheld the decision of the state government to dilute the restrictions on zoning, the committee is firmly of the view that this decision needs to be reconsidered for avoiding undue competition among factories and safeguarding their financial health (see para 4.23). It is seen that the position of availability of sugarcane in the case of some existing as also some of the proposed factories is so uneven and uncertain that they have shown the whole area of the district as their zone for procuring sugarcane. Obviously, this will be financially hazardous as it will increase the harvesting and transport charges substantially, apart from adversely affecting the sugar recovery. Later in this chapter, the committee has recommended a number of steps to be taken by CSFs for increasing the availability of cane in the area of the factory. There will be no incentive for the factories to make such serious efforts if there is no guarantee that the cane from such growers will become available to the sugar factory which has spent time and money on such development programmes.

6.118 It is also necessary to remember that the whole co-operative movement is based on furthering the financial interests of the members of co-operative ventures. The co-operatives should not be expected to indulge in cut-throat competition with each other or with other factories in the private sector to procure sugarcane. It is also important to note that without zoning, the programme of rehabilitation of sick sugar factories will be almost impossible to implement. The committee is apprehensive that the sickness in CSFs will further increase if the policy of dilution of zoning is pursued by the state government.

6.119 To insist on diluting zoning to teach a lesson to a few sugar factories is like cutting one's nose to spite one's neighbour. There can be more effective and less counter-productive ways of dealing with the recalcitrant CSFs by taking recourse to the existing and the newly proposed provisions, recommended by this committee, of the M. C. S. Act.

6.120 The question of zoning assumes all the more importance in the light of the decision of the central government to delicense this industry. Retaining the policy of zoning in the diluted form will increase the competition for cane and insistence by

CSFs on paying unduly high cane prices leading to serious financial difficulties, particularly for the financially weaker CSFs. It is true that competition should be welcomed but it is also important that the industry is first put on strong footing to withstand such competition. The committee's report will show the serious weaknesses of the CSFs. Some time, say of five years, will have to be given to CSFs to set their house in order. For all these reasons, the committee would recommend reintroduction of zoning as heretofore from the sugar year 1999-2000 by making a policy announcement to this effect well in advance.

### **Delicensing**

6.121 The committee is firmly of the opinion that the step of delicensing this industry was long over-due and needs to be welcomed. The CSFs ought to accept this challenge enthusiastically and resolutely. The erstwhile *license-permit raj* is largely responsible for the present problems of the industry. Any solutions to such problems need to be looked at from this new perspective. There is no doubt that the final consumer will stand to benefit from this step by making the industry more cost conscious, efficient and productive. This is the only way the industry can survive in the new regime of global competition.

### **Decontrol**

6.122 The committee believes that mere delicensing of sugar industry is not enough. The policy should be carried to its logical conclusion by decontrol of sugar. This alone will provide a healthy and forward-looking framework for the future growth of sugar industry of a world-class standard. The committee agrees with the recommendation of the Mahajan committee that there should be complete decontrol of sugar, and that such decontrol may be phased over a period of two years.

6.123 But, as opposed to the recommendations of the Mahajan Committee, this committee is of the view that there need be no controls on monthly releases of sugar.

6.124 The central government may continue the policy of supplying sugar through the public distribution system (PDS), only to those below the poverty line. For this purpose, it may introduce the policy of procurement of sugar from the market as in the case of other foodgrains supplied through PDS. In this context, the recent announcement of the state government to continue to supply sugar on PDS even to those whose annual income exceeds Rs 1 lakh needs to be reviewed.

6.125 Import duty on sugar has been stepped up from 5 per cent to 20 per cent in January 1999. According to newsreports, the domestic sugar industry is still not happy with it and believes that the imported sugar would still be cheaper than the domestic sugar. If there is a dumping of sugar by some countries in the Indian market, it would be best to initiate action for imposition of anti-dumping duty instead of taking recourse to increasing the import duty arbitrarily. Obviously, there is no getting away from the domestic industry improving its competitiveness, if the interests of the consumers are not to be sacrificed further.

#### **Future Financial Involvement of State Government in CSFs**

6.126 Important questions need to be framed and answered in this context. These include: should the state government contribute to the equity of CSFs? Should the state government act as a banker of CSFs? Should the state government give guarantees for the loans raised by CSFs? Should the state government continue to be treated as promoter of CSFs by financial institutions? On the answers to these questions will depend the role of the state government and its agencies in this sector.

6.127 The stand of the central government on a number of issues has not been made clear after the policy announcement of delicensing the industry. It is therefore not clear, for example, as to what is likely to be the policy of NCDC on financing of CSFs, and so on. These questions will have, therefore, to be addressed afresh after the new policy package is announced by the central government.

6.128 The government has large financial and, more importantly, political involvement in this sector for nearly 50 years now. The contribution of co-operatives in rural development also has to be reckoned with. It will have to be recognised that co-operatives are important instruments of social and economic transformation in the rural areas. It will not, therefore, be advisable for the state government to withdraw support to this sector altogether, but such support will have to be in the form of a new package scheme of incentives by way of refund of purchase tax etc. to be evolved for the purpose and should relate to financial assistance to the CSFs based on their production from year to year. A committee be appointed to examine the various incentives given by the state government to the private sector industrial units and to suggest a suitable package of incentives for the CSFs.

6.129 It is necessary to note that the share capital contribution of the state government, without receiving any dividend, constitutes a capital subsidy to the co-operative sugar mills. Its incidence has been assessed at 16 per cent of the investment cost by the World Bank in its report on sugar industry in April 1997.<sup>13</sup> More importantly, by contributing to equity, the state government steps into the shoes as promoter of CSFs with all consequential responsibilities for not only their rehabilitation but also their day to day management problems such as finding working capital, arranging pre-seasonal loans and so on. The committee would, therefore, recommend that the state government should not take any equity in the CSFs (see para 3.29). With the steps proposed in sub-para 3.30 (iv), it should be possible to raise enough equity from the farmers.

6.130 A word of caution would be in order. The committee has come to the distressing conclusion that, in the past, there has really been no rigorous appraisal of the projects proposed for financial assistance by the CSFs, whether of a sugar factory or for manufacture of any by-product. The all India financial institutions have been lax in their scrutiny as the loans from them were on the basis of government guarantees, though the representatives of these institutions on the committee are of the view that this is far from true and that the institutions had exercised all care and caution while approving the loans. The same is the position about the involvement of the NCDC. This corporation lends to co-operatives through the state government. The state government is responsible for repayment to NCDC on due dates whether repayment is received from the co-operatives or not. In so far as the NCDC is concerned, it is thus a totally risk-free lending operation. The state government has been taking a convenient posture that since all these agencies have "appraised" the project, there is no need for a fresh examination of the same by state agencies. All this must change if public funds are to be safeguarded.

6.131 The state government should not give any guarantees to the loans to be raised by the CSFs from the financial institutions. The NCDC may also be requested to extend its assistance to the CSFs directly.

6.132 The state government should also not give any direct financial assistance by way of loans to CSFs from the state exchequer.

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<sup>13</sup> *Report of the High Power Committee on Sugar Industry, op. cit. p.339.*

6.133 Even with the dispensation as above, the state government's financial involvement will continue to be substantial in the CSFs established under the present dispensation for several years to come. The working of all such CSFs will have to be monitored continuously and carefully. Based on this appreciation, a series of recommendations have been made in this report in the foregoing paragraphs.

## CHAPTER 7

### SUMMARY OF RECOMMENDATIONS

#### **Need for a New Co-operative law**

7.1 A separate law needs to be enacted for self-reliant co-operative societies on the lines of the Andhra Pradesh Act and generally on the points urged by the Co-operative Development Foundation, Hyderabad. This will be entirely in keeping with the forces of economic liberalisation sought to be unleashed in other sectors of the economy. This alone will provide a level playing field to the co-operatives as compared with the private sector or joint sector enterprises in the respective fields. (Para 3.22)

7.2 While enacting law as above, a self-reliant co-operative society should be defined as one which does not have, any longer, any government share capital, any loan from the state government, and any subsisting state government guarantee for any financial accommodation availed of by it from any other financial institution. (Para 3.23)

#### **Self-Reliant Co-operatives**

7.3 Pending enactment of such a legislation, the CSFs which satisfy the above criterion should be freed from government control and should not be made to ask for a number of permissions and approvals from the commissioner of sugar or the state government. (Para 3.24)

7.4 In the next group will be the CSFs which have small total financial involvement of the state government, say, less than Rs 10 lakh, in any form. Such CSFs may also be given considerable latitude in managing their affairs and, the CSFs may be freed, selectively, from certain government controls. A time limit of upto two years, depending on the amount which may be outstanding against them, may be given to such CSFs to return the government share capital and/or government/government guaranteed loan so as to be entirely free of supervision and control of the government. (Para 3.25)

#### **Government-Supported Co-operatives**

7.5 In the third group will fall the CSFs which have large outstandings of government share capital, loans, guarantees, taxes and levies, and which are unlikely to be cleared in the near future. These CSFs will require much closer supervision and control than has hitherto been exercised by the commissioner of sugar. A separate chapter may be

incorporated in the M.C.S. Act to safeguard the government's large financial involvement in co-operative processing and other societies such as sugar factories, spinning mills, cotton federation, and others fully, and deal firmly, and in an exemplary manner, with the managements of CSFs which indulge in malpractices, abuse of authority and even worse practices such as outright corruption. At the same time, it will have to be ensured that actions are not initiated against any CSFs due to political vendetta, groupism and insidious political motives. (Para 3.26)

#### **Co-operatives as Industry**

7.6 If co-operatives are to work as industry and compete with the private sector, the provisions of the co-operative law, as compared with those of the Companies Act, 1956, will have to be carefully examined. (Para 3.27)

7.7 Like private sector, joint sector and public sector, co-operative is only a form of organisation of a business or industrial entity, and it must be governed by the same principles as are applicable to the other forms of organisation. In this light, the present provisions of the M.C.S. Act need to be reviewed in their entirety. (Para 3.28)

#### **Government Involvement in Equity**

7.8 There should be no state government equity in the CSFs. NCDC assistance to CSFs may also be given by that organisation directly and not through the state government. (Para 3.29)

#### **Amendments in Co-operative Act**

7.9 The provisions to be incorporated in the new chapter of the M.C.S. Act will have to be carefully weighed to achieve the desired objectives by strengthening the democratic, open, transparent and accountable governance of the co-operative societies. The committee would like to make the following suggestions in this behalf:

i) It must be made mandatory that the annual report of the board of directors along with the audited accounts and the remarks of the auditors are printed and circulated to the shareholders and placed before the AGM within the stipulated time. The discretionary power with the sugar commissioner to give any relaxation in this behalf should not be for a period of more than three months. The Act should provide that infringement of this provision will lead to the disqualification of the board of directors and the directors will be ineligible to contest the election for a period of five years from the date of such disqualification.

- ii) It must be mandatory on the board of directors to fully comply with audit objections within a period of six months from the date of receipt of the audit report. Any failure to do so should call for action against the erring board of directors, including the recovery of the loss sustained by the society.
- iii) The Act should provide that non-compliance directions given to CSFs would lead to supersession of the board of directors, apart from disqualification of the office bearers and/or the other directors, as the case may be, for contesting the election for a period of five years.
- iv) Wherever considered necessary in the interest of raising adequate equity capital or fulfilling the requirements of the financial institutions, the concept of one member one vote may be given up. The upper limit for holding of shares by any grower member may be 26 per cent of the total equity. It is essential to introduce this major change to provide for large enough stake for some grower members in the proper running of the sugar factory.
- v) However, a CSF will also have the liberty to choose the other alternative of one member one vote if it is in a position to raise adequate equity in this manner. In such an event, the CSF will have to enter into appropriate agreements with the financial institutions so as to be in a position to raise the required funds without the involvement of the state government.
- vi) The proposed amendment to M.C.S. Act should make an explicit provision granting right to information to the members of a co-operative processing unit. Any wilful and deliberate denial of request should lead to action against the defaulting employee or the office-bearer of the society. This alone will help bringing in accountable and transparent management in a CSF.
- vii) There must be clear-cut rules regarding recruitment of staff to the CSFs and these must be formally adopted by the board of directors. It should be incumbent on the CSF to make recruitment from the list of candidates furnished by the Employment Exchange and to observe all rules made by the government regarding reservation of posts for scheduled castes/ scheduled tribes/ other backward classes and so on.
- viii) In section 77-A, the following two additional grounds may be considered for appointment of administrator:

a) Where majority of directors of the existing board have tendered their resignations; and

b) Where the election to the board of directors is cancelled by the Divisional Commissioner in deciding an election petition filed before him.

Appointment of administrator should be considered as a last resort when all other efforts to make the board of directors function effectively and efficiently have failed. On a rare occasion when an administrator has to be appointed, the Act should provide that an officer not below the rank of a Joint Registrar or Additional Collector will be appointed to take over the responsibility of a CSF. Senior and experienced managing directors of CSFs could also be considered for such assignments.

In the case where appointment of administrator becomes inevitable, election of a new board of directors should be held within six months at the latest. If, for any reasons, this is not considered possible, the term of the administrator may be extended by another six months, at the latest, but the reasons therefor should be clearly recorded on the file and these must be made public. The only exception could be in respect of a CSF for which a rehabilitation programme has been sanctioned and continuance of the administrator is considered necessary for speedy completion of the programme.

ix) It would be advisable to consolidate all penal sections of the Act so that all inquiries and actions can be initiated and taken against a society under one section. This will avoid multiplicity of proceedings and wastage of time.

x) A specific provision needs to be made for execution of agreement with non-members for sale of their sugarcane to a CSF.

xi) At present, while registering the sugarcane planted by a member of a CSF, no written acknowledgement thereof is given to the member concerned. It must be made obligatory on the CSF to do so, failing which the CSF should be liable to be penalised by way of a fine.

xii) Provision may be made in section 20-A for constitution of a joint management committee consisting of members of managing committee of the society and of the undertaking with which the society has entered into collaboration. The powers of managing the collaboration business may vest in the joint management committee.

xiii) A provision may also be made that a person shall cease to be a member of the managing committee on his resignation from the membership thereof being accepted by

the committee, or on his removal on account of disqualification and/or appointment of a new member in his place.

xiv) It is suggested that in section 70 (d), the words, "or co-operative credit society" may be added after the words "any co-operative bank" to enable CSFs to deposit their funds in such societies.

xv) Section 73 (1) (b) may be amended to lay down a specific time limit, say six months, from the date of registration of a CSF, within which a provisional committee may be appointed by the state government. Such a committee should, however, not continue beyond one year, and an elected body should take over the charge as soon as possible.

xvi) In section 73-F, which pertains to member or whose near relation deals in goods for purchase of which loans are given by a society being not eligible to be on its committee, the words "deals in such goods" needs to be made explicit to avoid abuse of powers and authority by such members.

xvii) Section 73-FF states that a person who is a defaulter of any society or carries on any business of the kind carried on by the society is disqualified for membership of the committee. This can lead to difficulties in respect of CSFs. Thus, if a person being office-bearer of a CSF, signs loan documents on behalf of a CSF, he should not be treated as a defaulter under this section if the society fails to repay the loan. Similarly, the words "business of the kind carried on by the society" also need to be clarified. A CSF is engaged in the business of processing sugarcane. It may also be engaged in any other business or service activities. It needs to be considered whether all such activities, other than sugarcane processing, should be considered as business for the purpose of this business.

xviii) In most sugar factories, there are members who do not grow any sugarcane. In spite of this, they are continuing as sugarcane grower members for years together. These members who had not produced sugarcane for three consecutive years need to be put into category 'B' i.e. non-producer members. This action has, however, been stayed by the high court in some cases. The relevant provisions of the Act need to be reviewed to enable speedy action in such cases. Such members should not continue to enjoy voting rights or be eligible for holding elective office in the CSF. The registrar

xxviii) It is necessary to provide for some minor penalties such as imposition of fine on the directors or office-bearers, suspension of directorship for a few months etc. so as to be able to take expeditious action and to convey a clear message to all other CSFs that such irregularities will not be tolerated.

xxix) Appeals over the decisions of the regional officers should lie to the sugar commissioner. Any appeal over his decisions should lie only to the co-operative court/high court. The state government should also have no power to stay initiation of any inquiry under the Act.

xxx) The Act may be amended to provide that no stay will be granted by a court in any case unless the government has been given an opportunity to present its point of view on whether the request for stay deserves to be entertained by the court. (Para 3.30)

7.10 In so far as mobilisation of funds is concerned, the following provision in the Andhra Pradesh Act (Act No. 30 of 1995) may be incorporated in the M.C.S. Act:

“(1) A co-operative society may mobilise funds in the shape of share capital, deposits, debentures, loans and other contributions from its members to such extent and under such conditions as may be permissible under the bye-laws of the co-operative society; Provided that, at the time of dissolution of the society, the amounts due to the members shall be settled only after the settlement of dues to others.

(2) A co-operative society may also mobilise funds in the shape of deposits, debentures, loans and other contributions from other individuals and institutions as may be permissible under the bye-laws;

Provided that a co-operative society shall not accept share capital from the government *but may accept other funds or guarantee from the government on such terms and conditions as are mutually agreed upon through a memorandum of understanding.*”

The provision in the italics above may, however, be deleted from the provision to be made in the Maharashtra Act for the reasons brought out in the earlier recommendations of this committee. (Para 3.31)

7.11 It would also be advisable to include in the M.C.S. Act the following provision relating to the disposable surplus, as contained in the Andhra Pradesh Act:

“(1) In any year, a co-operative society shall allocate towards a deficit cover fund, reserve funds, deferred payment to members as patronage rebate in proportion to their use of the co-operative societies' services and payment on share capital of interest not

exceeding the rate of interest paid by scheduled banks, such percentage of the surplus arising from its business transactions in the previous year, as may be approved by the general body.

(2) Reserves created under sub-section (1) shall be costed by crediting an annual interest equal to the rate paid by scheduled banks on fixed deposits.”

Earlier, in para 3.9, the committee has expressed its reservation on the use of the term “interest on share capital” as it is against all accepted canons of financial management and has urged that a final view needs to be arrived at on the income tax liability of the surplus of a co-operative society. *Prima facie*, there is no justification for giving income tax exemption to such surplus. However, depending on the final decision of the central government on this matter, the actual wording of the amendment could be settled. (Para 3.32)

7.12 Due to the cyclical nature of the sugar industry and consequent difficulties faced by CSFs, the following provision pertaining to the management of deficit contained in the Andhra Pradesh Act is salutary and could be adopted in the M.C.S. Act with advantage:

(1) Where a co-operative society is left with a deficit in any given year, the board of directors shall place before the General Body in the first meeting following annual general meeting, a detailed report on the causes of deficit and the manner in which the deficit is proposed to be met.

(2) The general body of the co-operative society shall decide to have the deficit covered by setting it off against the amounts available in the deficit cover fund, and/or by debiting the deficit to the account of the members in proportion to the services they had availed or were expected to avail of the co-operative society during the year. (Para 3.33)

7.13 If a CSF has to be run as an industry, it is necessary to provide for a continuity in the management of the society. From this point of view, it may be advisable to provide for staggered terms for the directors of the board. The following provision of the Andhra Pradesh Act may be incorporated in the M.C.S. Act:

“The Directors of the Board shall have staggered terms such that at any point of time the vacancies arising as a result of the terms of the Directors coming to an end, are less than one half of the total strength of the Board;

Provided that the term of a Director shall not exceed five years:

Provided further that at the first election all the Directors shall be elected at once, and their terms staggered by drawal of lots specifying different terms". (Para 3.34)

7.14 If the CSF is to run as a democratic institution in an open, accountable and transparent manner, it is necessary that utmost attention is paid to the preparation of proper bye-laws and their adoption by the society. This work has been neglected so far. An awareness campaign needs to be undertaken by leading co-operators, the Federation of Co-operative Sugar Factories in the state and non-governmental organisations to have proper bye-laws adopted by CSFs. (Para 3.35)

7.15 Following amendments may be done in the M.C.S. Act to strengthen the management of the CSFs:

- i) At present, the size of the board of directors is very large. As per company law, the board consists of only 8 to 10 directors. Provision needs to be made in the co-operative law to restrict the number of directors to 15, including 10 elected directors.
- ii) An enabling provision may be made for appointment of chairman-cum-managing director (CMD), wherever a CSF chooses to do so.
- iii) There should be two posts of executive directors on each board wherein the managing director and a senior technical head could be appointed.
- iv) There should be one post of director earmarked for expert to be nominated by the sugar commissioner from any of the fields such as agriculture, sugar technology, finance, management, etc.
- v) This will be in addition to the representation given to the financial institutions. The committee was told that the financial institutions have decided not to put their nominees on the CSFs, except in exceptional cases. The committee would, however, hope that the financial institutions will review this policy and continue to provide their nominee directors on the boards of all CSFs.
- vi) One post of director be earmarked for representation of factory labour.
- vii) All the above directors, along with the other elected directors, should be eligible for being appointed on the various committees of the board. However, no director should be on more than two committees at any time.
- viii) The representation of elected directors on the committees of the board should be in proportion to the strength of various groups and parties among the elected directors

so as to ensure that the committees reflect the composition of the board of directors. This is particularly relevant as most of the business of running a CSF is carried on in the committees of the board.

ix) To make management more accountable, personal guarantees/mortgage of property of the board members may be made compulsory before sanction of loans.

x) Guidelines may be issued to clarify powers and responsibility of the board of directors *vis-a-vis* the managing director of the factory.

xi) The present sanctioning power of the managing director (Rs 5,000) is too limited and hampers the smooth functioning of the factory. This may be increased to Rs 1 lakh in the crushing season and Rs 50,000 in off-season. (Para 3.36)

7.16 With a view to fix the responsibility for the sickness of a CSF, the committee would recommend that not only the management of the sick CSF should be changed but the out-going members of the board of directors should be debarred from holding any post in the same or any other co-operative society registered under the M.C.S. Act for a period of five years from the date of termination of their term in office. (Para 3.37)

7.17 Except in the case of exceptional urgency, it must be ensured that a notice of clear ten days is given before a meeting of the board of directors is held. Infringement of this requirement should lead to penal action against the office-bearers and concerned officers of CSF. (Para 3.38)

#### **Release of Government Share Capital**

7.18 The delays in the release of share capital by the state government could have been avoided by synchronising its sanctions and releases of funds with those of the financial institutions. In view of the committee's recommendation that the state government should not take any equity in the new CSFs, this may be relevant only in respect of the CSFs in which the state government equity is only partly released so far. (Para 4.15)

#### **Guarantee Fee**

7.18 The financial institutions should review their position on the question of levy of guarantee fee by the state government. But, this will not be relevant in future if the state government accepts the recommendation of the committee that no government guarantees be extended for new CSFs. (Para 4.16)

### **Scope of Government Guarantee**

7.19 The state government guarantee, if it is to serve any purpose, should extend for the whole life of the loan. The committee would urge the government to reconsider its stand on this point, though the committee has recommended elsewhere that, in future, the state government should not give any guarantees for the loans to CSFs. (Para 4.17)

### **Responsibilities of the State Government**

7.20 The state government cannot be expected to take over the responsibility to make good any shortfall in funding requirements of CSFs. It is necessary to underline that the state government is not a bank or a financial institution. In fact, it will be hazardous to treat it as such. The financial institutions should reconsider their stand on this matter and should not insist on such an undertaking from the state government. (Para 4.18)

7.21 The question of deferment of purchase tax for new CSFs may be considered as a part of the package scheme of incentives to be evolved to replace the present pattern of financial assistance by the state government to the CSFs. (Para 4.19)

7.22 The financial institutions should reconsider their stand to treat the state government as a promoter group of all CSFs in the state. It is not appropriate for a leading state like Maharashtra to default on its guarantee or to dishonour its guarantee. The state government should fulfil these obligations without any further loss of time. It is in the interest of the state government to ensure that its credit rating and market image are not adversely affected in any manner by such defaults in honouring its guarantees. (Para 4.20)

### **Crop Loan**

7.23 The supply of crop loan through CSFs should be tried on a pilot basis by obtaining the approval of RBI and NABARD as soon as possible. The cultivator should also have the option to avail of the credit through the normal channel of primary agricultural co-operative society, if he so desires, so that he may not be at the mercy of the CSF. (Para 4.22)

### **Cane Price**

7.24 The responsibility for fixation of cane price may be entrusted to a five member statutory committee comprising a retired high court judge as chairman and two expert

members with background of agricultural economics and sugar technology. The fourth member should be a chartered accountant. The fifth member should be a representative of the all India financial institutions, and co-operative, commercial and urban banks who have extended financial assistance to the CSFs. (Para 4.26)

7.25 The present system of paying uniform sugarcane price for all varieties of cane, irrespective of their sucrose content, is very faulty. The committee would suggest that a beginning be made along the following lines:

a) The factory should, at the beginning of the planting season itself, announce the varieties of cane with very low sucrose content which would not be accepted by the factory for crushing.

b) While it is true that sucrose content depends on a number of factors such as the time of planting, fertiliser use, weather conditions, the time of harvesting and crushing, etc. in addition to the variety of cane, to begin with, and before more sophisticated pricing techniques are evolved and used, payment for sugarcane should be differentiated at least on the basis of varieties according to their sucrose content. For this purpose, sugar factories may conduct mill tests of different varieties of cane.

c) In the ultimate analysis, more scientific techniques may be adopted to relate the prices to sucrose content. For this purpose, pilot trials be carried out in a few factories with imported equipment to examine its suitability and consider modifications needed therein to suit the local conditions.

All CSFs will have to be exhorted to make a beginning in this direction. A firm policy will have to be laid down that all CSFs will have to change over to the pricing based on sucrose content within three years at the latest. (Para 4.27-4.28)

#### **Financial Management of CSFs**

7.26 Non-refundable deposits deducted from cane bills have not been converted into share capital by most of the CSFs. As a result, huge interest charges are required to be paid on such deposits. This point needs to be closely followed in audit and all concerned sugar factories must be made to take appropriate action, if necessary, by issue of a directive. (Para 4.29)

7.27 Liquidity management of CSFs is in a highly unsatisfactory state. This has emerged as one of the prime factors in aggravating the sickness of sugar factories.

The committee would recommend that serious action be taken against the boards of directors of CSFs which indulge in such irregularities in future. (Para 4.30)

7.28 It is imperative that the CSFs build reserves of their own to meet their pre-seasonal fund requirements. If necessary, deduction per bag of sugar may be increased but this long-standing deficiency should be made good by the end of the 1999-2000 season at the latest. (Para 4.32)

7.29 It must be ensured that performance of each of the down-stream units for manufacture of by-products is evaluated separately and it is treated as an independent profit centre. (Para 4.33)

7.30 In general, cost consciousness is conspicuous by its absence. It is necessary that wide publicity is given, among the members of each CSF, not only to the costs incurred by each sugar factory but also the comparative figures of costs for the same items incurred by the sugar factories elsewhere and particularly those within its close vicinity. This will have to be done by the commissioner of sugar on quarterly basis by comprehensive computerisation of the data from all CSFs. Sugar commissioner must act as a catalyst in bringing about truly democratic, open and accountable administration in CSFs so that lot of questions would get asked by the members themselves. This alone will make the managements of the CSFs accountable in the true sense of the term. This responsibility to ask questions and seek answers from the management of the factories must rest on the members of the factory. This will call for their empowerment by making the right to information a reality. (Para 4.36)

#### **Machinery and Equipment and Other Related Matters**

7.31 The standard specifications for a 2,500 tpd plant were formulated practically ten years ago. There have been considerable technological changes since then. In some cases, financing institutions have been rigid about adherence to the old standards and deviations are not allowed. Either the standards be revised or deviations backed by suitable techno-economic justification should be allowed. Quite often, new factories are handicapped in respect of finance and are generally not able to meet the initial capacity of 2,500 tpd owing to lack of cane etc. Under the circumstances, there should be a provision for deletion of some units like one or two centrifugals, batch pan or even a mill. Such deleted units could be installed later. (Para 4.37)

7.32 The approved list of machinery manufacturers should be treated only as short-listing of suppliers. Final selection of the supplier should be based on two envelop system comprising technical offer and price bid. This is a universally preferred method of evaluation of suppliers, including for the contracts on the projects assisted by multilateral financial agencies. (Para 4.38)

7.33 Ways need to be considered to strengthen the performance guarantee by the suppliers. (Para 4.39)

7.34 The present performance norms need to be raised further to international levels. (Para 4.40)

### **Sickness and Rehabilitation of CSFs**

7.35 The committee believes that the sickness in co-operatives must be seen as a part of the much larger malaise of sickness in the industrial sector and the banks and financial institutions must come forward to share in the burden of rehabilitation of factories which have a reasonable chance of turning the corner. In respect of others which need to be taken into liquidation or disposed off, the resultant loss should be shared by all parties concerned including the banks and financial institutions. (Para 5.3)

7.36 The committee, after deliberating on the alternate criteria for defining sickness, has come to the conclusion that there would be a distinct advantage in applying the RBI criteria for the financial evaluation of sugar factories. These criteria have the advantage of grading the factories according to their performance and can provide a useful early warning system in respect of CSFs whose performance has deteriorated and therefore needs to be monitored carefully. (Para 5.8)

7.37 It may also be appropriate to include in the qualitative assessment of CSFs certain additional evaluation criteria. These are listed below:

- i) Factories whose financial position does not permit paying even the statutory minimum price (SMP) and payment of such or higher price has been at the cost of depletion of all surplus in the last three years.
- ii) Factories which are incurring losses continuously for 3 years.
- iii) Factories which are continuously running below 75 per cent capacity for over 3 years, and
- iv) Factories which are continuously in default of government dues for more than a year. (Para 5.9)

7.38 In future, the commissioner of sugar should categorise the CSFs on the basis of their audited results each year and should give wide publicity to the same by issue of a press note and holding a press conference, within six months of the close of the financial year. (Para 5.10)

7.39 A standing monitoring committee (SMC) on evaluation of CSFs be constituted by the state government as soon as possible. It should comprise sugar commissioner as chairman and have representatives of all India financial institutions, MSCB, Agricultural Finance Corporation (AFC), NABARD, VSI, Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd., commissioner of agriculture, and three experts in the areas in which the concerned sugar factories are weak. The SMC should have detailed discussion with the management of the concerned sugar factory regarding the remedial steps to be initiated. Specific time limits for implementation of various actions should be laid down by the SMC. The deliberations of the committee should be open to the public and the media. The recommendations of the SMC must be binding on the CSF. Non-compliance should automatically lead to penal action being taken against the CSF. (Para 5.11)

7.40 It will not be wrong to say that the state government has effectively become a bank so far as CSFs are concerned. It is hardly proper or advisable to continue this practice in the future. (Para 5.15)

7.41 Shree Ganesh CSF in Ahmednagar could have provided a useful guide for efforts to rehabilitate other sick units. Unfortunately, the improvements could not be sustained. (Para 5.18)

7.42 It is seen that of the total 116 CSFs, those falling in group C (below average) and group D (poor) were 10 and 23 respectively. (Para 5.19)

7.43 On the basis of the additional evaluation criteria mentioned in para 5.9 above, it is seen that 15 more factories are on way to becoming sick. (Para 5.20)

7.44 Revaluation of fixed assets is not the appropriate way of addressing the problem of sickness as this will be only a temporary palliative. The committee would advise against any such action. (Para 5.24)

7.45 No useful purpose will be served by the state government setting up an institution on the lines of BIFR. The Mahajan Committee has already recommended that the Government of India should set up a new statutory body such as the BIFR or

extend the jurisdiction of the BIFR to cover CSFs. It would be best to await the decision of the central government in this behalf. (para 5.25)

7.46 The factories falling in group C can be considered as sick where viability can be improved. Causes of sickness cannot be generalised beyond a point. These need to be studied thoroughly, case by case. Suitable measures will have to be taken by the factory concerned to remedy the situation in a time-bound manner. Simultaneously, action would need to be taken to restructure the liabilities and infuse additional capital. It would not be appropriate to recommend uniform financial reliefs in the cases of all sick sugar factories. These proposals must be case-specific. It will be counter-productive to give relief on the same scale to all sick units. Proposals for this purpose should, therefore, be formulated by SMC for being placed before a high level committee on rehabilitation for acceptance. Infusion of new funds or any other financial relief will have to be subject to the acceptance by the sugar factory management and the general body of shareholders, by a special resolution, of the detailed conditionalities prescribed for compliance on a quarterly, half-yearly and annual basis. In suitable cases, this should be accompanied by a complete change in the board of directors. The compliance of conditionalities, as approved by the high level committee on rehabilitation, by each concerned agency will have to be monitored carefully by the SMC. (Para 5.26)

7.47 It is imperative that the central government shares the burden of rehabilitation of these sugar factories by making available interest free or low interest loan from the SDF. Such a loan will form part of the total funds to be provided to the sugar factory as per the rehabilitation package evolved by the high level committee under the chairmanship of the chief secretary. (Para 5.27)

7.48 The CSFs falling in group D (poor) will have to be treated as beyond redemption. It will be futile to try to rehabilitate these units. In such cases, it would be best to consider the option of giving them on lease, for a long enough period of 10-15 years, or to sell them, by calling public tenders. The first priority should be to run the factory at the same location. If these efforts do not elicit response, the unit may be sold for being carted away and erected anywhere either in the state or outside the state. (Para 5.28)

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7.49 Such a sale/ lease could be to a private company or another co-operative sugar factory subject to the condition that no demand will be made by the purchaser/ lessee for financial support of any kind, including government guarantee, from the state government. To enable this being done speedily, it would be advantageous to take recourse to one time settlement of dues of lenders. This will imply the state government repaying the dues of the financial institutions and banks, wherever these are in respect of loans extended on government guarantee, subject to the institutions and banks waiving part of the interest, and foregoing totally penal interest, compound interest and liquidated damages. In this process, the unit can be handed over to the incoming purchaser/lessee free of these major encumbrances. The purchaser/ lessee will, however, have to take over all other liabilities such as the dues of the staff and labour, amounts due to sundry creditors and so on. This is likely to increase the response of the prospective buyers/lessees for the take-over of the unit. (Para 5.29)

7.50 Where these efforts fail, the unit may be taken in liquidation. In such an event, all creditors should share the amount received from the disposal of assets in proportion to their dues, after the dues of the labour are settled in full. (Para 5.30)

7.51 A high level committee on rehabilitation (HLCR) under the chairmanship of chief secretary may be appointed to take decisions on rehabilitation and/or liquidation of CSFs. Secretaries of finance, co-operation and planning departments of the state government, a representative of the Ministry of Food of the central government, and senior representatives of the concerned financial institutions and banks should be the members of the HLCR. The sugar commissioner should be the member secretary of the committee. The responsibility for preparation of proposals for the consideration of HLCR and the follow-up action on the decisions of HLCR may be entrusted to the SMC under the chairmanship of sugar commissioner. (Para 5.31)

7.52 Being a cyclical industry, the financial health of sugar industry can be in serious jeopardy unless steps are taken to meet the shortfalls and losses in the lean years by building up surpluses and cushion in the good years. The concept of co-operative management will have to undergo a radical change if the CSFs are to work as industry. The government policy towards CSFs will have to be reoriented significantly. The whole sector will have to be depoliticised if it is to stand on its own. (Para 5.32)

**Commissioner of Sugar**

7.53 Looking to the large financial stakes of the government in this sector, the committee believes that the commissionerate of sugar needs to be made more effective, visible and assertive. It must be given complete freedom to express its views candidly and to tender its professional advice without fear or favour. Unless this is done, it is unlikely that any improvement can be brought about in the present situation. (Para 6.1)

7.54 Currently, the commissioner of sugar has a developmental as also regulatory role. It is distressing to record that the commissionerate has failed to show any positive results in either of the two spheres. The developmental role may be entrusted, as a full time responsibility, to a senior officer in commissioner's office. The regulatory functions should be looked after by the commissioner directly, apart from over-all supervision over the developmental activities. (Para 6.2)

7.55 The commissionerate should periodically publish as much comparative information relating to the working of the sugar factories, as possible. This should include, among others, the technical parameters achieved by factories, conversion costs, transport and harvesting charges, costs of purchases, inventory levels, prices paid for the purchases of major items, staff strength, prices at which sugar was sold, use of SDF, applications for enrolment of members which are pending and were rejected, and so on. It is only by increasing public vigilance that greater accountability, social responsibility and cost-consciousness can be brought about. (Para 6.3)

7.56 A time-bound programme should be chalked out to complete the computerisation of all vital data within a period of two years at the latest, and preferably even earlier. This alone will help the commissionerate to discharge its responsibilities adequately. (Para 6.4)

7.57 sugar factories which do not owe any funds to the government or do not have any government guarantees outstanding should be taken out of the purview of the commissionerate except for certain minimum statutory duties. The role of commissioner of sugar should be severely reduced in respect of sugar factories which owe small amounts to the government. Generally, the thrust of the direction should be to do away with the requirement of any unnecessary controls and permissions as these often lead to corrupt practices. (Para 6.5)

7.58 The commissionerate should introduce a single window system to facilitate prompt clearances. (Para 6.6)

7.59 Now that the commissionerate has its regional offices, there should be greater delegation of administrative and financial powers to these offices. These powers should be reviewed once every two years. The first such review should be carried out in the calendar year 1999. (Para 6.7)

7.60 The officers in the field as also at the headquarters should be clearly informed that an adverse note will be taken in the annual confidential reports if the officers are found to be not using their delegated powers effectively. (Para 6.8)

7.61 The committee would recommend creation of a post of a deputy commissioner of labour who can attend to general matters pertaining to the labour of sugar factories. This post may be filled-up on deputation basis from the state cadre of such officers. (Para 6.9)

7.61 The committee took a review of the actions initiated by the commissioner of sugar against erring managements of sugar factories and found a very disturbing picture of delays, inaction, and so on. This will have to undergo a radical change if the management of CSFs is expected to show any perceptible improvement. (Para 6.10)

7.62 To improve the matters of supervision and control of CSFs, following suggestions are made:

- i) The provisions of the Act should be enforced without fear or favour in the future as, otherwise, the commissionerate will be failing in the responsibilities cast on it under the Act.
- ii) Every inquiry should be completed within 6 months, from the date of its institution, at the latest. If parties do not respond, in spite of repeated notices, the cases may be decided *ex-parte*.
- iii) The M.C.S. Act may be amended to provide that any stay granted for the proceedings under the Act will be valid only for a period of 6 months from the date of the order and that it would not be permissible to extend the stay beyond this period.
- iv) The Act may also be amended to take away the powers of grant of stay from the government. Such powers may continue only with the courts. The committee has earlier made certain recommendations pertaining to the appellate powers of the government and grant of stays by the government and co-operative courts/tribunal (see

paras 3.30 (xxix) and (xxx)). The committee would recommend prompt follow-up action thereon.

v) The Act may also be amended to combine the inquiries under section 83 and 88 of the M.C.S.Act to do away with duplication of inquiries on the same subject, and reduce the delays in the completion of inquiries and imposition of final punishment.

vi) Commissioner of sugar and/or collector should arrange to hold the elections of CSFs as soon as warranted, without waiting for the election expenses to be deposited by the CSF. Any delay in payment of such amount by CSF should attract interest at 24 per cent per annum. (Para 6.11)

7.63 An amount of Rs 2 crore may be kept at the disposal of the commissionerate of sugar each year for getting the best available advise from management experts, professional bodies, technical experts and consultants on issues facing the CSFs. This will change the culture of the organisation as opposed to its functioning like a traditional field office of a co-operative department discharging its regulatory and developmental responsibilities perfunctorily. (Para 6.12)

#### **Audit of CSFs and Other Related Matters**

7.64 Audit is one of the weakest links in the chain of supervision and control in the commissionerate of sugar. One way to deal with this problem is to retain with the statutory auditors only such of the CSFs as have large outstandings (of over Rs 25 lakh) of government dues, and liabilities by way of government guarantees. Even in such cases, entire reliance should not be placed on statutory audit and audit of 25 per cent of such CSFs may be entrusted each year to chartered accountants (CAs). The choice of CA for any given CSF may be made out of the panel of CAs to be maintained for the purpose. (Para 6.13)

7.65 In respect of CSFs which do not owe any money to the government (including any outstanding guarantees), the responsibility of audit may be entrusted to CAs of the choice of the managements of CSFs. (Para 6.14)

7.66 In the case of CSFs which owed small amounts (say less than Rs 10 lakh) to the government, the statutory audit may be dispensed with. Any CA, drawn from the panel of CAs to be maintained by the director of audit, could be selected by the management of a CSF in this group to audit its accounts. However, every such CA will be changed once every two years. (Para 6.15)

7.67 Cost audit should be made compulsory for all CSFs. VSI and DSTA should be closely involved in these efforts by drafting experts from their panels by making suitable payment to them. (Para 6.17)

7.68 The committee is keen that the audit wing of the commissionerate of sugar should be strengthened and put on par with other wings in that office. This would require reorganisation of the structure and work of the audit wing. It may also mean upgradation of some posts. This should not cast any financial burden on the government as the entire cost of audit is recovered from the CSFs. (Para 6.18)

7.69 A separate directorate of audit should be set up in the office of commissioner of sugar. It should be headed by an officer of the rank of Accountant General to be taken on deputation from the Audit and Accounts Service of the central government for a maximum period of five years at a time. If the government so desires, this directorate may also be made responsible for audit matters pertaining to other processing units such as co-operative spinning mills. (Para 6.19)

7.70 The present voucher-based and somewhat simplistic propriety audit is clearly inadequate and needs to be supplemented with more rigorous audit scrutiny. The directorate of audit may, therefore, be made responsible for institutionalising "value for money" audit, productivity audit, performance audit and so on to keep up with the best practices, obtaining world over, in the sugar industry. (Para 6.20)

7.71 A number of points such as construction of civil works, inventory levels, preparation of quarterly cash flow budgets etc. need to be gone into much more in depth by the audit than has been done so far. Attention to them would go a long way in reducing the cost of production of CSFs, thereby improving their financial viability. (Para 6.21-6.22)

7.72 No statutory auditor should be entrusted to do the audit of the same factory for more than three years. The relevant Rule on the same subject may be amended to this effect. (Para 6.23)

7.73 There should be a separate cadre to man the posts of auditors for the processing co-operative societies. These officers will have to be recruited through the Maharashtra Public Service Commission through competitive examinations, and provided induction training for a period of one year. Their pay-scales should be attractive enough to get the best available talent. Their periodical refresher training

needs have to be assessed carefully and provided for fully. All these aspects have been neglected so far in spite of the fact that the state government has invested thousands of crores in such co-operative ventures, most of which have been incurring huge losses year after year. An expert committee may be appointed at the earliest opportunity to go into all these aspects. The director of audit of CSFs may be the member secretary of the committee. (Para 6.24)

7.74 The financial year of the CSFs may be changed from 1 April to 31 March, as at present, to 1 October to 30 September so as to coincide with the sugar year. With such a change, it will be possible to complete all actions of a sugar year before the year is over. It should also be laid down that final sugarcane price will be approved by the commissioner of sugar before 31 December at the latest. The M.C.S. Act may be amended to provide accordingly. (Para 6.26)

7.75 The Act may be amended to provide that the general body meeting should be held by each CSF before 30 June of each year at the latest. The powers of the commissioner to give extension of time may extend to only three months thereafter. Board of directors of any CSF which fails to hold the meeting of the general body within this time may be made liable for action, including dismissal. (Para 6.27)

7.76 The legislature should appoint a separate committee of its own to supervise the work of processing co-operatives on the analogy of committee on public undertakings (COPU), public accounts committee (PAC) and so on. The new committee to be called Committee on Co-operative Undertakings (COCU) should be serviced, in so far as CSFs are concerned, by the director of audit. If this recommendation is accepted, the processing societies may be excluded from the jurisdiction of the state level *ad-hoc* committee. (Para 6.29)

7.77 It was, therefore, pleaded before the committee that powers under sections 79 (Registrar's powers to enforce performance of obligations), 80 (Registrar's powers to seize records, etc.), 81 (Audit) and 82 (Rectification of defects in accounts) of the M.C.S. Act, and Rules 67 (Registrar's powers to enforce performance of obligations), 68 (Procedure to be adopted for taking possession of books, documents, securities, cash and other properties of society), 69 (Procedure for appointment of auditors and for conducting audit), and 74 (Levy of audit charges and supervision charges) may be delegated to the audit wing of the commissionerate. All these powers may be delegated

to the director of audit by making necessary amendments in the M.C.S. Act after the post is upgraded and an accountant general is appointed in the post. It will be futile to create a high level post of director of audit if these powers were not to be granted to him. The committee would, however, suggest that, after all requisite enquiries and actions, the director of audit should send his recommendations to the commissioner of sugar for final orders for imposing major penalties. Powers to impose minor penalties may be statutorily given to the director of audit. Any appeal over the decision of the director of audit may lie to the commissioner of sugar. Any decision over the decision of commissioner of sugar may lie only to the co-operative court/high court. (Para 6.30)

#### **Water Availability and Policy on Water Use**

7.78 Evolution of policies for equitable use of water, keeping in view competitive demands, will pose formidable challenges. This aspect of public policy has received least attention so far. Every effort must be made to conserve water and promote policies for conjunctive use of water to the maximum extent. (Para 6.31)

7.79 At the instance of the committee, the irrigation department and GSDA have prepared standard formats in which such certificates regarding water availability would be issued in the future. The committee would recommend that necessary orders may be issued on the subject by both the concerned departments immediately. (Para 6.36)

7.80 The committee would also suggest that only officers at the district level may be authorised to issue such certificates. (Para 6.37)

7.81 There should be a standing committee on water availability (SCOWA) in the commissionerate of sugar to consider the certificates and to take a final view on whether water availability should be considered adequate for setting up a new unit or expansion of capacity of an existing unit. The committee should comprise director (development) in the commissionerate of sugar as a convenor and have representatives of irrigation, GSDA, and agriculture commissionerate (agriculture and water conservation divisions), as members. (Para 6.38)

7.82 The committee would like to underline the importance of continuous feedback by way of post-evaluation of the running factories to ascertain the extent to which certification regarding water availability was accurate. There is no mechanism available at present to do so. The committee would recommend that the SCOWA

referred to earlier should undertake such evaluation on a continuous basis to draw lessons for the future and to make suitable changes in the formats for certification of water by the irrigation department and the GSDA. (Para 6.42)

#### **Funding of CSFs**

7.83 Clearly, a second look is called for in funding any more sugar factories by giving any assistance from the state government. If the promoters want to go ahead on their own, they may be free to do so but the state government should keep itself scrupulously away from funding these proposals. The emphasis in the future should be on expansion of capacity of the existing units, wherever warranted, rather than on horizontal expansion by way of setting up of new units. (Para 6.44)

#### **Cane Development**

7.84 A ten year programme for cane development may be carefully drawn up and the responsibility for follow-up action thereon should be entrusted to the agriculture commissioner. He should hold quarterly meetings, at his level, of the sugarcane development committee (SDC) to be set up comprising the representatives of concerned institutions and departments such as irrigation, MSCB and MSEB. It would be useful to associate three outside experts as members of this committee. (Para 6.45)

7.85 Divisional level review meetings on sugarcane development, which have been discontinued during the last few years, may be held by the revenue commissioners twice a year at which the representatives of all concerned departments, sugar factories and others could participate. (Para 6.46)

7.86 It is imperative that the programme for cane development is taken up simultaneously with the erection of the factory. At present, sugar factories under erection are not eligible for SDF loan for sugarcane development. This is a very short-sighted policy. The committee would urge that the central government may be requested to sanction loans from SDF for these efforts, as soon as a factory places firm orders for machinery and equipment. (Para 6.48)

7.87 It is shocking that even the rudimentary requirement of firming up the techniques for ascertaining the correct area under sugarcane each year has still not been ~~firm~~ up. The SDC may commission a study to go into all the issues to ensure that data in this regard are as comprehensive and consistent as possible. It would also be useful to

cross-check the data compiled by field agencies with that to be obtained from the satellite imagery. The committee would suggest that a special project for this purpose may be taken up in consultation with the Department of Space of the central government. A standing sub-committee of SDC may be given the responsibility to monitor this item of work on a continuous basis. (Para 6.49)

7.88 Micro irrigation needs to be popularised on a much larger scale than has been achieved so far. (Para 6.52)

7.89 Subsidy for micro irrigation may also be made available to farmers who are members of the lift irrigation schemes. (Para 6.53)

7.90 The requirement of nucleus, breeder and foundation seed will have to be met by the agricultural universities, VSI and Paidegaon Research Station. If necessary, the VSI may be requested to set up regional seed farms. The requirement of certified seed will have to be met, in a decentralised manner, by the seed farms of the sugar factories. The factories will have to place firm indents on the agricultural universities for their breeder seed requirement and these will have to be honoured under any circumstances. The chairpersons and managing directors of factories will have to be personally held responsible for the purpose. (Para 6.54)

7.91 The committee was told that no seed certification norms have been laid down so far. This work may be given the highest priority so that the norms can be finalised and announced as soon as possible. (Para 6.55)

7.92 Each seed farm of CSF would require an area of about 100 acres. The state government has not granted exemption to the CSFs from the purview of the agricultural land ceiling legislation. Such an exemption may be granted without any further delay. The CSFs should prepare proposals for obtaining loan from the sugar development fund for setting up such farms immediately. The target of setting up such farms in all CSFs before 2001 should be adopted and strictly adhered to. (Para 6.56)

7.93 Greater emphasis needs to be placed on the use of organic manure to retain the soil fertility. Fifteen lakh tonnes of trash mulch (*pachad*) generated by sugarcane crop and the rootstock needs to be put back into the soil, instead of burning it as at present. It is also necessary to ensure crop rotation to rejuvenate the soil. (Para 6.58)

7.94 Greater emphasis needs to be placed on the use of organic manure to retain the soil fertility. Fifteen lakh tonnes of trash mulch (*pachad*) generated by sugarcane crop

and the rootstock needs to be put back into the soil, instead of burning it as at present. It is also necessary to ensure crop rotation to rejuvenate the soil. (Para 6.59)

7.95 The education fund contributed by CSFs to the co-operative union may be placed at the disposal of the sugar commissioner for funding suitable training programmes for all categories of persons in the field. (Para 6.60)

7.96 Ideally a time table will have to be drawn up by each factory for the planting of the cane in its area of operation so that its harvesting can be scheduled according to the peak period of sucrose content of cane. This will mean close interaction of the factory with its members, with the staff of the factory paying frequent visits to the farms of its members and persuading them to adhere to the time table for planting of sugarcane adopted by the factory. (Para 6.61)

7.97 The committee would like to leave it to the discretion of each CSF to decide how much staff should be appointed for cane development. But it must be ensured that this vital item of work is not neglected. (Para 6.62)

7.98 If the proposal to give crop finance through CSF is not found acceptable to NABARD, in the alternative, each CSF may deduct, while making payment for the sugarcane, an amount of Rs 5 per M.T. from its members and from this amount make available fertiliser to the farmers. The recovery made in this fashion for three years will be adequate to build up a revolving fund for this purpose to cover the entire cane requirement of the factory. (Para 6.64)

7.99 The present scale of credit for basal dose is inadequate and it needs to be increased. The committee understands that currently 35 to 40 per cent of the total crop loan disbursed by co-operative banks is given for the sugarcane crop. However, the requirement on the basis of loan of Rs 2,000 per ha. is substantially higher. The committee would request examination of this matter by MSCB, in consultation with NABARD, at a very early date, so as to get over any difficulties regarding exposure norms etc. (Para 6.66)

7.100 It is necessary to make more purposeful use of the Cane Development Fund. The Fund may be used to finance schemes such as soil analysis, supply of improved implements, green manuring, inter-culture operations, pre-tillage services, biological control of pests and diseases, development of khar and saline land, irrigation

development, and farmers' tours and training for dissemination of improved technology. (Para 6.67)

#### **Sweet Sorghum**

7.101 A research project on sweet sorghum may be prepared and submitted to SDF Committee for sanction at an early date. (Para 6.68)

#### **Mechanisation of Sugarcane Farming**

7.102 It is necessary to develop suitable small size planters, harvesters as also other machines which can be operated in sugarcane fields with bullocks and tractor. Research projects need to be funded for this purpose. (Para 6.69)

#### **Sugar Development Fund**

7.103 The committee would recommend rigorous monitoring, by the commissionerate of sugar, of the proper use of SDF fund. Sugar factories which have misused these funds should be proceeded against for penal action. (Para 6.70)

7.104 The central government may be requested to review the present policy on use of SDF with a view to consider extending assistance for the following, among other, new areas of concern to the CSFs in the state:

- i) Development of sugarcane seed farms by CSFs,
- ii) R & D efforts by sugar factories,
- iii) Developing techniques and equipment for making payment for cane based on its quality,
- iv) Development of harvesters and other farm machinery for sugar industry,
- v) Cane development by factories under erection,
- vi) Research on sweet sorghum and beet root, and
- vii) Rehabilitation assistance to sick sugar factories. (Para 6.71)

#### **Cost Control**

7.105 Effort must be made to adopt the lowest cost norm achieved by the best factory in respect of each item of cost. This will imply that wherever the actual costs are higher than the prescribed norms, the auditors will have to question the factory to seek reasonable justification for their acceptance. This exercise may be taken up in hand by the commissionerate of sugar immediately and kept upto date with the help of a standing advisory committee of experts to be appointed for the purpose. (Para 6.73-6.74)

7.106 In so far as staffing is concerned, the committee would make the following recommendations for immediate implementation:

- i) Staff norms may be tightened by undertaking a careful time and motion study by an expert professional group. This work may be given to a carefully selected consultant. Such consultant may be advised to suggest maximum number of areas for automation, keeping in view their financial viability.
- ii) In the meanwhile, there should be a total ban on filling up of vacancies arising out of attrition of staff by way of retirement, resignation, death etc., except in respect of critical posts, till the staff strength is reduced 20 per cent below the staff norms prescribed by the commissioner of sugar.
- iii) The number of permanent employees may be reduced considerably by making necessary adjustments in the seasonal staff.
- iv) The CSFs which have more employees than prescribed under the staffing pattern should retrench the excess staff within twelve months at the latest. Any delay in this behalf should result in recovery of excess expenditure on such staff from the board of directors of the factory.
- v) There should be a total ban on appointment of daily wagers.
- vi) The commissioner of sugar should lay down the revised staffing pattern and further actions as above through issue of a directive under the M.C.S. Act with a clear warning that any violation of the directive will lead to suspension of the board of directors. (Para 6.75)

7.107 A study by a competent firm may be taken up on inventory management of CSFs by the commissioner of sugar as soon as possible. Based on the conclusions of such a study, suitable directive under the Act may be issued by the commissioner later for strict compliance by the CSFs. (Para 6.76)

7.108 Annual technical and energy audits should be made statutorily compulsory for all CSFs. It must also be laid down that the results of both these audits, along with the financial audit, and comments of the board of directors thereon should be placed before the annual general body meeting each year. (Para 6.77)

7.109 DSTA should be recognised as a parallel agency to carry out the technical and energy audits of CSFs through the panel of technologists approved by the sugar

commissioner in consultation with the VSI. The services of MITCON could also be used for the purpose. (Para 6.78)

7.110 Manuals, guidelines, standing orders, and other literature need to be prepared and up-dated for the use of all CSFs. The committee would suggest that this task may be entrusted to the VSI and DSTA on an urgent basis. It must be ensured that these are up-dated every two years and circulated to all concerned. Some funds for this purpose may be placed at the disposal of the sugar commissioner. (Para 6.79)

7.111 The input of VSI in the field of training has not been adequately used so far. Many more organisations and institutions also need to be tapped for meeting these large and diverse training needs. There is need for a centralised planning for the purpose. This responsibility should be legitimately taken over by the commissioner of sugar. Requisite grants should be placed at his disposal by the state government from the cane development fund each year. (Para 6.80-6.81)

#### **State and Central Excise Issues**

7.112 The state government should request the central government to have the specific duty on molasses reconsidered. The committee would recommend that the duty should be levied on *ad valorem* basis at a rate not exceeding 20 per cent. (Para 6.84)

7.113 The state government should set up an expert committee to examine the question of stationing of state excise staff at the distilleries. It is suggested that, apart from other members, VSI, DSTA, federation of co-operative sugar factories, two managing directors of CSFs and sugar commissionerate may be represented on the committee. Comprehensive terms of reference have been suggested for the study. (Para 6.86)

7.114 The committee would recommend early action should be taken to review the export fee on potable alcohol and rectified spirit, keeping in view the very large crushing of sugarcane expected in 1998-99 as also in the next two years. (Para 6.87)

7.115 The present restrictive policy on permitting new manufacturing units and sale of country liquor and IMFL by licensing new wholesale and retail outlets needs to be reconsidered so as to liberalise the same. (Para 6.88)

7.116 The state needs to evolve a long term policy for export of industrial alcohol/potable alcohol to other countries. This is necessary if the sugar industry in the state is to gain a foothold in such markets. (Para 6.89)

### Labour Matters

7.117 Very early action may be taken by the state government to declare sugar industry as a seasonal industry. (Para 6.90)

7.118 Once this is done, the IDA may be amended so as to extend the provisions for permissible lay-off from 45 days as at present to one sugar year. (Para 6.91)

7.119 According to Standing Order (S.O.), every employee who completes 240 days of employment in a factory is deemed to be a permanent employee. This S.O. may be amended so as to exclude the sugar industry from its purview. (Para 6.92)

7.120 According to a 1993 notification, issued by the state government, contract labour is prohibited in five departments of sugar factories. This notification should be modified to exclude sugar industry from its purview. (Para 6.93)

7.121 The committee would suggest that the concerned CSFs should enter into negotiations with their labour unions to arrive at an agreement on the way the dues are to be settled. This may include part waiver of dues by labour, part payment in cash immediately and balance in suitable instalments, etc. This dialogue may be commenced immediately in consultation with the state labour commissioner. (Para 6.94)

7.122 Ways need to be found to ensure that such payments to labour are not permitted to accumulate in the future. Towards this end, the committee would suggest the following course of action:

i) The M.C.S. Act may be amended to provide for creation of a salary reserve fund on the lines of a similar provision in the Municipal Act. This will mean each sugar factory keeping in this fund amount equivalent to six months salary of its employees. The amount cannot be drawn from this fund except with the prior approval of the commissioner of sugar, and

ii) A gratuity trust may be created by each sugar factory under the provisions of the Income Tax Act. This will comprise contributions, based on actuarial calculations, of the labour/staff and of the factory. The trust funds can be used only for disbursement of retirement benefits to the employees. In the alternative, the CSFs may adopt the gratuity scheme of the Life Insurance Corporation of India, wherein benefit of life insurance is also given to the employees, so as to be able to discharge their obligations to the labour and staff promptly. (Para 6.95)

7.123 The provision pertaining to the representation for labour on the committees of certain societies provided in the M.C.S. Act requires a review. This archaic provision of the Act may be amended to remove the bar to the appointment of labour representatives on any committees of the CSFs other than the one relating to labour welfare. They should stand on the same footing as any other directors so far as their eligibility for appointment on the committees of the board is concerned. (Para 6.96-6.97)

7.124 It may be worthwhile to explore, on a pilot basis, a scheme for entrusting the responsibility of supplying harvesting and transport labour to multi-purpose co-operative societies in districts of Beed, Osmanabad and Ahmednagar from where bulk of such labour becomes available. This be tried selectively in the case of some CSFs to begin with. (Para 6.98)

#### **Pollution Hazards**

7.125 The committee noted that as yet completely satisfactory methods for controlling, in particular, ground water pollution have not been found though considerable research is in progress. The cost of pollution control equipment is also quite prohibitive--nearly Rs 3 crore. This subject should be taken up by the state pollution control authorities with the central government. (Para 6.99)

#### **Vasantdada Sugar Institute**

7.126 A study by an expert committee should be undertaken to evaluate the contribution of VSI so far, and to suggest the manner in which it can be enhanced. (Para 6.100)

7.127 Steps also need to be taken to democratise the policy-making bodies of VSI and to strengthen and improve its working. Towards this end, the committee has made certain suggestions. (Para 6.102)

7.128 Subscriptions deducted from the payments to farmers by CSFs do not get transferred to VSI promptly and continue to be used by some sugar factories unauthorisedly for long periods. The sugar commissioner should keep a close watch over this malpractice. (Para 6.103)

7.129 There should be only one state level institution of this kind and the idea to set up another similar institution in the Marathwada region should be given up as this would mean spreading the resources thinly and uneconomically. There were proposals to set

up regional farms and research stations of VSI in Vidarbha and Marathwada which were unfortunately not pursued. These be revived for very early implementation. (Para 6.104)

7.130 The grants due to VSI should be released by the state government without undue delays so that its work is not hampered in any way. (Para 6.105)

#### **Problems due to Cyclical Nature of Industry**

7.131 The committee would suggest the following course of action to deal with the problems arising from the cyclical nature of this industry:

- i) It may be made mandatory on each CSF to register the cane planted by each farmer in his area.
- ii) Insurance cover may be obtained to take care of loss in recovery of sugar in the years of drought as also in the years of excess availability of cane leading to extended crushing period. The insurance premium may be contributed by the state government, CSF and farmers in equal proportion. The farmers' share could be deducted from the cane price payable to them each year.
- iii) If any compensation is to be paid for cane which could not be crushed, it must be on the basis of documentary proof of registration of crop as in i) above, supported by extract of VII-XII form. (Para 6.107)

#### **Minimum Distance between Sugar Factories**

7.132 The minimum distance between two sugar factories needs to be increased to 40 kms, by making a representation to the Government of India. This should hold good for the period of next ten years. The matter could be re-examined thereafter in the light of experience gained. (Para 6.110)

7.133 Every sugarcane grower should automatically become eligible for the membership of the CSF in the area, if he so desires. The discretion would no longer be available to the management of the CSF as to whether to admit him as a member or not. (Para 6.111)

#### **Minimum Crushing Capacity**

7.134 Looking to the conditions in Maharashtra, it would be best to lay down the minimum crushing capacity of 1,250 tpd. As additional sugarcane becomes available, the capacity can be increased in a modular fashion. (Para 6.112)

### **Imperatives of Globalisation**

7.135 Sugar industry in Maharashtra must be able to compete globally. For this purpose, factories have to be encouraged to undertake expansion of capacity to world class size of 7,000 to 15,000 tpd. The export bias is particularly important keeping in view the strategic location of Maharashtra for undertaking export of sugar by sea. This will mean creation of necessary facilities like bulk storage of sugar at factory and the selected ports, installation of suitable handling arrangements etc. Factories will also have to be encouraged to produce niche products like refined sugar, sugar of pharma grade, soft drink grade and so on. This will mean continuous upgradation of market intelligence by the industry. (Para 6.113-6.115)

7.136 As a part of achieving global competitiveness and world class efficiency in production, the CSFs must endeavour to obtain ISO 9000 certification. The federation of co-operative sugar factories in the state should undertake this as a major programme to persuade the CSFs to apply for such certification. (Para 6.116)

### **Zoning**

7.137 The committee would recommend reintroduction of zoning as heretofore from the sugar year 1999-2000 by making a policy announcement to this effect well in advance. (Para 6.120)

### **Delicensing and After**

7.138 The committee is firmly of the opinion that the step of delicensing this industry was long over-due and needs to be welcomed. The CSFs ought to accept this challenge enthusiastically and resolutely. (Para 6.121)

7.139 The committee believes that mere delicensing of sugar industry is not enough. The policy should be carried to its logical conclusion by decontrol of sugar.

But, as opposed to the recommendations of the Mahajan Committee, this committee is of the view that there need be no controls on monthly releases of sugar.


The central government may continue the policy of supplying sugar through the public distribution system (PDS) only to those below the poverty line. For this purpose, it may introduce the policy of procurement of sugar from the market as in the case of other foodgrains supplied through PDS.

The domestic industry will have to become competitive to withstand international competition if the interests of the consumers are not to be sacrificed further. (Para 6.122-6.125)

#### **Directions for Future Financial Involvement of State Government**

7.140 Co-operatives are important instruments of social and economic transformation in the rural areas. It will not, therefore, be advisable for the state government to withdraw support to this sector altogether, but such support will have to be in the form of a new package scheme of incentives by way of refund of purchase tax etc. to be evolved for the purpose and should relate to financial assistance to the CSFs based on their production from year to year. A committee be appointed to examine the various incentives given by the state government to the private sector industrial units and to suggest a suitable package of incentives for the CSFs. (Para 6.128)

7.141 The state government should not take any equity in the CSFs. The state government should also not give any government guarantees to loans given by all India financial institutions and banks. The NCDC may also be requested to give its assistance to the CSFs directly, without going through the state government. The state government should also not give any direct financial assistance by way of loans to CSFs from the state exchequer. Even with the dispensation as above, the state government's financial involvement in CSFs established under the present financial pattern will continue to be substantial for several years to come. The working of all such CSFs will have to be monitored continuously and carefully. (Para 6.129-6.133)

1. **Dr. Madhav Godbole** 
2. **Dr. D. C. Wadhwa**
3. **Shri N. Borgaonkar**
4. **Shri Appasaheb alias S. R. Patil**
5. **Dr. Dyanadev G. Hapse**
6. **Dr. S. D. Tupe**
7. **Dr. A. P. Kansal**
8. **Shri Ajitsinh Ghatge**
9. **Shri S. S. Hussain**
10. **Shri M. D. Pendse**

11. **Shri K. D. Hodavdekar**

12. **Shri R. S. Rajput**

13. **Shri D. L. Creado**

14. **Dr. Sudhirkumar Goyal**

15. **Shri Rajiv Agarwal**

16. **Shri Arvind Reddy**

**Rajiv Agarwal**

Commissioner

Do. No. / PMC/MCO/80

30 Jan 1999

Dear Shri Reddy,

As discussed in the meeting of the Godbole Committee held on 28th January, 1999, I am enclosing my dissenting note which may be included in the final report.

With regards,

Yours Sincerely

**(Rajiv Agarwal)**

To,

Shri. Arvind Reddy,  
Commissioner of Sugar,  
Maharashtra State,  
PMT Building, Swargate,  
Pune - 411 042

Encl. : As above

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**A note of dissent by Shri Rajiv Agarwal,  
Ex. Commissioner of Sugar, Maharashtra State and  
presently Municipal Commissioner, Pune.**

**A. Exclusive zones for procurement of sugarcane for sugar factories :**

Sugarcane (Control) Order, 1966, was enacted under the Essential Commodities Act by the Government of India. The State Government, in turn, promulgated the Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply) Order, 1984, popularly known as "Zoning Order". Under this order, every sugar factory was given areas from which only that factory could draw cane, to the exclusion of all other sugar factories (except for areas which were common or overlapping for two or more factories). This resulted in a situation where a farmer, whether a member of cooperative sugar factory not, was compelled to sell his sugarcane to a factory in whose area he happened to be as per the Zoning Order. It is well known that sugar factories in Maharashtra are not required to pay State Advised Price (SAP) for sugarcane. SAP is generally uniform throughout the State (or a region in a State), so the farmer does not suffer any financial loss, even if he is compelled to sell his produce to any sugar factory. In Maharashtra, on the other hand, there are innumerable cases, when farmers in neighbouring villages were paid widely differing rates for cane of the same variety and characteristics. In many cases, sugar cooperatives were not enrolling farmers as members though the law provides for open memberships. There was discrimination against the non-members. Due to public agitation, the State Government appointed a Committee headed by Shri. Gopinath Munde, Deputy Chief Minister. The Committee recommended some relief in the Zoning Order. It must be noted that zoning remained in place and only its most oppressive aspects have been relaxed. A member of a sugar factory has an implied contract with the factory in the form of 'Bye-Laws' of the cooperative society. The bye-laws provide that a member must have at least a minimum area of his holding under sugarcane (it is generally half an acre for one share) and he must supply that sugarcane to that particular factory. The bye-laws further provide that any cane in excess of the area proportionate to the share holding of a farmer can be procured by the sugar factory, if it so desired. That means that the farmer had no choice. His excess cane may or may not be taken by the factory, which is bound to accept cane in proportion to his share holding only. The bye-laws are clearly loaded in favour of the factory vis-a-vis the member. As regards non-members, he has absolutely no right. He is at the tender mercy of the sugar factory, which may or may not accept his sugar cane. He is bound to sell his sugar cane to a particular factory and accept the price offered by it. The Munde Committee, therefore, recommended that a non-member must be free to supply his cane to any factory of his choice. As regards a member, he should be bound to supply his cane proportionate to his share holding, to the factory whose member he is. The rest of the cane can be supplied to any factory of his choice. These recommendations were accepted by the State Government and the "Zoning Order" suitably amended. The amendment has been upheld by the Supreme Court of India.

Some of the sugar factories and State Federation of Cooperative Sugar Factories are demanding

restoration of Zoning Order in its original form. The arguments in support of this demand are two-fold; The first argument is that sugar cane is a cyclic crop and during the years of excess cane factories run till all cane is crushed, even at the cost of incurring huge losses. I find it difficult to accept this argument. Excess cane does not benefit either the farmer or the sugar factories. There are many ways in which rigour of the cyclic nature of cane production can be minimised. One would be to educate farmers that they should not plant cane unless they have an agreement with a sugar factory to lift all their cane. No doubt, this is a difficult process, but a beginning has to be made sometime. Other obvious steps is to see that there is no wide fluctuation in the price of sugar cane. In the years of cane scarcity, sugar factories tend to pay very high cane prices. This induces farmers to increase the area under sugar cane in the subsequent year. The next year, a bumper crop means excess cane and less price. The vicious circle thus continues. If in the year of scarcity of cane, sugar factories do not distribute the entire surplus and build up reserves for future, it will have two beneficial effects. First, the prices will not rise inordinately and inducement to farmers to increase area under sugarcane will be less. Secondly, reserves built up may be used to compensate farmers in the years of excess production of cane. Zoning is a very poor substitute and does not benefit anyone in the long run.

Second argument in support of restoration of rigorous zoning is that any relaxation in zoning will make survival of the sick units difficult. Though there is a need to avoid cut-throat competition among sugar factories, there is equally important aspect of giving fair price to all the farmers. Coercing a farmer to sell this produce at a very low price is against all principles of justice and fair-play. A farmer must be compelled to sell his produce to a factory only if the price has been announced before hand and farmer has chosen to plant the crop fully knowing the price. Otherwise the life of sick units may be prolonged for a few more years at the cost of farmers.

In fact, as recommended by the High Powered Committee headed by the Secretary (Cooperation) the critically sick units must be liquidated. From the rehabilitation proposals prepared by Commissioner of Sugar, it is seen that the cost of rehabilitation in many cases is much more than the cost of new units of similar size. It will be totally inappropriate to squander public money in trying to rehabilitate such units which are inherently unviable or have no chance of any recovery due to heavy accumulated losses.

For the marginally sick units, the best option would be to sell them off. If, for some reason, that is not possible, they may be given on lease to outside parties for 10 to 15 years. Obviously, zoning in rigorous form is not necessary for the health of sugar industry. The present zoning has provided necessary 'safety valve' and should be continued without any efforts to restore the Zoning Order in its original form.

### **Cane Pricing**

The cane price in Maharashtra is fixed every year by a Committee headed by the Chief Minister, known as the Minister's Committee. This Minister's Committee had been fixing the basis on which cane prices of each sugar factory is finalised by the Commissioner of Sugar. The Committee

has recommended constitution of a statutory Committee headed by a retired High Court Judge to determine the cane prices. I am unable to concur in this recommendation of the Committee. In my view cane price should be determined by each factory itself depending up on its financial position as well as the statutory requirement under the Sugar cane (Control) Order 1966. Fixation of the cane prices by the Commissionerate of Sugar has many a times resulted in huge losses to the cooperative sugar factory. This has happened because accurate and up-to-date information has not been supplied to the office of the Sugar Commissioner by the concerned factory. In fact, I fail to see why the Commissioner of Sugar should have any say in fixation of cane prices. At the most, cane prices can be fixed in consultation with the bankers of the cooperative society who are in the know of the financial ability of the sugar factory to make payments. The present system leads to a situation where Sugar Commissioner is blamed for either fixing too low a price causing dissatisfaction among farmer or for fixing too high a price, leading to losses to the sugar factories. The proposed new system will replace one authority by another. Fixing of price of raw material is the function of an industrial unit and, subject to the legal provision, no other interference from outside agencies is called for.

#### **Audit of Cooperative Sugar factories :**

It is suggested that a post of Director of Audit should be created in the Commissionerate of sugar, as the present system is not found adequate. I would like to submit that once the principle that Government will not give any financial support to cooperative sugar factories is accepted, the question of auditing by a Government auditor also will not survive. Audit of a cooperative society, should be done by a firm of chartered accountants as is the general practice in the trade and industry. The role of Government audit should be restricted to the auditing of units where Government's financial involvement is already there. This involvement should be minimised over a period of time by taking steps like liquidation of sick cooperative societies and selling marginally sick units. In such a case there will be no need to strengthen the audit machinery in the Commissionerate of Sugar. Rather the present machinery should wither over a period of time to coincide with the withdrawal of Government financial involvement in the cooperative sugar industry.

#### **Water availability :**

The Committee has made detailed recommendation about scrutiny of new proposals of sugar cooperative by the office of the Commissioner of Sugar. It is humbly submitted that this work should not be entrusted to the Commissionerate of Sugar. It is also recommended by the Committee that in future the State Government should not be financially involved in any of the cooperative sugar factories. In that case, if a new proposal (or proposal for extension of the existing unit) is received, it will be the work of the financing bank or financial institution to apprise the project. It will be their experts who would be concluding whether or not there is sufficient water available for growing adequate cane. Similarly, post evaluation of the running factory should also be done by financial institution. I do not envisage any role for the Commissionerate of Sugar in this regard.

### **Problem of Cyclic nature of the industry :**

I am unable to agree with the recommendation of the Committee on this point. In my view the question of sugar stock of high and low production of sugar canes is accentuated by the pricing policy followed by the sugar factories in the State. To illustrate, in a year of low sugar cane production, the factories try to lure the farmers by offering them high prices. This has an adverse impact on the financial position of the sugar factory. Farmers are induced to over-grow sugar cane in the next year. But next year, when a bumper sugarcane crop is harvested, the factories are not able to crush it. Uncrushed cane cause hardships to the farmers. Extending crushing season results in losses to the sugar factories. If a sensible pricing policy is followed the factories can build up reserve in good years which can be used in subsequent years of financial crisis. If price of sugar cane is not hiked abnormally during such period, inducement to plant sugar cane indiscriminately will also be much less. In my opinion, this will definitely help in reducing the problem of cyclic nature of the industry. The other point is regarding excess cane for which Government has to give ex-gratia help to the farmers every 4 to 5 years. This can only be reduced by a campaign of public education in the State, telling the farmers not to grow sugar cane unless they have agreement with the sugar factories for lifting their entire yield. For members of cooperative sugar factories, it will be by a letter from the sugar factory. For a non-member it will be through a regular agreement specifying the area the time of planting cane and the kind of cane which he should plant. No doubt this is not an easy task, but unless such action is taken the problem of cyclic nature of the industry cannot be tackled.

### **Minimum distance between sugar factories :**

The Committee has recommended that the minimum distance between two sugar factories needs to be increased to 40 Km. from the present 15 kms. It is humbly suggested that there is no need to increase this distance, once the industry is delicensed. The new sugar factories in cooperative sector obviously will find it difficult to get loans from banks/financial institutions if it does not have adequate raw material. The same will also hold good for private entrepreneurs wishing to set up units close to the existing units with the help of financial institutions. Once the industry is delicensed, there is no point in requesting the Government of India to increase the minimum distance between the two factories. Setting up of such units is unlikely to get financial support from bank and financial institutions.

**NARENDRA BORGAONKAR**

B. A. LL. B.

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CHAIRMAN

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Date : 3rd Dec., 1998

Dear Shri. Madhavrao Godbole

I am enclosing herewith my suggestions on following three important issues.

- (1) Govt. participation in equity of co-operative sugar factories.
- (2) Working of Vasantdada Sugar Institute.
- (3) Reservation of sugarcane areas of co-op. sugar Factories.

I request you to kindly give due consideration to the suggestions while finalising the report.

With regards,

Yours Sincerely

**(NARENDRA BORGAONKAR)**  
M. L. C.

Encl. : a. a.

To.

**Dr. Madhavrao Godbole,**  
Chairman,  
Committee on Co-operative  
Sugar factories in Maharashtra,  
"Sangati" 73/2/2, Bhakti Marg,  
Erandavana,  
Pune - 411 004

# GODBOLE COMMITTEE REPORT

## 1) EQUITY PARTICIPATION BY STATE GOVT. :

The Committee has recommended that State Govt. participation in equity of cooperative sugar factories is no more desirable in the light of new Act on the lines of A. P. State Co-op. Sugar Factories i. e. Self Reliant Co-op. Societies' Act, which will be defined as one the Society, which does not have any State Govt. Share capital, any loan from the State Govt. and any subsisting State Govt. Guarantee for any financial accomodation availed by it from any other financial institution.

The Committee also suggested that the members should have voting power in proportion of shares held by them. The upper limit of holding of shares by any grower member may be 26 % of total euity.

There should be no bar to any number of non-sugarcane growers becoming members of CSF but they should have no voting power or say in the management. They will not thus be qualified to hold any elective office in the CSF.

**On this issues I put my comments as below.**

The State Govt. participation in equity of CSF has pushed ahead the co-operative movement in rural areas as it was very difficult to raise entire equity from sugarcane growers/farmers from limited rural area. It was then State Govt.'s outlook to give encouragement to co-op. sugar factories by providing State Govt. Share Capital. If the Act amended and entire equity to be collected by members, the new sugar co-operatives coming up with high project cost needs equity amounting to 20 to 25 times more than present equity from the producer members. The face value of the one share of Rs. 1,000/- will be Rs. 25,000/-

The suggestion by the Committee regarding giving up cooperative principle, "One member One vote" and making suggestion for voting power in proportion to the shares held by each individul member, is against Co-operative Principle. One member One vote is internationally accepted principle of co-operative movement. Therefore, it will be against the basic principle of co-operatives. If the suggestion of the Commttee is accepted, the Co-operatives will be nothing but a limited company having hold of few rich persons holding majority shares.

It is, therefore, dangerous to accept such type of suggestion which is against the basic principle of the co-operatives.

The Committee has suggested regarding non-voting powers to non-sugaracane growers and disqualified for taking part in the managment. The members who contributed for share capital should not be deprived from voting power and taking part in the management. The equity of non-sugarcane growers without any incentive such as dividend, voting powers, participation in the management is not desirable and practicable. Therefore, it is very difficult to attract larger Section of non-sugarcane growers/farmers for participation in the equity. If the sugarcane growers could not grow sugarcane due to natural calamity such as drought situation, he may not be called non-sugarcane grower member. The pre-requisite may be seen that whether he has cultivable land, irrigation source etc.

I, therefore, suggest that the members those who have participated in the equity may also be given equal rights.

It is our experience that due to financial difficulties, the entire collection of equity from producer

members have delayed the projects in the past. It has now increased the project cost which the factories find it very difficult to meet.

We further like to mention that the DCC Banks have to divert the funds from crop-loan to medium term loan to finance the shares/equity to CSF. Moreover the burden of interest will be so high on each individual member that they may not be in a position to repay in time the instalment and feared that they may become defaulter to the medium term loan.

In view of this the present practice of participation in equity of co-operative sugar factories by the State Govt. may please be continued and redemption of State Govt.'s share capital may be made during fixed period. While making redemption of State Govt.'s share capital, members' share capital may be increased simultaneously by making deductions out of cane price, so that factories can, within a fixed period, redeem State Govt.'s share capital and increase the member's share capital.

The State Govt.'s policy regarding adequate and timely providing equity by making sufficient provision in the budget for share capital to co-operatives will reduce the overrun cost of the factory.

I, therefore, suggest that State Govt.'s share capital in the CSF is necessary. A Committee's recommendation may be suitably modified in this regard.

I also like to mention that option may be kept open to CSF those who do not want State Govt.'s share capital, State Govt. loan, State Govt. Guarantee or any sort of financial assistance be made free from State Govt. control.

#### **THE WORKING OF VSI :**

The VSI is promoted by Co-operative Sugar Industry for research and development work and for giving training to the factory employees. It has been assisted by SDF Funds and contributions by the sugar factories by way of deductions/contributions per ton of cane crushed/per quintal of sugar produced by the factory. The VSI is registered under Trustees' Act and working very satisfactorily. The contribution to VSI is voluntary and taking into account the importance of research work, karkhanas are making payments to it.

The Committee recommends and suggests basic structural change in the working of VSI e. g. terms of the trustees, election of trustees and Governing Council members, exclusion of some members from the Committee etc., The Committee had recommended to amend its articles of Associations and Rules accordingly.

I have gone through the information regarding work on research and development and training to staff of the Sugar Cooperatives and it has been found that the VSI has done marvolus job in research, development works and training in the following divisions :

1. Agricultural Science and Technology Divison;
2. Sugar Technology Division;
3. Sugar Engineering Division;
4. Alcohol and Fermentation Division;
5. Sugar Chemistry Division;
6. Electronics and Computer Division;
7. Instrumentation Division.

The externsion service in case of above divisions has been also done by the VSI.

## **TRAINING & HUMAN RESOURCE DEVELOPMENT :**

The Institute runs various academic courses for improving technical efficiency of technical and personal staff employed by sugar and allied units and through them the overall efficiency of the industry. The students trained in the Institute fulfill requirement of the industry. The Institute have long term regular courses as also short term courses and special training courses. The Institute has organised Workshops and Seminars which are helpful to the personnel of the Industry.

VSI also undertake energy audit. In some factories, it has proved about saving in the energy. It becomes guideline to the industry.

The industry has recommended VSI as the instrumental in technical, research and development work. It has proved the progress being done in the work. Its organisational structure we should not change.

It has been always proved that the R. & D work is the continuous process. Some times it takes years together to prove to be successful. Therefore, stable management in the development work is always desirable. The VSI has also submitted a detail note to the Committee at the time of the visit to the V. S. I.

## **RESERVATION OF SUGARCANE AREAS :**

The Committee has suggested re-introduction of zoning from the Sugar year 1999 to 2000 by making a policy announcement by the State Govt. to that effect. The Committee has also welcomed the decision of de-licensing of Central Govt. The zoning will help to make the industry economic viable since raw material i. e. sugarcane which is perishable, will be available in area of operation. Therefore, reservation of areas, is inevitable. The delicensing and reservation of the Zones may be considered suitably by amending Zoning Order. The present distance of 15 K. M. between two factories in delicensing is disturbing to working factories. Therefore, as suggested by the Committee working factories. Therefore, as suggested by the Committee 40 K. M. distance between two factories may be maintained in the Zoning Order.

**Note of dissent from Dr. A. P. Kansal, Ex-Professor.**

**Vaikunth Mehta National Institute of Cooperative  
management, Pune.**

I do not agree with recommendation 3.30 (IV) "The concept of one member one vote may be given up. The upper limit for holding of shares by any grower member may be 26 per cent of the total equity. It is essential to introduce this major change to provide for large enough share for some members in the proper running of the sugar factory."

The above recommendation is against the internationally accepted 2nd principle of cooperation declared by the International Cooperative Alliance in its convention held at Manchester (U. K. ) in September 1995. The Principle "Democratic Member Control" is as under :-

"Cooperatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and Women serving as elected representatives are accountable to membership. In primary cooperatives, members have equal voting rights (One member one vote) and cooperatives at other levels are also organised in democratic manner."

Moreover in cooperatives members join as human beings and not on the basis of "Capital contributed" as the Capital is a means to an end and not the end itself.

Pune  
13th December 1998

(A. P. KANSAL)  
Member, Godbole Samiti

**MAHARASHTRA RAJYA SAHAKARI SAKHAR  
KARKHANA SANGH LTD.**

**MUMBAI - 400 021**

**MINUTES OF DISSENT TO BE GIVEN IN THE REPORT OF  
DR. GODBOLE COMMITTEE**

7.8 & 7.9 It needs to be reckoned that the Corporate Sector and the Co-operatives have different objectives to attain and also function in different sets of circumstances. The Cooperatives, though business organisations, are formed by the weaker sections of the Society who pull together their resources for attaining their own self-development through economic and service activity. They do not operate only for profit margins. With the assistance from the Government, the Co-operatives function as Centres for promoting the growth of their Members as also the areas in which they operate and to considerable degree, they take upon themselves and perform the socio-economic obligations of the welfare Government itself. The Corporate Sector which has to rely on investment in its enterprises from the surplus funds of the well-to-do, do not have any such socio-economic objectives.

The basic differences between the Co-operative and the Corporate entity and the Joint Sector is that in the latter Sectors, the power of the voter is based on its contribution to the equity of the enterprise. On the other hand, in the Co-operatives, the principle of one-person-one-vote whatever may be the value of shares is applied.

In suggesting in Para 7.8 that there should be no State Government equity in the Co-operative Sugar Factories, the Committee has not given due consideration to the economic prosperity brought in the rural areas by the Co-operative Sugar Factories with the assistance from the State Government in the form of share capital contribution. The turn-over of the family of Co-operative sugar factories in the Maharashtra State totally aggregates to more than Rs.8,000 - 10,000 Crores, giving it a high rank amongst the top industries in the country in terms of turn-over. The Sahakar Maharshi Shankarrao Mohite-Patil Sugar Factory at Akluj in Sholapur District which was initially given share capital of Rs.10.0 Lakhs out of a total share capital Rs. 40.0 Lakhs, has today a turn-over of Rs. 2,600 million from the various complexes it has helped to grow; and its total employment is of the order of 3700. Many such instances can be pointed out. The Committee unfortunately has not appreciated this growth potential. But for the scheme of share capital contribution by the State Government, the coming up of number of sugar factories in the country would not have kept pace with the growing domestic requirement of sugar necessitating import of sugar in substantial quantities. As per 1958 Policy Resolution of the Government of India, the Agro-Processing industry has been reserved on priority basis for the farmers' Co-operatives and for making this Society viable, giving Government share equity is absolutely essential. If the suggestion of the Committee is accepted, no Co-operative sugar factory will ever become possible. Besides, a policy decision in this regard would have to be taken at the National level in consultation with All India Bodies. Even Mahajan Committee has not recommended any such measures.

7.9 (iv) The founders of Co-operative movement had kept in mind the need to provide a democratic structure in the working of the Co-operative Societies. As Co-operatives are the organisations formed by the vulnerable sections of the society, it is necessary that care is taken to ensure that there is no exploitation on the ground of more or less share holding. One-member-one-vote is the basic principle of Co-operation. The Co-operative movement has recorded substantial growth and has stood firmly on the ground on the basis of this principle. The suggestion of the Committee that the principle of one-member-one-vote should be given up, would therefore be against the very principle on which the co-operative movement has successfully operated for the last several years and if accepted, would result in opening the doors for exploitative tendencies ultimately leading to dissolution of the Co-operative movement. It also needs to be reckoned that one-member one-vote is an internationally accepted principle on which the Co-operatives are managed.

7.9 (vii) The Office of the Sugar Commissioner has already issued instructions in the year 1994 with regard to Staffing Pattern in the sugar factories. As far as making it incumbent on the Co-operative sugar factories to make recruitment from the list of employees furnished by the Employment Exchange and to observe all rules made by the Government regarding reservation of posts for Schedule Castes, Schedule Tribes and other backward classes and so on, there need be no objection to such a requirement. In fact the Co-operative sugar factories are already sending indents to the Employment Exchange Offices and are also requesting for recommendations of candidates belonging to Schedule Caste and Schedule Tribe categories. However, it must be reckoned that in fulfilling this requirement, due consideration would have to be given to the need

to recruit technical personnel with adequate experience to ensure that the sugar factories are able to maintain the desired levels of technological competence and efficiency. The Sugar Wage Boards have laid down parameters for selection and appointment of personnel in the sugar factories.

7.9 (xiv) The suggestion of the Committee to add the words "**or Co-operative Society in Section 70-D**", if accepted, will bring about serious dislocation in the working of the presently operational three-tier credit structure in the State. It also runs counter to the policy that as far as possible, for strengthening the Co-operative movement, there should be only one primary Credit Society in a village, fulfilling all the requirements of the farming community. There are already serious difficulties being encountered on account of disruption of this principle resulting in weakening the credit structure and more difficulties are likely to arise if this suggestion is accepted.

7.9 (xviii) It has been observed that due to natural calamities like drought situation and scarcity of water, the farmer members may not be able to grow sugarcane continuously for a period of three years. This is particularly so in Vidarbha, Marathwada and Khandesh regions, where the cane is grown mainly on wells. Fluctuations in cane plantation due to such reasons is unavoidable. Therefore, such members should not be treated as Non-producer members, and the present system of accepting them should continue.

7.15 To compare Co-operative sugar factories or other co-operative Institutions including banks with private sector Corporations and Public Sector, is not proper. The Directors in the Corporation are not elected by the members

in the direct election like the Co-operative Sugar Factories. With more than 15,000 to 40,000 share holders of Co-operative Sugar Factories divided into many blocks, it will not be desirable to limit the number of Directors as suggested by the Committee. Wider representation is necessary for greater participation in the Board, which can be done only through elected Directors. All the suggestions in this Chapter appear to be taking the administration of the Co-operative Sugar Factories on the model of Corporate Companies which we do not agree.

7.17 Regarding Notice for the meeting of the Board of Directors, in case of exceptional urgency, we suggest three days' notice or even circular meeting should be allowed to be held. As in the Corporate Sector, the Managing Director of Co-operative Sugar Factories are not empowered to take financial decisions without the consent of Board of Directors or the Executive Committee of the Board.

7.21 The Government assistance through deferment of Sales Tax is extended to all kinds of factories established in C & D.Zones which allows them the usage of amounts of this tax for the prescribed period. The deferment of Sales Tax is due to establishment of industries in the backward regions. As the sugar factories are all rural-based, on the same principle as in the case of deferment of Sales Tax, the payment of purchase tax payable by the sugar factories should also be deferred, applying the same principle.

7.24 The system of cane payment in the State has been appreciated in all quarters. The Mahajan Commission has also suggested its continuation in the Co-operative Sector in Maharashtra, Gujarat and Karnataka States. We

therefore, see no reason to entrust the cane-price-fixation function to a five member Statutory Committee. It needs to be reckoned that no such price fixation mechanism as suggested prevails in the other sectors. It would also run counter to the present policies of Liberalisation

**7.26** The present system of Non-Refundable Deposits is primarily for repayment of loans of term financial institutions. As the financial structure of the Co-operative Sugar Factories does not provide any type of Reserve Fund, these deposits are to be used as an instrument of creating Reserve Fund. This particular system was conceived after consultation with the financial institutions which provide long term loans for establishment of sugar factories. It is for the members of the Society in the General Body to decide how best to deal with Non-Refundable Deposit in their own interest. No compulsion can be made in this regard. In fact, in the management of Co-operatives what prevails is consensus and not compulsion.

**7.48** As far as possible, since the unit is a Development Centre of the area, it should be shifted in the same area of operation. If this is not possible, priority should be given to Co-operatives and it should be shifted to the area where it does not create the problem of paucity and shortage of sugarcane to neighbouring sugar factories.

**7.51** The proposed State High Level Committee on Rehabilitation should include two representatives of the State Sugar Federation since the entire sugar industry sector in Maharashtra is Co-operative. The Vasantdada Sugar Institute (VSI) be also given representation on the said Committee, since the VSI is the

only research Institution in India established by members of Co-operative Sugar Industry. The Reports and Recommendations made by (late) Gulabrao Patil Committee, Shivajirao Patil Committee and Prem Kumar Committee on rehabilitation of sugar factories, should be considered by this Committee since all these committees were appointed by the State Government from time to time.

**7.61** In the State of Maharashtra, there is already established Labour Commissionerate under an independent Ministry of Labour with its network of regional offices throughout the State with many Joint Regional Commissioners. These Officers deal effectively with the labour problems in the State and try to bring about maintenance of harmonious relations between employers and employees. The issues relating to labour in the sugar industry have been successfully dealt with in the past through bi-partite discussions.

**7.63** We do not agree with the recommendation that an amount of Rs.2.0 crores may be kept at the disposal of the Commissioner of Sugar each year for getting best available advice from management experts, professional bodies and consultants. The VSI which has been set-up by the member factories, is quite competent to render whatever advice is required. In fact, VSI's role and infra-structure available with it, have been acclaimed at many forums. The VSI is today being invited to participate in various national and International events on sugar and allied issues. The need, therefore, is to strengthen the VSI by allocating to it more funds. Providing Rs. 2.0 crores per annum as suggested by the Committee, would tantamount to frittering away the resources of the State.

7.75 If the delay in holding the General Body meeting is on account of non-completion of the Audit of the concerned year by the Auditors appointed by the Government, then the responsibility cannot be of the management of the Co-operative Sugar Factories. In such case, extension would have to be given.

7.92. Recommendations contained in this portion are indeed laudable. Land should also be made available to the VSI to the extent of atleast 300 acres in the Marathwada and Vidarbha Regions, for intensifying growing of good quality seed.

7.95 The Education Fund contributed by the sugar factories should be entrusted to the VSI for further expansion and strengthening of its training activities.

7.99 There is dire need for increasing the credit to be made available to the farmes for growing sugarcane. The norms in ths regard have to be fixed keeping in view field realities. Besides, it is also necessary that the credit is made available in time to enable the farmers to cultivate sugarcane on scientific lines. Presently, due to lack of credit in time, the farmer is never in a position to apply basal dose of fertilizers in time.

7.106 After the recommendations of the Third Wage Board for sugar industry, the question of staffing pattern of sugar factories of various capacities was considered seriously and was discussed between the Sugar Factories, Labour Unions and Department of Food & Consumer Affairs, Government of India. A well-planned pattern was adopted after consideration for a long time.

The Committee should also recommend to the Government to amend the relevant Law to make it legally possible to retrench the additional/excess staff.

The Committee's recommendation that there should be a total ban on filling up vacancy arising out of attrition of staff by way of retirement, resignation, etc. is not practical. There are certain categories of staff in the sugar factories, particularly the technical staff, which have always to be in a position for smooth running of the unit. The vacancies of such technical personnel will have, therefore, to be filled in. The suggestion of not having daily workers is also not practicable because there are many areas where the daily wage worker is absolutely essential.

**7.109** To the best of our knowledge, the Deccan Sugar Technologists' Association (DSTA) has absolutely no infrastructure. It is, therefore, surprising that the Committee has recommended that the DSTA should be recognised as a parallel agency to carry out technical and energy audit of the Co-operative Sugar Factories. The VSI has been doing this type of work for last several years. The technical comparative reports of sugar factories brought out by the VSI every year have been acclaimed all over and these Reports are the only of its type being brought out annually. The VSI has also invested substantial amounts for purchasing equipments and vehicles for carrying out energy audit of the sugar factories. Huge data has been collected, analysed and papers presented on the subject at the National Seminars. Creating a parallel agency would result in frittering away precious funds.

The Committee's suggestion that many more organisations and institutions need to be tapped for meeting the training needs of the industry, is not practical. The Training Institutes need infrastructure and the training inputs have to be a continuous process of evolution. As the VSI has already acquired expertise in this regard, it would be advisable to strengthen VSI rather than entrusting this to other organisations and institutions. Such a course of action will also result in frittering away the scarce resources.

**7.129 (i)** A detailed report of the work done by the VSI is placed before the General Body of the Institute every year. After consideration of this report, the General Body adopts the same with or without modifications. As the major portion of the VSI's income comes out of the contributions made by the member factories, it is their right to evaluate the performance of the VSI in the Annual General Meetings. The VSI is accountable to the member factories through its General Body. Viewed in this context, evaluation by an outside expert committee is not considered necessary.

**7.129 (ii)** The VSI's constitution as comprised in its Memorandum of Association and Rules & Regulations is quite democratic; in that there is a provision of election for being a Member either on the Board of Trustees or on the Governing Council. The deliberations of these Bodies are fully democratic and as would be evident from these deliberations, the decisions are taken after a thorough and transparent discussion.

**7.129 (iii)** The VSI, being a Research and Development Organisation, there has to be continuity of fairly long duration with regard to evaluation of its decisions

since research activities have a long period of gestation. From this angle, the present provisions do not require any change.

7.129 (iv) The Memorandum of Association and Rules & Regulations of the VSI have been framed keeping in view the objectives of the organisation and they have been approved by VSI's General Body and also duly registered with the Office of the Charity Commissioner. The very fact that they have been registered is itself evident that they are in order and in conformity with the general thinking in this regard.

7.129 (v) The Committee's other recommendations with regard to VSI are welcomed.

7.133 The compulsory membership of cane growing farmers beyond the crushing capacity of sugar factory would be detrimental to the factory since the factory would not be able to crush all the cane of such members.

7.135 As it would not be possible for a single factory to establish a Refinery, the Sangh would like to suggest that a large size Refinery should be established on the Western Coast of Maharashtra which will process raw sugar and produce refined sugar of different types for export as also for local consumption. For such a project, part of the equity should be given by the State Government as it would boost the State's economy as also earn valuable foreign exchange.

7.139 The Mahajan Committee has already suggested a long term pricing policy for sugar and has requested the Government to gradually withdraw levy system and partial decontrol. The Mahajan Committee has also suggested that in spite of decontrol, the release mechanism should be continued because the sugar industry is a seasonal industry, producing all the sugar in five or six months which is to last for public consumption for the whole year. In the absence of release mechanism, it may be difficult to even out arrival of sugar in the market throughout the year, causing detrimental fall in sugar prices or reducing availability of sugar. It is, therefore, necessary to continue the release mechanism to make sugar available for domestic consumption throughout the year.

7.141 If the recommendation made by the Committee is accepted, it would mean that no Co-operative Sugar Factory will ever come up in Maharashtra. If we say that the para 7.141 is a sort of death-nail to the Co-operative sugar factory structure, it would not be an exaggeration.

# **A Note of Dissent**

CONTENTS

**On**

## **Report of the Committee on Co-operative Sugar Factories in Maharashtra**

**by**

**D. C. Wadhwa**

**Gokhale Institute of Politics and Economics  
(Deemed to be a University),  
Pune 411 004.**

**February 1999**

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## A NOTE OF DISSENT BY PROFESSOR D.C.WADHWA

With utmost respect to my distinguished colleagues on this Committee, I say that I have not been able to persuade myself to absorb in full their thinking on some of the very important issues discussed in this Report and hence this Note of Dissent.

### I. ZONING

#### *A. Recommendation of the Committee*

In para 6.117 of the Report of the present Committee, it is stated: "Though the supreme court has upheld the decision of the state government to dilute the restrictions on zoning, the committee is firmly of the view that this decision needs to be reconsidered for avoiding undue competition among factories and safeguarding their financial health". In para 6.120 of the said Report, it is said that "the committee would recommend reintroduction of zoning as heretofore from the sugar year 1999-2000 by making a policy announcement to this effect well in advance".

#### *Dissent from Recommendation*

With due respect to my learned colleagues on this Committee, who have recommended the re-introduction of zoning, I say that I do not agree with this recommendation.

Before I deal with the recommendation of the Committee for the re-introduction of zoning, it may be useful to give here, in brief, the genesis, birth and growth of the co-operative sugar factories and also the history of the introduction and dilution of zoning in the State.

### 1. BACKGROUND

#### *Genesis of Co-operative Sugar Factories<sup>1</sup>*

In order partially to relieve the agriculturists of Ahmednagar District from the distress caused by the periodic failure of rains, the Government of Bombay constructed the canals and their distributaries on the Godavari and Pravara rivers. These canals

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<sup>1</sup> The account of the genesis of the co-operative sugar factories, given here, is based on (i) a pamphlet entitled "The Deccan Canals Bagaitdars Conference, Belapur Road, by Shri S.T.Tambwekar and Shri R.B.Girme, 1946; and (ii) an article entitled 'Peasant-owned Sugar Factory in Bombay State - A Unique Experiment in Co-operative Enterprise' by Professor D.R.Gadgil, published in the Indian Labour Gazette, May 1952, pp.913-922, reproduced in the Writings and Speeches of Professor D.R.Gadgil on Co-operation, Gokhale Institute of Politics and Economics, Pune, 1975, pp.203-214.

served the purpose to a certain extent and gave some relief to the agriculturists in the area. But the condition of the agriculturists in general did not materially improve because they did not prosper in the business due to various reasons, the principal among them being the lack of knowledge of irrigated farming, shortage of capital, difficulty in securing the same at reasonably low rates of interest, absence of modern means of agriculture, difficulties in obtaining other agricultural requisites and constant variations in prices of agricultural commodities, etc. Even in the canal areas, where water facilities were available, the condition of the agriculturists in general did not materially improve for reasons enumerated above, even by taking cash crops like sugarcane. On the other hand, some agriculturists from the neighbouring districts, who were acquainted with irrigated farming and had resources at their disposal, started irrigated farming in the region, especially sugarcane cultivation, which made considerable progress in the boom following the end of the First World War. But the fall in the prices of gur in the late twenties brought this progress to an end. At that time the Government announced special concessions for the establishment of sugar factories. Some enterprising entrepreneurs from outside, encouraged by the special concessions and the protection given to the sugar industry in 1932<sup>2</sup> on the recommendation of the Tariff Board<sup>3</sup>, and taking advantage of the general economic depression which made agriculture an uneconomic proposition for an individual cultivator, started sugar factories in the canal areas and made huge profits. Those sugar factories had either purchased the lands of the agriculturists or taken them on long leases of 30 years.

In view of the then prevailing economic depression, the agriculturists felt happy for the time being as they received fixed rents, yearly or in advance, and were relieved of the toil and botheration of the agricultural vocation. But this was a short-lived and illusive joy. They soon began to realise the pinch of the new situation. They found themselves out of land and without any job except seasonal manual labour.

Due to an abnormal rise in prices of agricultural commodities brought about by the Second World War, the big bagaitdars and the factory owners benefited enormously.

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<sup>2</sup> Report of the Sugar Industry Enquiry Commission, Ministry of Agriculture, Government of India, 1974, Vol. 1, p. 1.

<sup>3</sup> Report of the Indian Tariff Board on the Sugar Industry, Government of India, 1931, pp. 77-85.

The economic condition of the agriculturists in general, and that of the agriculturists in the canal areas in particular who had by then learnt the techniques of sugarcane farming, improved to some extent. But the local agriculturists in the factory area remained unaffected and felt uneasy for having deprived themselves of the opportunity of making any profits. The factory owners, with a view to finding an outlet for investment of capital amassed by them during the War, either expanded the existing sugar factories or moved briskly in the direction of erecting new ones in the canal areas of Godavari and Pravara rivers, thereby depriving the local bagaitdars of their lands on a large scale, which made them uneasy.

The field-workers in close touch with some enlightened agriculturists in the canal areas arranged group meetings with a view to seeing whether the agriculturists could collect the required initial capital for large scale industries like sugar factories and whether it was possible and feasible for them to manage those factories efficiently. After careful consideration, they came to the conclusion that that was the most opportune time for the agriculturists to start sugar factories of land owner bagaitdars alone based on co-operative principles because they were in a position to raise the required share capital. They "were thus convinced that a co-operative sugar factory which would assure to them a continuous market for the sugarcane they grew, at an even level of prices from year to year, was essential for their exploiting fully the benefits of their region having been irrigated<sup>4</sup>". They further thought that "as owners of the factory, they will get the profits of the concern<sup>5</sup>". They argued that private factories would benefit a few individual capitalists at the cost of the agriculturists and that would result in a perpetual struggle between the various classes of the society. The local agriculturists placed the above thoughts before the bagaitdar leaders, officials, non-officials, economists and secured their support after a good deal of discussion from the practical as well as theoretical points of view. Shri Y. B. Gaitonde, the then Joint Manager of the Bombay Provincial Co-operative Bank, studied carefully the pros and cons of the question in his tours in the canal areas and promised to render every possible help to such concerns.

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<sup>4</sup> Writings and Speeches of Professor D.R. Gadgil on Co-operation, op.cit., p.204.

<sup>5</sup> The Deccan Canals Bagaitdars Conference, Belapur Road, op.cit., p.2.

### *Deccan Canals Bagaitdars Conference at Belapur Road (renamed as Shrirampur)*

Thereafter, a conference of bagaitdars in the Deccan Canals was held on December 17, 1945, at Belapur Road under the presidentship of Professor D.R. Gadgil, an eminent economist and the then Director of the Gokhale Institute of Politics and Economics, Pune. The Managing Committee of this conference consisted of Shri R.B. Girme, Shri Dashratrao Balajirao Badhe, Shri Shankarrao Ekanathrao Dhumal, Shri Yeshwantrao Govindrao Tekavade, Shri Mahadev Krishnaji Girme and Shri S.T. Tambwekar (all of Shrirampur), Shri Ganpatarao Rabhaji Awatade, Shri Babanrao Marutrao Pandhare, Shri Dattatraya Vishnu Ganpule and Shri Vishwasrao Laxmanrao Jagtap (all of Kopergaon), Rao Bahadur N.S. Borawake (Rahata), Shri Vithalrao Ekanathrao Vikhe (Loni Budruk), Shri Ramchandra Sambhajirao Londhe (Mamdapur), Shri Marutirao Tukaram Kulkarni (Malshiras), Shri Krishnarao Khaserao Kakde (Nimbut), Shri Govindrao Jijaba Pawar (Baramati), Shri Laxmanrao Bapuji Nanaware (Shindewadi) and Shri P.V. Parvate (Akluj).

The conference, taking into consideration the past experience and the future of agriculturists, adopted a resolution in favour of sponsoring attempts to establish co-operative sugar factories in the region and requesting the Government that instead of giving permission to start sugar factories in the private sector, it should permit the land owner bagaitdars to start sugar factories on co-operative lines and render necessary help to such concerns<sup>6</sup>. It was pointed out that the "cost of production of sugar in India is comparatively too high and the same cannot be appreciably reduced unless the factories are organised on co-operative lines"<sup>7</sup>.

### *Scheme of co-operative Sugar Factory of Land Owner Bagaitdars*

The actual steps in the direction of setting up a co-operative sugar factory of land owner bagaitdars were taken only in 1946 when the draft scheme of the proposed co-operative sugar factory was prepared by Shri S. G. Deodhar, Shri D. A. Dharap, Shri S. T. Tambwekar, Shri S. S. Mutalik and Shri S. V. Deshpande, all officials of the Bombay Provincial Co-operative Bank, Shri G. L. Choudhari of the Co-operative Societies and Shri G. R. Varde of the Godavari Pravara Canal Co-operative Purchase and Sale Union and the draft bye-laws of the said factory were prepared by Shri D. A.

<sup>6</sup> *ibid.* and Writings and Speeches of Professor D.R. Gadgil on Co-operation, op. cit., p.204.

<sup>7</sup> The Deccan Canals Bagaitdars Conference, Belapur Road, op. cit., p.3.

Dharap and Shri S. T. Tambwekar of the Bombay Provincial Co-operative Bank. The draft scheme and the bye-laws were prepared in consultation with Shri Vikhe Patil and other leading cultivator co-operators and were published on May 17, 1946.<sup>8</sup> The said scheme had already been submitted to Shri Vaikunthbhai L. Mehta, the then Managing Director, Bombay Provincial Co-operative Bank.<sup>9</sup>

While formulating the scheme, causes of failure of such schemes were properly considered and care was taken to provide adequate safeguard to run the factory successfully. The scheme was calculated to benefit the agriculturists in general and in addition it was intended to bring about improvement in agriculture, encourage joint-farming, promote subsidiary industries, such as paper-making, jinning, oil pressing, soap-making, etc., give a philip to joint purchase and sales on a large scale, increase general welfare of labour and improve the social, moral and economic well-being of the general public.

On June 22, 1946, copies of the above-mentioned draft scheme and the draft bye-laws of the proposed co-operative sugar factory were sent to leading bagaitdars for their opinion and suggestions.<sup>10</sup>

***Birth of Bagaitdar Co-operative Sugar Producers' Society (renamed as Pravara Co-operative Sugar Factory – renamed again as Padmashri Dr. Vithalrao Vikhe Patil Co-operative Sugar Factory)***

In pursuance of the resolution adopted at the Deccan Canals Bagaitdar Conference at Shirampur, the bagaitdars sent an application to the Government of Bombay for permission to start a co-operative sugar factory at Loni Budruk. They also started collecting share capital for the said factory. A sum of Rs. two lakhs was collected towards the share capital. But no progress could be made without formal registration of the factory. Several delegations led by different leaders approached the Government a number of times with a request to grant permission to start co-operative sugar factory. During the next three years all these efforts faced a number of difficulties and impediments resulting in disappointment on several occasions. However, leaders and agriculturists of this area continued to make efforts with perseverance and even under

<sup>8</sup> *ibid.*, pp. 1-17.

<sup>9</sup> First Annual Report of the Bagaitdar Co-operative Sugar Producers' Society, for the year 1948-49, p.2.

<sup>10</sup> Letter dated June 22, 1946, from Shri R. B. Girme, Vice-President and Shri S. T. Tambwekar, Hon. Secretary, Deccan Canals Bagaitdars Conference, Belapur Road, to Colonel A. R. Mohite, 26/5 Marathas, Camp Belgaum.

adverse conditions they did not allow the work of collecting share capital to slacken in any way.<sup>11</sup>

Finally, on December 14, 1948, the Government granted permission to establish this factory. Thus was born "The Bagaitdar Co-operative Sugar Producers' Society on December 31, 1948, when it was registered under the Bombay Co-operative Societies Act, 1925 (Bombay Act 7 of 1925). On June 1, 1952, the name of the Society was changed to 'The Pravara Co-operative Sugar Factory'. On September 7, 1990, this factory was renamed as 'Pamashri Dr. Vithalrao Vikhe Patil Co-operative Sugar Factory (hereinafter referred to as the Pravara Co-operative Sugar Factory as popularly known).

On April 27, 1949, the Registrar, Co-operative Societies, Bombay Province, nominated Professor D. R. Gadgil, Pune, Shri V. P. Varde, Managing Director, Bombay Provincial Co-operative Bank, Bombay, Shri J. L. Mehta, Bombay, Dr. R. G. Kakade, Servants of India Society, Pune, Shri Vithal Eknath Vikhe, Loni Budruk, Shri Hambirao Amritrao Mohite, Hanmntgaon, Shri Ganapatrao Rabhaji Avatade, Pohegaon, Shri Yashwantrao Govindrao Tekavade, Shrirampur, Shri Murlidhar Gangaram Kadu, Pathare, Shri Shakarrao Eknath Dhumal, Shrirampur, Shri Gopaji Blimaji Gholap, Shri R. G. Padhye, Haregaon Factory and Shri Jagannath Ganpath. These to constitute the first Board of Management of the above-mentioned Society. They were to hold office for a period of three years. The Board was to elect its own Chairman.<sup>12</sup> Shri R. G. Sule, Superintending Engineer (Retird), Government of Bombay, was appointed as Managing Director and ex-officio member of the Board of Management.<sup>13</sup>

On May 6, 1949, the Board unanimously elected Professor Gadgil and Shri Vikhe Patil as its Chairman and Vice-Chairman respectively.<sup>14</sup> Both, Professor Gadgil and Shri Vikhe Patil, continued to be re-elected Chairman and Vice-Chairman respectively

<sup>11</sup> First Annual Report of the Bagaitdar Co-operative Sugar Producers' Society, op. cit., p.2.

<sup>12</sup> Order No. G-254/2, dated 27<sup>th</sup> April, 1949, issued by the Registrar, Co-operative Societies, Bombay Province, Poona.

<sup>13</sup> First Annual Report of the Bagaitdar Co-operative Sugar producers' Society, op. cit., p.7.

<sup>14</sup> *ibid.*, pp. 7-8.

till 1960. Thus, Professor Gadgil remained its Chairman from 1949 to 1960.<sup>15</sup> After the retirement of Professor Gadgil in 1960, Shri Vikhe Patil was elected its Chairman.

#### *Financial Arrangements of Pravara Co-operative Sugar Factory*

The cost of the factory with a plant of 450 tons capacity was estimated at Rs. 32 lakhs to Rs. 36 lakhs. The total expenditure on the project came to nearly Rs. 41 lakhs. But not much more than Rs. two lakhs had been raised by subscription by members. Thus, a representation was made to Shri Vaikunthbhai Mehta, who had by then become the Finance and Co-operation Minister, Government of Bombay, pointing out the unique character of the experiment, its vast size in relation to the resources of the cultivators and the great potential benefits of its successful operation. The Government agreed to subscribe to the share capital of the factory a redeemable sum equal to the paid-up capital by members of the factory but not exceeding Rs. six lakhs. With the subscription of the Government of Rs. six lakhs to the capital, the factory had a share capital of nearly Rs. 15 lakhs subscribed of which Rs. 12 lakhs was paid-up. The Industrial Finance Corporation of India (of which Professor Gadgil was a member, Board of Directors) granted a loan of Rs. 20 lakhs against the fixed assets of the factory which were mortgaged to it. The gap in the initial stage was met by temporary advances made by the Bombay Provincial Co-operative Bank (of which also Professor Gadgil was a member, Board of Directors) on the personal security of the producer members of the Board of Directors of the factory. The Bombay Provincial Co-operative Bank was the chief source of supply of working capital.<sup>16</sup>

#### *Achievements of Pravara Co-operative Sugar Factory in First Ten Years<sup>17</sup>*

The first bag of sugar was produced by the factory on December 31, 1950. During the very first year of the working of the factory, an amount of Rs. 8 lakhs was set aside for depreciation. A cumulative dividend of three per cent was declared after setting aside the prescribed reserves, paying bonus to the workers and providing an agricultural developmental fund of Rs. 60,000 which was utilised for giving long term loans to the smallest and the neediest members of the factory to dig wells or to increase their capacity to have adequate lifting apparatus or to install oil engines. A good price was

<sup>15</sup> Dhananjaya Ramchandra Gadgil, *Making of the Man*, Gokhale Institute of Politics and Economics, Pune, 1967, p. 15.

<sup>16</sup> *Writings and Speeches of Professor D. R. Gadgil*, op. cit., pp. 206-207.

<sup>17</sup> *ibid.*, pp. 207, 216, 220-224.

paid to the members for their sugarcane. This resulted in rapid recoveries of outstanding share capital. In June 1951, the subscribed capital of the factory, inclusive of the share of the Government, was Rs. 17 lakhs, of which Rs. 16 lakhs was paid-up.

The factory not only met its dues promptly and regularly but also repaid the loan amount to the Industrial Finance Corporation some years in advance. Within less than ten years, the factory did not owe any long term loans. Whereas in the first year the contribution of funds of the members amounted to a little over Rs. six lakhs, ten years later owned funds of the factory amounted to Rs. 120 lakhs free from any encumbrances. These were all owned by the members because during those ten years the share capital held by the Government had been refunded. To these may be added Rs. 30 lakhs of deposits of the members with the factory towards share subscription making a total of Rs 1.5 crore. All this should be properly attributed to the economic efficient working of the factory.

As the management of the factory had followed, from the beginning, a conservative policy in relation to allocation of depreciation, reserves and other funds, it erected, in 1956, a new large plant of 1200 tons capacity.

The more important criterion in a sugar co-operative is the price paid for the sugarcane supplied by the members. It was possible for the factory to pay to the members over the years of its working a price in cash which compared favourably with the minimum prices announced by the Government. That the price paid to the members by the factory had been attractive and remunerative could be judged from the steady extension of the acreage under sugarcane brought about by the members. The number of members of the factory increased three fold (from 477 in 1950 to 1478 in 1960) during the first ten years while the acreage under sugarcane of the members increased more than six fold (from 800 in 1950 to 5000 in 1960) during this period. The average holding of sugarcane of a member doubled during this period. The factory area, though under command of canals, had only a small acreage under canal irrigation due to a number of reasons. Under the circumstances, the co-operative sugar factory had to depend for the vast bulk of its sugarcane on water supply from wells rather than from the canals. Thus, on account of non-availability of sufficient amount of canal water in the factory area, the extension of sugarcane acreage necessitated investments in wells and oil engines. In 1950, the recorded number of wells was 288 and the number of

installed oil engines was 329. The corresponding figures for 1960 were 1531 and 1005 respectively. This enormous capital formation was the direct result of the economic efficient working of the factory. These are indicators of fixed capital investment. The expansion of working capital is indicated by the operation of co-operative credit societies in the area. In 1950, these societies had 1121 members and their lending operations amounted to Rs. 3.9 lakhs. In 1960, the number of members had risen to 4359 and the lending operations to Rs. 37 lakhs. The other indications of the improvement in the financial position of the members were their readiness to contribute to educational activity, to the small savings campaign and towards capital for new co-operative activities.

On the general welfare side, in 1950, the area of the factory was not fully covered with primary schools and there were no secondary schools within it. In 1960, every village had a primary school and there were five high schools with 700 students in them. The factory had spent nearly Rs. 5 lakhs on capital expenditure on educational facilities and the high schools were established because of the voluntary educational contribution, of four annas per ton of sugarcane crushed, made by the producer members of the factory.

#### *Government Policy of Licensing Co-operative Sugar Factories*

The successful establishment and operation of the Pravara Co-operative Sugar Factory initiated a trend in co-operative development. It was chiefly because of the early success of the venture that the Government of Bombay adopted in 1952 the policy of confining, in future, the licensing of all new sugar manufacturing establishments to co-operatives. Soon after the announcement of this policy, four new co-operative sugar factories in Ahmednagar District, namely, Kopargaon Co-operative Sugar Factory (registered on June 4, 1953) at Pohegaon, Taluka Kopargaon, Rahuri Co-operative Sugar Factory (registered on November 3, 1954) at Rahuri, Taluka Rahuri, Karegaon Bhag Co-operative Sugar Factory (registered on December 1, 1954) at Karegaon, Taluka Shrirampur, and Ganesh Co-operative Sugar Factory (registered on March 3, 1955) at Rahata, Taluka Kopargaon, and one Co-operative Sugar Factory in Pune District, namely, Malegaon Co-operative Sugar Factory (registered on February 24,

1955) at Malegaon, Taluka Baramati, were started. On July 31, 1959, the Karegaon Bhag Co-operative Sugar Factory was renamed as Ashok Co-operative Sugar Factory.<sup>18</sup>

Shri V. P. Varde, the then Director, Board of Management, Pravara Co-operative Sugar Factory, and the then Managing Director, Bombay Provincial Co-operative Bank, Bombay, was elected as Chairman of the newly established Kopergaon Co-operative Sugar Factory. Shri R.G. Sule, the then Managing Director of the Pravara Co-operative Sugar Factory, and Superintending Engineer (Retired), Government of Bombay, was elected as Chairman of the newly established Rahuri Co-operative Sugar Factory. Dr. R.G.Kakade, the then Director, Board of Management, Pravara Co-operative Sugar Factory, and the then Member (at present President) of the Servants of India Society, Pune, was elected as Chairman of the newly established Karegaon Bhag Co-operative Sugar Factory. Dr. Kakade is also, at present, Chairman, Board of Management, Gokhale Institute of Politics and Economics (Deemed to be a University), Pune. Shri R. G. Padhye, the then Director, Board of Management, Pravara Co-operative Sugar Factory, and Chief Chemist (Retired), Belapur Sugar and Allied Industries, Haregaon, Taluka Shirampur, and Rao Bahadur Shembekar, a big bagaitdar, were elected as Chairmen of the newly established Ganesh and Malegaon co-operative sugar factories respectively. Thus, the Chairmen of all the above-mentioned newly established five co-operative sugar factories also were, like Professor Gadgil, apolitical persons.<sup>19</sup>

#### *Growth of Co-operative Sugar Factories*

The initial successful operation of the Pravara Co-operative Sugar Factory under a sound apolitical leadership and Board of Management resulted in an increase in the prosperity of an extensive neighbourhood. Its performance was impressive. It proved its efficiency. Once it went into production, its record was one of almost continuous progress with the result that it grew in resources and strength. It is this initial excellent performance of this factory, and of the other early successful co-operative sugar factories, which attracted, and which continues to attract even today, the political

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<sup>18</sup> The information about the dates of establishment of the above-mentioned five factories was given to me by the Office of the Commissioner of Sugar, Pune.

<sup>19</sup> This information was given to me by Dr. R. G. Kakade and Shri H. A. Mohite, the only two surviving Directors of the first Board of Management of the Pravara Co-operative Sugar Factory.

involvement of the State Government in this sector for reasons other than economic, and which has led to a rapid multiplication of co-operative sugar factories in the State.

### *Professor Gadgil and Sugar Factories*<sup>20</sup>

As mentioned in the beginning, Professor Gadgil, an eminent economist and the then Director of the Gokhale Institute of Politics and Economics, Pune, was instrumental in setting up the above-mentioned Pravara Co-operative Sugar Factory which was the first co-operative sugar factory set up not only in Maharashtra but even in the whole of India. Professor Gadgil was the first Chairman of this factory from 1949 to 1960. Professor Gadgil was also the Chairman, Bombay State Federation of Co-operative Sugar Factories from 1956 to 1959. He was further the Chairman, National Federation of Co-operative Sugar Factories from 1960 to 1967.

## **2. SUGAR INDUSTRY UNDER CONTROL OF GOVERNMENT OF INDIA**

### *Sugar Industry under Control of Government of India*

Before 1952, the State Governments exercised controls over the sugar factories under their own legislations. In that year, the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951) was brought into force<sup>21</sup> which brought the development and regulation of the sugar industry in the country under the control of the Government of India. Section 10 of this Act provides that the owner of every existing industrial undertaking shall, within such period as the Central Government may fix in this behalf with respect to industrial undertakings generally or with respect to any class of them, register the undertaking in the prescribed manner. The Sugar Industries Enquiry Commission reports<sup>22</sup> that all the 138 sugar factories which were working in the country at that time were registered under the provisions of the above-mentioned Act. Thereafter, the new sugar factories were established under licences obtained from the Central Government. Another important feature of the post-1952 development was the setting up of sugar factories only in the co-operative sector due to the policy of the State Government of confining the licensing of all new sugar factories to this sector.

<sup>20</sup> Dhananjaya Ramchandra Gadgil, op. cit., pp. 55-56.

<sup>21</sup> Notification No. S.R.O.811, dated May 8, 1952, published in the Gazette of India, Extraordinary, Part II, Sec.3, dated May 8, 1952.

<sup>22</sup> Report of the Sugar Industry Enquiry Commission, op. cit., p.2.

### *Essential Commodities Act*

In 1955 was passed the Essential Commodities Act, 1955 (Central Act 10 of 1955) for the control of the production, supply and distribution of and trade and commerce in certain commodities, called essential commodities, in the interest of the general public. These commodities have been mentioned in section 2(a) of the Act. Sugar and sugarcane are among such commodities.

Section 3(1) of this Act provides that if the Central Government is of the opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodities or for securing their equitable distribution and availability at fair prices, it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade or commerce therein. Section 3(2) of the said Act provides that without prejudice to the generality of the powers conferred by section 3(1), an order made thereunder may provide, among other things, for regulating by licences, permits or otherwise the production or manufacture of any essential commodity and controlling the price at which any essential commodity could be bought or sold.

### *Sugarcane Control Order*

On July 16, 1966, in exercise of the powers conferred by the above-mentioned section 3 of the Essential Commodities Act, 1955, the Central Government issued the Sugarcane (Control) Order, 1966<sup>23</sup>. Clause 6(a) of this Order empowers the Central Government to reserve any area where sugarcane is grown (hereinafter in this clause referred to as the reserved area) for a factory having regard to the crushing capacity of the factory, the availability of sugarcane in the reserved area and the need for production of sugar with a view to enabling the factory to purchase the quantity of sugarcane required by it. Clause 6(c) of this Order empowers the Central Government to fix, with respect to any specified sugarcane grower or sugarcane growers generally in reserved area, the quantity or percentage of sugarcane grown by such grower or growers, as the case may be, which each such grower by himself or, if he is a member of a co-operative society of sugarcane growers operating in the reserved area, through such society, shall supply to the factory concerned. Clause 11 of this Order empowers

<sup>23</sup> G.S.R. 1126, dated July 16, 1966, published in the Gazette of India, Extraordinary, Part II, Sec.3, dated July 16, 1966.

the Central Government to direct by notification that all or any of the powers conferred upon it by this Order shall be exercisable also by any officer or authority of the Central Government or of a State Government subject to such restrictions, exceptions and conditions, if any, as may be specified in the direction.

#### *Empowerment of State Government to Reserve Sugarcane Areas for Factories*

On the same date, that is, July 16, 1966, the Central Government issued, in exercise of the powers conferred upon it under the above-mentioned clause 11 of the above-mentioned Sugarcane (Control) Order, 1966, a Notification<sup>24</sup> that the powers conferred upon it by clauses 6,7,8 and 9 of that Order, namely, Sugarcane (Control) Order, 1966, shall be exercisable by the Government of Maharashtra also, in addition to some other states mentioned in that Notification.

### 3. INTRODUCTION OF ZONING

#### *Zoning Order*

On September 12, 1984, the Government of Maharashtra, in exercise of the powers conferred upon it by the above-mentioned Notification dated July 16, 1966, issued the Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply) Order, 1984<sup>25</sup>. Clause 3(1) of this Order provides that having regard to the crushing capacity of sugar factories, the area as specified in each of the schedules<sup>26</sup> is hereby reserved for the factory mentioned in that schedule, with a view to enabling it to purchase the quantity of sugarcane required by it. Clause 3(2) of this Order provides that no sugar factory shall purchase cane or accept supplies of cane from cane growers, except from the area reserved for that factory. Clause 5(1) of the said Order provides that a Permit Officer may allow a sugar factory to purchase cane or to accept supplies of cane from cane growers from areas other than the area reserved for it under clause 3 if he is satisfied that any of the following circumstances exist,

<sup>24</sup> G.S.R. 1127/BSS/Com/Sugarcane, dated July 16, 1966, published in the Gazette of India, Extraordinary, Part II, Sec.3, dated July 16, 1966.

<sup>25</sup> No. CSK. 1084 (48)/13-C., dated September 12, 1984, published in the Maharashtra State Gazette, Extraordinary, Part IV-A, dated September 12, 1984.

<sup>26</sup> These schedules were revised by the Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply (Amendment) Order, 1988, dated January 14, 1988, published in the Maharashtra State Gazette dated January 28, 1988, Part IV-A, pp.49-435. They were further revised by the Government of Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply (Amendment)) Order, 1993, dated November 23, 1993, published in the Maharashtra State Gazette, Extraordinary, Part IV-A, dated November 24, 1993, pp.1-651.

namely, (a) In the event of production of cane in the area reserved for the factory being not adequate for enabling it to reach optimum level of crushing; (b) In the event of surplus production of cane in the areas reserved for other factories which those factories are not able to crush during the crushing season; (c) In the event of stoppage of nearby sugar factory due to mechanical break down, labour unrest, lock-out or any other reason; and (d) In the event of cane grower or cane growers from the area reserved for a particular factory declining to supply cane to the said factory on account of any of the following reasons, if found justified by the Permit Officer: (i) Non-payment or late payment of cane price by the sugar factory; or (ii) Non-fulfilment of any of the obligations by the sugar factory arising out of agreement between the cane grower or cane growers and the sugar factory; or (iii) Discrimination by the sugar factory in harvesting of cane and thereby causing loss to the cane grower or the cane growers.

#### ***Objectives of Introducing Zoning***

It is stated in the above-mentioned Zoning Order that as there was a rapid growth of co-operative sugar factories in the State, it was apprehended that all the factories, particularly the newly established factories, may not be able to get enough sugarcane for their requirements. Therefore, while granting Letters of Intent for the establishment of new sugar factories in the State, the Government of India had stipulated therein that the conversion of Letters of Intent into Industrial Licences shall, *inter alia*, depend on the State Government notifying the zones for drawal of sugarcane by the new factories. It was also apprehended that in the event of non-availability of sugarcane to meet the requirements of the sugar factories in the State, the economic viability of large number of sugar factories would be seriously affected, resulting in serious financial crisis and socio-economic problems, among others, such as – (i) The factories may incur heavy losses; (ii) The factories may not pay the minimum statutory prices for the sugarcane; (iii) The sugarcane growers may suffer serious economic consequences; (iv) The employees of the factories may not get their salaries and wages; (v) The factories may not discharge their liabilities towards various financial institutions and other creditors; and (vi) The factories may not discharge their tax liabilities towards the Government.

It is further stated in the said Order that the State Government, therefore, was of the opinion that for avoiding the aforesaid apprehended financial crisis and also for

fulfilling the condition stipulated by the Government of India for converting Letters of Intent of new sugar factories, it had become expedient to make an Order for reserving areas for drawal of sugarcane for each factory in the State having regard to the crushing capacity of each of the factories, the availability of sugarcane in the reserved areas and the need for production of sugar enabling each of the factories to purchase the quantity of sugarcane required by it. Hence, it issued the above-mentioned Order.

#### 4. COURTS ON ZONING

##### *Bombay High Court on Validity of Zoning Order*

On September 23, 1988, the Full Bench of the Bombay High Court delivered its judgement<sup>27</sup> on the validity of the above-mentioned Order dated September 12, 1984, which was challenged in the High Court, among others, by the sugarcane growers who were not members of any co-operative sugar factory. The Court observed that although the maximum price payable to the members of a co-operative factory may be fixed by the State Government under the bye-laws of the factory and therefore may be binding on the members of the co-operative factory, such price fixed under bye-laws in respect of the sugarcane supplied by the members cannot be binding on the non-members because they are not bound by the bye-laws of the factories. According to the High Court, non-members have a choice either not to supply the sugarcane to any of the factories or to sell it to the highest bidder. But, in the opinion of the High Court, this latter freedom of the non-member to sell their sugarcane to the highest bidder was rendered nugatory by the provisions of clause 3 of the Order. The High Court, therefore, held that to be valid, the Order must make a provision for ensuring market price to non-member sugarcane growers. Thus, the Court disposed of the proceedings with the direction that unless it is provided in the Order that the cane growers who are not member of any co-operative factory or factories to which they are required to supply their sugarcane under reservation order are paid for the sugarcane supplied by them the price calculated at the market rate the Order will not be valid.

<sup>27</sup> Satara Sahakari Sakhar Karkhana Ltd. and another v. State of Maharashtra and others, AIR 1989 Bom. 53(FB).

### *Supreme Court on Validity of Zoning Order*

On April 18, 1995, the Supreme Court of India delivered its judgement<sup>28</sup> in two sets of appeals, one directed against the above-mentioned direction dated September 23, 1988, of the Full Bench of the Bombay High Court that the cane-growers who were not members of any co-operative society but who were required to supply their cane under reservation order or Control Orders to sugar factories with which they were attached were entitled to market price ~~instead~~ of the price fixed by the Government, and the other directed against the fixation by the Bombay High Court of market price for 1993-94 at Rs.740 as against Rs.340 to Rs.400 fixed by the Government. The Court observed that "the methodology adopted by the State for fixing price requires to be rationalised as various discrepancies have surfaced for which there is no satisfactory explanation. The Full Bench felt that there was something grievously wrong with pricing system in the State. Therefore, it found a legal basis for striking it down at least for non-members. What is baffling is that even though factory after factory, rather, nearly the entire lot is shown to be suffering loss, yet new units are coming up every day in the co-operative sector. Maybe because as claimed by the State it is vitally concerned in production of sugar and is, therefore, investing substantial funds, nearly 95%, in setting up of units. Maybe as suggested by respondents that the public funds thus transferred for social welfare are being siphoned off by vested interests. Maybe as argued that the loss is more paperwork than truth as in fact it has resulted in giving rise to what has come to be known as a powerful political sugar lobby in the State of Maharashtra. But these are matters more political than legal, the remedy for which may not be in the courts. Even otherwise it is not possible to identify the evil, both, for paucity of material and discipline, of restraint, of keeping away rather than entering in such hazardous zone"<sup>29</sup>. Continuing about the pricing policy, the Court observed that from the material before them, it appeared that the factories having better recovery had been permitted to pay lower price as compared to the factories the recovery of which was lower. As an example, the Court pointed out that the Ashok and Dyaneshwar factories having recovery of 10.21% and 10.53% respectively paid Rs.270 and Rs.250

<sup>28</sup> Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd. and others v. State of Maharashtra and others, 1995 Supp(3) SCC 475.

<sup>29</sup> *ibid.*, at 506.

respectively per tonne as the cane price in 1985-86. Similarly, the Sanjiwani and Sangamner factories with the same recovery, that is, 11.31%, were made to pay different prices. Sanjiwani paid Rs.364, Rs.330 and Rs.240 per tonne for the years 1985-86, 1986-87 and 1987-88 respectively, while the Sangamner factory paid Rs.391, Rs.348 and Rs.366 per tonne respectively for those years. Thus, the Court observed: "It has not been explained how this difference has arisen. Such wide disparities are bound to create distrust"<sup>30</sup>.

The respondents explained that there was considerable disparity in the price of sugarcane paid by different co-operative sugar factories in Maharashtra in recent years, and the variation in 1990-91 ranged between Rs.545 to Rs.275, in 1991-92 between Rs.511 and Rs.286.80 and in 1992-93 it was between Rs.731 and Rs.310. According to the respondents, this price variation had nothing to do with the product, namely, the recovery from the sugarcane but was based on extraneous considerations, as seen by its principal creator, namely, the State Government. To this, the Court observed that the respondents were not justified in advancing the above submission as "the entire price structure of cane is founded on two basic factors, one, the recovery percentage and other the incentive for sharing profit arrived at by working out receipt minus expenditure. And that is neither contrary to law nor unfair. But the wide disparity in the price paid by two factories is certainly glaring and is apt to create misgiving". ... "The entire objective of the Essential Commodities Act is to promote social welfare. It is being achieved by controlling price of sugar with equal emphasis on cultivation of cane and its price. Any legislation must be viewed with this perspective"<sup>31</sup>

Coming to the question of sale of sugarcane by the cultivators, the Court observed that clause (5) of impugned Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply) Order, 1984, empowers sugar factory to accept cane from other zone as well but no similar right has been given to the cultivators. Clause(5) prescribes the situation in which one sugar factory will be permitted by the prescribed authority to purchase sugarcane from the zone of another sugar factory. It does not provide for the cane-grower seeking a permit for sale of his cane to another sugar factory (than the factory within whose zone he may be situated) even if any or all the conditions prescribed in the clause are satisfied. The Court further

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<sup>30</sup> *ibid.*, at 507.

<sup>31</sup> *ibid.*

observed that even in a case where a sugar factory indulges in all the three irregularities mentioned in sub-clause (d) of clause (5), namely, it does not pay the price of cane at the proper time, it does not adhere to the agreement it has entered into with the grower and it also discriminates in harvesting the cane thereby causing loss to the cane-growers - even then the cane-grower cannot apply for permit to sell his cane to whomsoever he likes. All that probably he can do is to complain. But he will get some relief only when there is another factory (which, of course, has its own zone) which is prepared to purchase cane from this zone and applies for permit to the Permit Officer to purchase cane from this zone. If it does not so apply, the grower within the first zone is helpless. This, the Supreme Court held, is not fair and just to the growers.

Finally, the Supreme Court held that though the price fixation had not been found to suffer from any infirmity yet due to passage of time, nearly eight or nine years, since that price fixation was challenged and with rise of prices all around, it was expedient to dispose of those appeals with the directions that (a) the directions of the Full Bench of the Bombay High Court in its judgement dated September 23, 1988, shall stand set aside; (b) the State Government may take appropriate steps to amend clause(5) of the zoning order, so as to protect the interests of the cane-growers; and (c) the Government may appoint a Committee of Experts to study and examine the price structure in the light of what had been stated earlier.

## 5. DILUTION OF ZONING

### *Dilution of Zoning Order*

On April 30, 1997, the State Government issued the Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply) (Amendment) Order, 1997<sup>32</sup> which introduced the following provisions to clause 3(2) of the Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply) Order, 1984:

Provided that in case of a co-operative sugar factory, the cane growers who are not members of the co-operative society shall be free to supply their cane to any factory of their choice:

<sup>32</sup> No.Misc. 1195/CR-286/25-C, dated April 30, 1997, published in the Maharashtra Government Gazette, Extraordinary, Part IV-A, dated April 30, 1997.

Provided further that a member of a co-operative sugar factory shall be bound to supply sugarcane to that co-operative sugar factory in the ratio of shares held by him and area under sugarcane as per the bye-laws of the co-operative sugar factory and he will be free to supply excess cane, if any, to any factory of his choice by entering into agreement or contract to that effect:

Provided also that the non-member cane growers in case of a co-operative sugar factory and cane growers in case of other sugar factories shall be free to supply their sugarcane to any factory of their choice by entering into agreement or contract to that effect. Same provision will apply to excess sugarcane of the members of co-operative sugar factories:

Provided also that if any cane grower fails to enter into such agreement for supply of his sugarcane, responsibility of disposal of such cane shall be entirely his own. There shall be no responsibility on any sugar factory, co-operative or otherwise, or on the State Government for crushing of any such cane.

## 6. COURTS ON DILUTION OF ZONING

### *Bombay High Court on Validity of Dilution of Zoning Order*

On October 15, 1997, the High Court of Bombay upheld<sup>33</sup> the validity of the above-mentioned Order of 1997, of the State Government, which was challenged by the Maharashtra State Co-operative Sugar Factories Federation in that Court. The High Court made the following observations: The aforesaid Order seeks to ensure better sugarcane price to the farmers. Sugarcane growers, who are not members of a co-operative sugar factory, are given liberty to supply their cane to any factory of their choice. This would ensure that best price which is available in the open market is paid to the farmer. The interest of co-operative sugar factories is also kept in mind. Sugarcane growers who are members of the co-operative sugar factories are made liable to supply sugarcane to their co-operative sugar factories in the ratio of shares held by them and the area of their land under sugarcane cultivation as per bye-laws of the sugar factories. The excess sugarcane is permitted to be sold in the open market, that is, to any factory of their choice. Hence, even as regards sugarcane growers, who

<sup>33</sup> Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd. and others v. the State of Maharashtra and others in Writ Petition No. 3390 of 1997(unreported).

are members of the co-operative sugar factories, their liability to supply sugarcane to the co-operative sugar factories only to the extent of their share holding and the extent of their land under sugarcane cultivation is made compulsory. As far as the excess sugarcane is concerned, the same is permitted to be sold to any sugar factory so that the same can fetch the best prevailing market price. Hence, the zoning restriction is sought to be diluted. In the opinion of the High Court, the Order could not successfully be assailed merely on the ground that the present Order made a departure from the 1966 Order because the 1966 Order was passed in the circumstances then prevailing. The High Court observed that much water has since flown between the passing of the 1966 Order as amended in 1984. The impugned Order has been issued, among others, to give better price to the sugarcane growers and at the same time ensure adequate supply of sugarcane to the sugar factories. The High Court further observed that it is pertinent to note that the provisions of the Monopolies and Restrictive Trade Practices Act, 1969, which were inapplicable to the co-operative societies, have been made applicable to them by a notification issued by the Central Government on 27<sup>th</sup> September, 1991, under section 3 of that Act.

The Court, therefore, did not find that the impugned Order was in any way illegal or unreasonable. The Court, thus, held that the challenge to the said Order must fail. Hence, the writ petition was rejected.

#### *Supreme Court on Validity of Dilution of Zoning Order*

Aggrieved by the dismissal of their writ petition by the High Court of Bombay, the Maharashtra State Co-operative Sugar Factories Federation filed an appeal in the Supreme Court of India against the above-mentioned judgement dated October 15, 1997, of the Bombay High Court.

On April 27, 1998, the Supreme Court delivered its judgement in the above-mentioned case<sup>34</sup>. The appellants had contended before the Supreme Court that the State Government had exercised its powers arbitrarily and discriminated against the factory owners. The Supreme Court observed that "we are unable to see any merit in this contention"<sup>35</sup>. The Court further observed that "in fact, this Court has in its

<sup>34</sup> Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd. and others v. State of Maharashtra and others, AIR 1998 S.C. 1937.

<sup>35</sup> *ibid.*, at 1943.

judgement dated April 18, 1995, taken note of the plight of the growers of sugarcane and directed the State Government to take appropriate steps to amend Clause 5(1) of the Zoning Order. ... The State Government has instead of amending Clause 5 amended Clause 3(2) in order to improve the position of growers and in particular those who are not members of the co-operative societies"<sup>36</sup>. The Supreme Court also did not accept the other contention of the petitioners that the amendment was wholly unreasonable and will put an end to the co-operative movement. To this, the Court observed: "We do not find any justification in the facts and circumstances of the case for the contention that the co-operative system would be affected by the present amendment. We find that it is a balancing act on the part of the State Government to protect the interests of farmers who are not members of co-operative societies"<sup>37</sup>. Finally, the Supreme Court held that "nothing has been placed on record to show that the impugned order is vitiated by *mala fides*"<sup>38</sup>.

Thus, the Supreme Court held: "In the result, we agree with the views expressed by the High Court and dismiss the appeal"<sup>39</sup>.

## 7. DELICENSING OF SUGAR INDUSTRY

### *Delicensing of Sugar Industry*

On August 31, 1998, the Government of India decided to delete<sup>40</sup> sugar industry from the list of industries requiring compulsory licensing under the provisions of the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951). As a result of this, the entrepreneur who wish to avail themselves of the de-licensing of sugar industry would be required to file an Industrial Entrepreneur Memoranda (IEM) with the Secretariat of Industrial Assistance in the Ministry of Industry, Government of India, as laid down for all delicensed industries. This implies that henceforth Letter of Intent or Industrial Licence will not be required for setting up sugar factories, co-operative or private. Similarly, the recommendation of the State Government will not be required for the issuance of Industrial Entrepreneur Memoranda (IEM). As the

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<sup>36</sup> *ibid.*, at 1944.

<sup>37</sup> *ibid.*

<sup>38</sup> *ibid.*

<sup>39</sup> *ibid.*

<sup>40</sup> Press Note No. 12 (1998 Series), dated August 31, 1998, issued by the Government of India, Ministry of Industry, Department of Industrial Policy and Promotion, regarding De-licensing of Sugar Industry.

recommendation of the State Government will not be required for setting up sugar factories, the policy of the State Government, adopted in 1952, of confining, in future, the licensing of all new sugar manufacturing establishments to co-operatives has become infructuous because now any entrepreneur can apply directly to the Government of India for Industrial Entrepreneur Memoranda and therefore the State Government will not be able to control the form of business organisation, such as co-operative or private. The Central or State Government will not be required to verify the availability of the sugarcane or the viability of the proposed factory. It will be the promoter himself who will look into these things. Lastly, in future, the minimum size of the plant, namely, 2500 tons capacity, will not be applicable.

#### **8. ZONING IN OTHER STATES IN THE PAST AND PROFESSOR GADGIL**

##### ***Zoning and Other Recommendations of Committee on Rehabilitation and Modernisation of Sugar Factories in India (1963)***

Before analysing the issues raised in the present Report, I go back for a moment to highlight certain aspects of zoning. On June 22, 1963, the Government of India appointed a committee on rehabilitation and modernisation of sugar factories in India. The Committee examined, besides other issues, the position in respect of supply of sugarcane to the factories. It is said that the Committee naturally concentrated its attention on the oldest established area of intensive sugar industry in India, namely, North Bihar and East U.P. The recommendation of the Committee, relevant to the subject-matter under discussion, namely, assured quantitative supply of sugarcane to the factory was as follows: "In the opinion of the Committee it is essential to clearly define and reserve the factory zones on a long term or permanent basis. Depending on the capacities of factories, area under sugarcane should be controlled to meet the optimum requirements of the factories. ... An effective system of long term bonding of cane coupled with penalties, strictly enforced in case of breaches, would go a long way in preventing diversion and avoiding fluctuations in sugar production"<sup>41</sup>. While talking about the measures for stabilising production, the Committee was of the opinion that the "sugarcane growers should be educated to align their interests with those of the

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<sup>41</sup> Report of the Committee on Rehabilitation and Modernization of Sugar Factories in India, Government of India, Ministry of Food and Agriculture, 1965, p.9.

factory and the factory in turn should see to it that the interests of the growers are not allowed to suffer"<sup>42</sup>.

*Comments of Professor Gadgil on Zoning and Other Recommendations of Committee on Rehabilitation and Modernisation of Sugar Factories in India*

It will be instructive to note here the comments of Professor Gadgil, whole-hearted champion of co-operativization of sugar industry in India and brain behind the sugar co-operatives in Maharashtra, on the recommendations of that Committee. Commenting on the recommendation of the Committee to define and reserve the factory zones, Professor Gadgil questioned the need for an element of 'enforced monopoly' in favour of the factory and remarked: "It may be well asked why holding this view of the ideal arrangement the Committee makes no reference to the organisation of co-operative sugar factories which, in many states, achieve all the ideals and objectives of the Committee without necessity of any outside compulsion or imposition"<sup>43</sup> (emphasis added). For achieving the objective of the synthesis of the interests of the sugarcane growers and those of the factory advocated by the Committee, Professor Gadgil had suggested thus: "I suggest that in the light of our experience for the last decade the first step required in the situation in East U.P. and Bihar as described by the Committee is to co-operativise the industry (emphasis added). This alone (emphasis added) will make for the basic improvement in production and supply of sugarcane and in mutual relations of cultivator and factory (emphasis added) that the Committee finds essential"<sup>44</sup>.

*Whither Sugar Co-operatives in Maharashtra?*

Does the agitation by the co-operative sugar factories in Maharashtra that the State Government should strictly enforce zoning (without the amendments introduced by the zoning order dated April 30, 1997) in the matter of supply of sugarcane by the sugarcane growers to the co-operative sugar factories show that the co-operative sugar factories do not want any 'enforced monopoly' in their favour? Does the

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<sup>42</sup> *ibid.*

<sup>43</sup> Speech entitled "Case for Co-operativization of Sugar Industry" delivered at the Twenty-first Meeting of the Board of Directors of the National Federation of Co-operative Sugar Factories Ltd., held on the 18<sup>th</sup> of October, 1965, at Badoli, published in the Writings and Speeches of Professor D.R. Gadgil on Co-operation, *op. cit.*, p. 270.

<sup>44</sup> Writings and Speeches of Professor D.R. Gadgil, *op. cit.*, p. 271.

protracted and very expensive litigation by the co-operative sugar factories in the High Court of Bombay and the Supreme Court of India against the State Government for diluting the zoning order dated September 12, 1984, show that the co-operative sugar factories do not want 'any outside compulsion or imposition' for getting the supply of sugarcane for their factories from the sugarcane growers? Does the incessant litigation by the co-operative sugar factories in the High Court of Bombay and the Supreme Court of India against the Order of the High Court of Bombay for the payment of market price to the sugarcane growers of the sugarcane supplied by them to the co-operative sugar factories show that the co-operative sugar factories see to it that the interests of the sugarcane growers are not allowed to suffer? Does the fight put up by the sugarcane growers, in the litigation by the co-operative sugar factories in the High Court of Bombay and the Supreme Court of India, for their right to sell their sugarcane to a factory of their choice and at the market price show that in the view of the sugarcane growers their interests and the interests of the co-operative sugar factories are identical or there is no clash between the interests of the sugarcane growers and those of the co-operative sugar factories? Whither sugar co-operatives in Maharashtra?

#### *Zoning and Sugarcane Growers*

Further, before commenting on specific recommendations of the above-mentioned Committee on rehabilitation and modernisation of sugar factories in India, Professor Gadgil had criticised its recommendations in general as follows: "The Committee is powerfully influenced by a desire to guard private vested interests in these areas and the sole aim of its recommendations appears to be the strengthening and the enriching of these interests at public cost"<sup>45</sup>. I do not know as to whose interests will be served by the recommendation of the present Committee that zoning should be re-introduced (zoning restriction should not be diluted). But, from the facts stated above, this much is obvious that it will not serve the interests of the sugarcane growers.

#### *National Federation of Co-operative Sugar Factories on Zoning for Pricing of Sugar*

When the Government of India divided, in 1964-65, the country into zones for determination of price of sugar, even the National Federation of Co-operative Sugar

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<sup>45</sup> *ibid.*, p.269.

Factories Ltd., of which Professor Gadgil was the Chairman, strongly opposed the proliferation of zones on the ground that "such moves lead inevitably to the encouragement of inefficiency and high consumer prices"<sup>46</sup>.

## 9. ANALYSIS OF ISSUES RAISED

### *Zoning and Enlargement of Membership of Co-operative Sugar Factories*

So, the re-introduction of zoning, on the ground of avoiding undue competition among factories and safeguarding their financial health, will encourage inefficiency and aggravate sickness. A co-operative is a mutuality. The interests of the organization and those of its members should be the same. It is only by promoting the interest of its members that the organization promotes its interest. The solution to the problem of the co-operative sugar factories in regard to their obtaining sugarcane for them lies in their enlarging the membership of those factories by demonstrating to and convincing the sugarcane growers that they will stand to gain by becoming the members of the co-operative sugar factories, rather than compelling the non-member sugarcane growers to supply their sugarcane to them.

Section 23 (1) of the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act 24 of 1961) provides that no society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this Act and its bye-laws. Section 23(2) of the above-mentioned Act says that any person aggrieved by the decision of a society, refusing him admission to its membership, may appeal to the Registrar. Section 23(3) of the said Act provides that the decision of the Registrar in appeal shall be final. So, the co-operative sugar factories can enlarge their membership, not only to get more sugarcane for their factories but even to augment their share capital.

As mentioned in the account of the genesis of the co-operative sugar factories, the idea of setting up co-operative sugar factories originated out of contrast between the prosperity acquired by the big bagaitdars and the sugar factories on the one hand and the poor conditions of the small agriculturists on the other hand. It was assumed that under the co-operative set up, there will be wide and equitable distribution of benefits.

<sup>46</sup> Presidential address entitled "Major Issues in Co-operative Sugar Industry" delivered at the Fifth Annual General Meeting of the National Federation of Co-operative Sugar Factories Ltd., held on the 22<sup>nd</sup> November, 1964, at New Delhi, published in the Writings and Speeches of Professor D.R. Gadgil on Co-operation, op. cit., p.261.

This implies that there will not be any concentration of shares in the hands of a few agriculturists and that there will be equitable distribution of shares among them. A co-operative sugar factory was essentially supposed to be a society of a large number of small producers rather than a concern of a small number of big bagaitdars.

But, instead of enlarging their membership, some of the co-operative sugar factories "do not intentionally enrol some growers as members on some flimsy grounds. Often application forms are not given to those who want to apply for membership. The existing provisions of the Act, including those pertaining to filing of appeals in such cases, to force the CSF to enrol new members have not been affective" [vide para 3.30 (xxvii) of the present Report]. On the one hand, the co-operative sugar factories do not want to enrol sugarcane growers as members who will be obliged, under the provisions of the bye-laws of those factories, to supply their sugarcane to those factories; on the other hand, those factories and the Committee want the non-member sugarcane growers, through the re-introduction of zoning, to be compelled to supply their sugarcane to those factories. Strange, indeed!

While writing about the expansion of the crushing capacities of the co-operative sugar factories, Professor Gadgil said that the "co-operative sugar factories which have already proved their efficiency should be enabled to expand their operations provided there is enough cane available within a reasonable distance of the factory site and, I would add, provided also that extra cane is obtained by enlarging the membership of the co-operatives rather than by resorting to purchase of non-member cane. I emphasise the latter point as I believe that we can rightly claim some preferential treatment only as long as we maintain our strictly co-operative character ...". Thus, Professor Gadgil was not only against compelling the non-member sugarcane growers to supply their sugarcane to the co-operative sugar factories, he was also not in favour of buying their sugarcane even if they were willing to give it voluntarily because that goes against the co-operative character of the co-operative sugar factories.

#### ***Zoning and Loyalty of Members to Co-operative Sugar Factories***

The success of a co-operative society depends upon the loyal support it receives from its members, a basic requirement of all co-operative organizations. While writing about the working of the first co-operative sugar factory, namely, the Pravara Co-operative Sugar Factory, in the State, Professor Gadgil says that its successful

establishment was due to, among others, "the great loyalty of members and the faith shown by them in their leaders (emphasis added). The greatest test came in the last quarter of 1950 when gur prices soared very high, the erection of the factory was not yet complete, and nobody could say definitely how soon it would begin to manufacture sugar. At this time the vast bulk of members refrained from turning their sugarcane into gur, and showed the most remarkable restraint and patience, even though it meant definite monetary loss to many, which amounted in the case of some to substantial sums"<sup>47</sup>.

It would have been better if the Committee had tried to find out as to why the members of the co-operative sugar factories these days are not as loyal to their factories as their forefathers used to be, as mentioned above, before recommending the re-introduction of undiluted zoning under which members as well as non-members are compelled to supply their sugarcane to the designated factories.

#### ***Zoning, Co-operative Sugar Factories and Non-members Sugarcane Growers***

In para 6.118 of the present Report, the Committee says thus: "It is also necessary to remember that the whole co-operative movement is based on furthering the financial interests of the members of the co-operative ventures" (emphasis added). Fair enough. When the Committee itself says that the aim of a co-operative sugar factory is to further the financial interests of its members, it does not lie in its mouth to say that non-member sugarcane growers should be compelled, through the re-introduction of zoning, to sell their sugarcane to a co-operative sugar factory to further the financial interests of the members of that factory and not those of the non-members.

#### ***Zoning and Voluntary Agreements with Non-member Sugarcane Growers***

If the co-operative sugar factories do not want to enlarge their membership for reasons known to them only, then the only other democratic alternative left to them is to enter into voluntary agreements with non-member sugarcane growers for the sale of their sugarcane to the co-operative sugar factories. The Committee is aware of the fact that this system is in existence at present. In para 3.30 (x) of the present Report, the Committee says thus: "This practice (execution of agreement) which has come into vogue since 1980 (that is, before the introduction of zoning which was introduced in

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<sup>47</sup> Writings and Speeches of Professor D. R. Gadgil, op. cit., p. 211.

1984) needs to be given legal status. This will be in the interest of both the non-members as also the concerned CSF”.

In my view the Committee should have stopped here and not gone further to recommend that non-member sugarcane growers should be compelled, through the re-introduction of zoning, to supply their sugarcane to those factories.

In fact, the Committee has made two contradictory recommendations. The recommendation of execution of legal agreements with non-member sugarcane growers for the sale of their sugarcane to the co-operative sugar factories and that of re-introduction of undiluted zoning, which has the force of law and under which the non-member sugarcane growers are obliged to sell their sugarcane to the designated sugar factories, are not compatible. If there is zoning, why should the co-operative sugar factories agree to enter into legal agreements with the non-member sugarcane growers? Secondly, even at present the practice of voluntary agreements with non-member sugarcane growers is being enforced by the Commissioner of Sugar. So, the practice has already got the legal status.

#### ***Zoning and Sugarcane Development***

In para 6.117 of the present Report, it is said that “the committee has recommended a number of steps to be taken by CSFs for increasing the availability of cane in the area of the factory. There will be no incentive for the factories to make such serious efforts if there is no guarantee that the cane from such growers will become available to the sugar factory which has spent time and money on such development programmes”.

It is surprising to see the Committee linking the question of cane development with the re-introduction of zoning. The cane development programme should be one of the primary functions of a co-operative sugar factory. Committee after committee has been emphasising its importance. Since 1980, the State Government appointed three committees to look into the problem of sickness in the co-operative sugar factories. All the three committees recommended that cane development programmes should be taken up.

The first Committee, which submitted its report in 1983, recommended that “concrete programme of cane development should be taken up ...” [vide para 2.2 (iv) of the present Report]. It further recommended that a “cell for cane development should

be established in the office of Director of Sugar" [vide para 2.2 (x) of the present Report]. The second Committee, which submitted its report in 1990, also recommended that "each CSF should have independent sugarcane development department as per the staffing pattern recommended by the committee" (vide para 2.15 of the present Report). It "emphasised the importance of sugarcane development programme and urged adequate and coordinated attention to it by the CSFs, state government, research institutions and agricultural universities" (vide para 2.16 of the present Report). The third committee, which submitted its report in 1996, also recommended that "cane development work should be undertaken in the area of each sick CSF. The state government should give assistance for this purpose. MSCB should also be persuaded to give loan for this programme, and, if necessary, government should give guarantee for the same" [vide para 2.37 (h) of the present Report].

As mentioned above, the present Committee says that there will be no incentive for the factories to make such a serious effort for cane development if there is no guarantee that the cane from such growers will become available to the sugar factory which has spent time and money on such development programmes. According to the present Committee, the re-introduction of zoning will provide that guarantee.

When the above-mentioned three committees recommended in 1983, 1990 and 1996 respectively that programme for cane development be undertaken, zoning was in force (it was introduced in 1984 and continued to be in force till it was diluted in 1997) which means that there was guarantee that the cane from sugarcane growers will become available to the designated co-operative sugar factories. But, what happened, inspite of that guarantee, is given in para 6.46 of the present Report. It is said in the said para thus: "It is a travesty but sugarcane development, which is of prime importance to the growth and financial well-being of CSFs, has received minimal attention at the hands of all concerned - the CSFs, agricultural universities, Maharashtra Agricultural Research Council, extension wings of VSI (Vasantdada Sugar Institute) and Padegaon Research Station, agriculture commissioner and sugar commissioner". This proves beyond an iota of doubt that the zoning did not provide any incentive for cane development programmes. So, it is meaningless to say now that in the absence of zoning, cane development work will not be undertaken. The two are unrelated.

It is admitted on all hands that cane development programme and research on sugarcane is essential for the well-being of sugarcane growers and the growth of sugar

industry. In fact, for this purpose the co-operative sugar factories deduct Rs. four or five per ton from the sugarcane payments to the sugarcane growers. The factories have been deducting this amount year after year but obviously they are not spending this money on cane development. These huge funds are reported to be spent as the discretionary funds of the Management with no transparency or accountability to the members or anyone else.

The zoning is primarily aimed at getting the sugarcane of non-members. The cane development programme should be undertaken by each factory mainly for its members. When the Committee says that there will be no incentive to undertake cane development programme if there is no zoning, it implies that the Committee does not think that cane development programme is important for the members of the factories, who are obliged under the provisions of the bye-laws to supply their sugarcane to those factories.

Secondly, cane development programme, as rightly said in this Report, takes a long time. The Committee says that there will be no incentive for the factory to undertake this programme if zoning is not re-introduced but it does not say as to what incentive there is for the sugarcane growers, members as well as non-members, to supply their sugarcane to the designated factories for such a long time at a cheaper rate.

Thirdly, the Committee does not realise that if zoning is re-introduced, it will become mandatory for the non-member sugarcane growers to supply their sugarcane to the designated factories but there will be no such legally binding compulsion on the factories to undertake cane development programmes. There is no guarantee that if zoning is re-introduced, cane development programme will be undertaken. So, to link the re-introduction of zoning with cane development programme is misplaced.

The Indian farmer is an intelligent farmer. If he is convinced about the beneficial effects of any development programme undertaken or to be undertaken by a co-operative sugar factory, he will certainly become immediately a member of that factory (provided he is admitted) and supply his sugarcane to that factory and also become eligible to take advantages of that development programme. He should be made to feel encouraged through persuasion and demonstration.

### *Zoning and Pricing of Sugarcane*

The question of price to be paid by a co-operative sugar factory to the sugarcane growers for the sugarcane supplied by them to the factory is very important. The sugarcane growers are naturally interested in getting as high a price as possible for their produce. It is true that a factory needs enough funds for working, normal expansion, providing for fluctuations and for repayment of loans, etc., and therefore has to be cautious regarding the price to be paid to its members for the sugarcane supplied by them to the factory. But as far as the non-member sugarcane growers are concerned, they are not concerned with the above-mentioned considerations. They want, and rightly so, the market price to be paid to them. In fact, the price to be paid, not only to the non-members but even to the member sugarcane growers, should not be so low as to be unduly restrictive or harsh in its operation.

In para 6.120 of the present Report, it is said: "Retaining the policy of zoning in the diluted form will increase the competition for cane and insistence by CSFs on paying unduly high cane prices (emphasis added) leading to serious financial difficulties, particularly for the financial weaker CSFs". The only objective of the Committee for recommending the re-introduction of zoning is to enable the co-operative sugar factories to get the assured supply of sugarcane from the sugarcane growers, particularly the non-member sugarcane growers, at almost half (or even less than half of) the market price of the sugarcane.

In fact, it was the Full Bench of the Bombay High Court which, while delivering its judgement on September 23, 1988, on the validity of the Zoning Order promulgated by the State Government on September 12, 1984, held that unless it is provided in the Order that the cane growers who are not members of any co-operative factory or factories to which they are required to supply their sugarcane under reservation order are paid for the sugarcane supplied by them the price calculated at the market rate the Order will not be valid. Even the Supreme Court of India upheld the above-mentioned judgement of the Full Bench of the Bombay High Court. Not only that, the Supreme Court pointed out in its judgement dated April 28, 1998, that "in fact, this Court has in its judgement dated April 18, 1995, taken note of the plight of the growers of sugarcane (emphasis added) and directed the State Government (emphasis added) to take appropriate steps and amend Clause 5(1) of the Zoning Order. ... The State Government

has instead of amending Clause 5 amended Clause 3(2) in order to improve the position of growers and in particular those who are not members of the co-operative societies"<sup>48</sup>. Thus, it was the Supreme Court of India which took note of the plight of the sugarcane growers, particularly the non-member sugarcane growers, and directed the State Government to amend the Zoning Order to improve the position of the sugarcane growers, which the State Government did. The market price to be paid, as directed by the Full Bench of the Bombay High Court and held as just and valid by the Supreme Court, is considered by this Committee as unduly high cane price. The price which the sugarcane growers get under the zoning, as mentioned above, is half or even less than that of the market price. This is exploitation of the farmers. This is not what the founding fathers of the co-operative sugar factories had visualised as will be observed from the account of the genesis of the co-operative sugar factories given in the beginning of this Note of Dissent. The co-operative sugar factories have proved them wrong.

The Committee argues that paying to the sugarcane growers the market price of their produce will lead to serious financial difficulties for the co-operative sugar factories. The Committee talks about the financial health of the co-operative sugar factories. It does not seem to be concerned about the financial health of the sugarcane growers. The Committee does not realise that by recommending the re-introduction of zoning and denying to the sugarcane growers the payment of the market price of their produce, it is killing the goose that lays the golden eggs.

If the co-operative sugar factories do not have the money to pay to the sugarcane growers the market price for their produce, they should improve their own economic efficiency and adopt other economy measures to enable them to pay the market price to the sugarcane growers and not punish them by getting a zoning order promulgated, by the Government, which will compel them to sell their sugarcane to the co-operative sugar factories at ridiculously low rates. Take for example, store inventory management. "Excessive build up of inventory is a malaise common to almost all CSFs in varying degrees. It is obvious that there are vested interests in making purchases, often at inflated cost, for idle inventory (emphasis added). This means

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<sup>48</sup> Maharashtra Rajya Sahakari Sakhar Sangh Ltd. and others v. State of Maharashtra and others, AIR 1998 S. C. 1937.

locking up of large funds with considerable interest cost, apart from loss due to the sale of such inventory in due course as a scrap" (emphasis added) (vide para 6.76 of the present Report). If what is stated above is true, it is a very serious matter. What does the Committee recommend to deal with this colossal loss? It says that "it is time this issue is got examined by an expert management consultancy firm. ... The committee would recommend that such a study by a competent firm may be taken up by the commissioner of sugar as soon as possible. Based on the conclusion of such a study, suitable directive under the Act may be issued by the commissioner later for strict compliance by the CSFs" (vide para 6.76 of the present Report). So, in this case the Commissioner of Sugar may get a study done at his convenience by a competent firm and based on the conclusions of that study he may issue suitable directive in the matter. All this will take years, if pursued at all. Meanwhile, the co-operative sugar factories will continue to build up their idle inventories with the resultant consequences. But, when it comes to the question of zoning, the Committee, knowing fully well that the dilution of zoning was done on the directive of the Supreme Court of India to enable the sugarcane growers to get a fair and just price, that is, market price of their produce, recommends that it should be re-introduced immediately, that is, from the sugar year 1999-2000. It appears as if the Committee is in a hurry to punish the sugarcane growers, particularly the non-member sugarcane growers. In this case, the Committee does not think it necessary to get the issue examined by experts in the field. It will be pertinent to note here that the Supreme Court of India in its judgement dated April 18, 1995, on the validity of the Zoning Order dated September 12, 1984, had directed that "the Government may appoint a Committee of Experts to study and examine the price structure in the light of what had been stated earlier".

As the proverb goes, even a blind man can see that with the increase of prosperity, the co-operative sugar factories started making ducks and drakes of their money, developed an inordinate love of display and entered on a course of wasteful extravagance. They vie with each other in their ostentations. They are not known to be parsimonious. Large sums of money are spent on elections. Cars are added in numbers to fit in with the magnificent buildings built at a very heavy cost and furnished most lavishly. All this reckless extravagance results in further weakening the already weak financial position of the factories and jeopardising the interests of the sugarcane growers, members as well as non-members. It appears that the Committee does not

see anything wrong in it. There are number of other possibilities to conserve the resources of the factories. What has been stated above is only by way of illustration.

### *Zoning and Sickness in Co-operative Sugar Factories*

Let me now take up the other contention of the Committee that "without zoning, the programme of rehabilitation of sick sugar factories will be almost impossible to implement. The committee is apprehensive that the sickness in CSFs will further increase if the policy of dilution of zoning is pursued by the state government" (vide para 6.118 of the present Report). As mentioned earlier, since 1980, the Government of Maharashtra appointed three committees to look into the problem of sickness in the co-operative sugar factories. The first committee submitted its report in 1983, the second in 1990 and the third in 1996. The reports of all the above-mentioned three committees contained the lists of factories identified as sick factories by those committees. It is stated in para 5.17 of the present Report that the first committee identified 24 factories as sick, the second committee identified 28 factories as sick while the third committee identified 23 factories as sick. In the said para it is further stated that "12 sugar factories appear in all the three lists and can therefore be called chronically sick. Eight factories are common in 1990 list and 1996 list". Since the zoning was introduced in Maharashtra in 1984, it is seen that 12 factories were sick before the introduction of zoning and continued to be sick even after the introduction of zoning. So, the zoning did not help those 12 sick factories to come out of their sickness even in 13 years (from 1984 to 1996). On the contrary, after the introduction of zoning, 8 more factories became sick; they were not sick in 1983 but were identified as sick in 1990 and 1996. The third committee had, as mentioned above, identified 23 factories as sick in 1996. "At the end of March 1995, the accumulated losses of these 23 CSFs were of Rs.368 crore. The short margin was of Rs.73 crore. The government share capital which was overdue for repayment amounted to Rs.21 crore. The outstanding state government loans to these CSFs, inclusive of interest, totalled Rs.85 crore. The outstanding purchase tax due from these CSFs which was earlier converted into interest free loan amounted to Rs.39 crore" (vide para 2.34 of the present Report).

The present Committee also has prepared a list of sick factories at present. It is stated in para 5.19 of the present Report thus: "Of the 23 CSFs listed as sick by the HPC (third committee mentioned above), 22 continue to appear in the new list as well.

Only one CSF, namely, Nashik Palase, has come out of sickness, and 11 new CSFs have got added to the list. The accumulated losses of these CSFs total Rs.429 crore. The government share capital which has become overdue is of Rs.34 crore. Government purchase tax loan which has become overdue from them is of Rs.26 crore. Other government loans which have become overdue total Rs.80 crore”.

So, the zoning could not prevent all this happening. Thus, it is totally misplaced to say that sickness in the co-operative sugar factories will further increase if the policy of dilution of zoning is pursued by the Government. The fact is that zoning has aggravated the sickness because the factories got assured of getting the supply of sugarcane at a cheaper rate compared to the market price and therefore did not pay any attention to improving the efficient working of these factories. Thus, sickness in co-operative sugar factories will not increase if the policy of dilution of zoning is pursued by the State Government. The reasons of increase in sickness of co-operative sugar factories lie elsewhere.

#### *Zoning for Five Years*

Lastly, the Committee says: “Some time, say of five years, will have to be given to CSFs to set their house in order. For all these reasons the committee would recommend re-introduction of zoning as heretofore from the sugar year 1999-2000 and making a policy announcement to this effect well in advance”.

As stated earlier, the zoning was in force for 13 years (from 1984 to 1996). During this period, the financial condition of the co-operative sugar factories became from bad to worse. So, it is a wishful thinking to say that the re-introduction of zoning for five years will help those factories to put their house in order.

#### *Quinquennial Extension of Zoning*

The re-introduction of zoning is recommended by the Committee in view of the sickness of the co-operative sugar factories. As there is no possibility of improvement in their hopeless financial condition, it is feared that it may be demanded by the co-operative sugar factories and may be recommended by some other committees quinquennially that the period of five years for zoning be extended for another five years on the ground that the reasons for its re-introduction have not ceased to exist, that is, the co-operative sugar factories continue to remain sick. Examples are not wanting to show that the tendency to extend the duration of such cases beyond the stipulated

period is quite endemic in our country. Therefore, I shall not be surprised if the zones also enjoy life in perpetuity. The result of all this may be that the sugarcane growers, particularly the non-member sugarcane growers, may again go to the court of law to challenge its validity.

### *Zoning, Co-operation and Constitution*

A co-operative is a voluntary association of a group of persons for engaging in an activity for their mutual benefit. By no stretch of imagination can one call such an association a co-operative association if it resorts, through the coercive powers of the State or otherwise, to compelling persons, who do not belong to that association, to do something which is beneficial to the association and harmful to those persons. This will certainly not be co-operation. Not only will it not be co-operation, it will even be violative of Articles 14 and 19 of the Constitution of India. If such an act is beneficial to those persons (non-members), they will certainly gladly join the association, namely, the co-operative society. Today, the Committee wants to compel the non-member sugarcane growers, through the re-introduction of zoning, to supply their sugarcane to the co-operative sugar factories. Tomorrow, if these non-member sugarcane growers decide to stop growing sugarcane, will the Committee recommend that in that case they (the non-member sugarcane growers) be compelled to grow sugarcane and supply the same to the co-operative sugar factories, drifting towards ruin, to protect those factories as monuments are protected?

### *Co-operation at Work*

In an interpretative account of the Pravara Co-operative Sugar Factory, written on the occasion of the visit of Pandit Jawaharlal Nehru to that factory on May 15, 1961, Professor Gadgil proudly said: "The bye-laws of the karkhana (factory) vest in the Board of Management powers to give directives to members in regard to cultivation of cane. However, the coercive powers have never been used (emphasis added) and all improvement is attempted to be brought about through persuasion, demonstration and encouragement"<sup>49</sup> (emphasis added).

Thus, not to speak of not coercing the non-member sugarcane growers, even the sugarcane grower members of that co-operative sugar factory, who could have

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<sup>49</sup> Ibid., p.218.

legitimately been compelled under the provisions of the bye-laws of the said factory to grow and supply sugarcane to that factory, were not subjected to that compulsion by that factory. They were instead persuaded and encouraged to do so, which are of the essence of the co-operative method, after the beneficial effects of their so doing were demonstrated to them. That was co-operation at work.

#### ***Degeneration of Co-operation***

Professor Gadgil must be turning in his grave to see that now it is being attempted, not through persuasion, demonstration and encouragement, not even through the coercive powers provided in the bye-laws of the co-operative sugar factories, but, through the brute powers of the State, to compel not only the members of those factories but even the non-member sugarcane growers to supply their sugarcane to the designated co-operative sugar factories only and to no others, irrespective of the price they get for their produce from those factories. What a degeneration of co-operation ?

#### ***Zoning and Competition***

While writing in 1965 about the sugar co-operatives in Maharashtra, Professor Gadgil said: "Individual factories in the co-operative sector have no occasion to compete with each other ... . In the State like Maharashtra, therefore, with the large number of sugar co-operatives there is specially wide scope for continuous internal improvement and for learning from each other. However, no advantage is being currently taken of this possibility. There has been, in fact, some deterioration in this situation"<sup>50</sup>. The introduction of zoning in 1984 had, to my mind, led to further deterioration in this situation.

It is submitted that this (the dilution of zoning restrictions) is the occasion for the individual co-operative sugar factories to compete with each other; to make use of the existing wide scope for continuous internal improvement in management; and to learn from each other as a part of the competitive process.

#### ***Zoning and Referendum***

During very early deliberations of this Committee, I had suggested that a small sample survey should be conducted in this matter. But that suggestion was not

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<sup>50</sup> Article entitled "Sugar Co-operatives in Maharashtra" published by the National Federation of Co-operative Sugar Factories Ltd., New Delhi, 1965, re-produced in the Writings and Speeches of Professor D.R. Gadgil on Co-operation, op.cit., pp.290-91.

accepted. Will it be impracticable or inadvisable to conduct referendums on issues like this among the concerned persons in the country?

### *Root Cause of Ills of Co-operative Sugar Factories*

The Committee is knocking at the wrong door to find out the reasons for the pitiable plight of the co-operative sugar factories in the State. It is submitted that it is not the absence of zoning but the presence of the financial and political involvement of the State Government and the resultant inefficiency in the co-operative sugar factories that is the root cause of all the illis of these factories and is responsible for their present sorry state of affairs.

### *Financial Involvement of Government in Co-operative Sugar Factories*

So far, the financial involvement of the State Government in the project costs of the co-operative sugar factories in the State has been by way of its (i) contribution to their equity (share capital), (ii) loans extended to them from the State exchequer, (iii) default guarantee for all loans raised by them from banks and financial institutions, and (iv) deferral of purchase-tax.

The contribution of the State Government to the share capital of every factory has been 32.5 per cent of its originally appraised cost of the project. The loan amount borrowed by every factory from the banks and financial institutions, for which the State Government has been giving default guarantee, amounts to 60 per cent of the above-mentioned appraised cost of the project. In this way, the financial involvement of the State Government in every co-operative sugar factory has been 92.5 per cent of the originally appraised cost of the project. But, the financial involvement of the State Government does not stop here. In addition to this, the State Government has been giving, due to cost over-runs, direct loans to the co-operative sugar factories as 'Last Mile Assistance' to enable them to complete the projects. This makes the financial involvement of the State Government in the co-operative sugar factories to almost 95 per cent of the appraised cost of the project<sup>51</sup>. In addition to this, as mentioned in para 6.129 of the present Report, as the State Government has not been receiving any dividend on its contribution to the share capital of the co-operative sugar factories, it

<sup>51</sup> vide Note entitled "Financial Support to Sugar Cooperatives by the State Government" by Shri Rajiv Agarwal, Municipal Commissioner, Pune (formerly Commissioner of Sugar, Government of Maharashtra), and Member of this Committee, submitted by him to the Committee on December 11, 1998.

constitutes a capital subsidy to the co-operative sugar factories, the incidence of which has been assessed by the World Bank at 16 per cent of the investment cost.

The above-mentioned financial involvement of the State Government in the co-operative sugar factories shows that all these factories have been getting, in a routine manner, almost the entire cost of the projects from the Government. Not only that, "whenever financial accommodation could not be found anywhere else, the state government could always be relied upon to come forth with requisite funds/guarantee. In several years, the state government is called upon to assist the sugar factories which have short margins or are unable to raise finances from the banks for pre-seasonal credit. Thus, by government resolution dated 15 May 1996, the state government sanctioned a soft loan of Rs.9.12 crore for 28 CSFs to enable them to work in the sugar season 1995-96. ... By another government resolution dated 31 July 1996, the government gave guarantee for pre-seasonal credit of Rs.51.31 crore to be availed of by 52 CSFs from the banks. These are only illustrative cases to show how the CSFs have been continuously approaching the state government for financial support" (vide para 5.15 of the present Report). At present, the financial involvement of the State Government in the co-operative sugar factories, by way of share capital and guarantees, etc., is to the extent of Rs. 4000 to 5000 crore. If the Government continues its present financing pattern for 57 newly sanctioned co-operative sugar factories also in the State, its additional likely financial involvement in these factories may be nearly Rs. 5000 crores.

It is submitted that this easy availability of finances from the Government bred inefficiency among the co-operative sugar factories, because they were not required to make any effort to show performance, which in turn led to their sickness.

#### ***Present Financial Position of Co-operative Sugar Factories***

In para 5.13 of the present Report, it is said thus: "Accumulated losses of CSFs on 31 March 1998 totalled Rs. 698.18. Large amount of equity had become overdue for being redeemed but only a small amount was actually redeemed. CSFs have defaulted in timely repayment of loans given by the government and the financial institutions. The IDBI has reported to the committee that except a few CSFs, most of the CSFs are defaulting to the IDBI in payment of dues. The IDBI believes that some of them are wilful defaulters. As on 30 September 1998, the overdues of IDBI alone amounted to

Rs.117.34 crore. Of those, overdues of loans extended on government guarantees were of Rs.76.24 crore and Rs.41 crore were of loans given without government guarantee. The payments outstanding to the labour amounted to over Rs.110 crore. It is bottomless pit indeed !". As regards the number of loss making co-operative sugar factories in the State, as on March 31, 1997, out of 116 factories, 97 were in losses and only 19 were running in profits. The following Table gives districtwise number of co-operative sugar factories in losses and profits and their accumulated losses and profits as on March 31, 1997.

**Table**

S.No	Name of the district	Number of factories in the district	Number of factories in losses in the district	Number of factories in profits in the district	Accumulated losses (in Rs. lakhs) of these factories	Accumulated profits (in Rs. lakhs) of these factories
1	Kolhapur	13	9	4	1414.55	32.00
2	Sangli	9	6	3	3979.65	29.80
3	Satara	6	1	5	80.50	85.80
4	Pune	9	7	2	2296.10	28.60
5	Solapur	9	8	1	1443.90	5.00
6	Ahmednagar	15	12	3	7324.50	10.05
7	Nashik	6	5	1	3625.75	8.70
8	Dhule	6	6	-	9163.70	-
9	Jalgaon	4	4	-	4683.15	-
10	Aurangabad	6	6	-	5437.90	-
11	Jalna	3	3	-	1757.25	-
12	Osmanabad	6	6	-	1601.68	-
13	Beed	5	5	-	7037.55	-
14	Nanded	4	4	-	3940.30	-
15	Parbhani	4	4	-	4639.90	-
16	Yeotmal	4	4	-	3827.10	-
17	Akola	2	2	-	1153.45	-
18	Buldhana	1	1	-	1791.90	-
19	Amravati	1	1	-	738.95	-
20	Wardha	1	1	-	745.40	-
21	Nagpur	1	1	-	1788.85	-
22	Bhandara	1	1	-	1345.73	-
	<b>Total</b>	<b>116</b>	<b>97</b>	<b>19</b>	<b>69,817.76</b>	<b>199.95</b>

Source: Commissionarate of Sugar, Pune.

A co-operative sugar factory is a business enterprise. Its success should be judged by its performance in this context. The financial strength of an enterprise is one of the most important tests of success of that enterprise. The above account of the present financial position of the co-operative sugar factories in the State shows that a number of

them could not keep their heads above water and are head over heels in debt. It is apprehended that their debts will start swelling and may spell utter ruin of the factories if corrective measures are not taken heart and soul.

### *Proposal for Case Studies*

I had suggested in the very beginning of the deliberations of the present Committee that a small sub-committee be constituted which should undertake to conduct case studies of two or three co-operative sugar factories in different regions of the State to assess the problems and to examine how the units came to be in their present financial conditions, what they have done with their large resources and what justification there is for the public to bear the cost of their rehabilitation. The detailed examination and analysis of the performance of two or three individual factories would have provided the basis for technical and other ways of improvement in each particular aspect. However, this suggestion was not accepted on the plea that conditions will differ from factory to factory and therefore it is not necessary to undertake such an exercise. In fact, the existing situation is that no data on the working of these factories are available today. Under the circumstances to shoot down a suggestion for a study being made to collect some data is to imply that a state of 'no data being available' is better than a state of 'some data being available'. I am not convinced by this argument. I still believe that the case studies would have given valuable insights into the working of these factories, which would have helped the Committee to appreciate the problems in their right perspective.

### *Default Guarantees*

As regards the position of existing default guarantees given by the State Government to the financial institutions for loans raised by the factories from them, it will be seen from Table 5.2 in the Report that as on March 31, 1998, the State Government has defaulted on its guarantees to the financial institutions for an amount of Rs. 161.53 crore lent by those institutions to the factories. The said Table also shows Rs. 1604.29 crore as outstanding guarantees and Rs. 185 crore as outstanding purchase-tax loan.

As regards the failure of the factories to pay the interest and arrears of past loans due for repayment and the failure of the State Government to honour its past guarantees with respect to the payment of those amounts and the consequences thereof, it is said in

para 4.20 of the present Report as follows: "As on 31 August 1997, the amount for which guarantees were recalled was of Rs. 180.69 crore. As a result, the all India financial institutions have stopped sanction or disbursement of funds to new sugar factories licensed in the Eighth Plan period since March 1994" saying that unless defaults are cleared, they cannot disburse new loans ...

#### ***Financial Institutions and Financing of New Co-operative Sugar Factories***

The financial institutions have rightly, on the basis of sound economic principle, refused to grant any fresh loans to the new factories unless the State Government repays the loans which the existing factories have not been able to repay and for which the State Government had given default guarantees. Today, the co-operative sugar factories are sick. Tomorrow, the financial institutions will become sick if they do not link clearing of defaults with the financing of new sugar factories in the State.

#### ***Proposed New Factories***

In para 5.14 of the present Report, it is said: "There are 57 new sugar factories which are sanctioned in the State and which are clamouring for sanction of the state government's share of equity capital, and government guarantee for the loans to be raised by them from financial institutions and banks. ... the total likely involvement of the state government in CSFs may be nearly Rs.5,000 crore. This shows the size of the problem and its gravity and seriousness". The data regarding water availability from irrigation projects in respect of 52 newly licensed sugar factories in the State shows that "24 proposed factories in Pune division may be able to meet their requirement of sugarcane to the extent of 43 per cent from irrigation department projects. The corresponding figures in respect of 19 proposed factories in Aurangabad division is only 7 per cent, for 3 factories in Amravati division and 5 factories in Nashik division only 3 per cent, and for the one proposed factory in Nagpur division it is barely 1 per cent. Thus, of the total proposed 52 factories for which data was compiled, as many as 28 sugar factories (that is more than half) will have less than 10 per cent cane availability on irrigation department sources" (vide para 6.40). Even after making a liberal assumption that these factories will get sugarcane grown on lift and well irrigation, "25 proposed factories are bound to experience serious difficulties due to non-availability of sugarcane" (vide para 6.41). Coming events cast their shadows

before them. They will become sick from day one.

### ***Government Loth to Help New Factories***

It is encouraging to note that the State Government is loth to extending any helping hand to the new factories, as is evident from its refusal to give to the financial institutions a perpetual irrevocable default guarantee for 21 factories for repayment of interest and loans to be borrowed by them from the financial institutions which is one of the reasons for financial institutions not disbursing loan amounts to those factories, the other reason being the non-clearance by the State Government of the existing defaults to the financial institutions<sup>52</sup>. It is hoped that the State Government will remain firm in its resolve to keep them at arm's length. Once started, they will begin to run down-hill in a short time.

### ***Political Involvement of Government in Co-operative Sugar Factories***

In para 1.4 of the present Report, it is said: "A vociferous, articulate and vibrant new grass-root leadership has come up through the CSFs which has made a world of difference to the governance of local self government institutions, co-operative banks, market societies and so on. Many political leaders working at the state level in Maharashtra have been the erstwhile office-bearers of CSFs. These externalities must be borne in mind in any assessment of the impact of CSFs" (emphasis added).

Maharashtra has produced many great leaders in the past. It has produced great leaders at present and I am sure that it will continue to produce great leaders in the future also. I shall give here only one example by way of illustration. Lord Curzon, speaking of Gopal Krishna Gokhale in the House of Lords, after the latter's death, said that he had "never met a man of any nationality more gifted with Parliamentary capacities. Mr. Gokhale would have obtained a position of distinction in any Parliament in the world, even in the British House of Commons"<sup>53</sup> Such were the leaders produced by Maharashtra. Which co-operative sugar factory produced Gokhale?

There are a number of leaders in Maharashtra who have made great contribution to

<sup>52</sup> vide Note entitled "State Government as Promoter of all Co-operative Sugar Facatories in the State" submitted by Shri R.S. Rajput, Chief General Manager, Industrial Finance Corporation of India Ltd., to the Committee on December 4, 1998.

<sup>53</sup> Speeches and Writings of Gopal Krishna Gokhale, edited by R. P. Patwardhan and D. V. Ambekar, Vol. I: Economic, 1962, p.xxxv.

the polity in the State but have never been office-bearers of the co-operative sugar factories. Assuming without conceding that a vociferous, articulate and vibrant new grass-root and State level leadership has come up through the co-operative sugar factories, these are, as the Committee itself says, externalities of the co-operative sugar factories. The real question is: what have these political leaders done to the internal management of the co-operative sugar factories of which they have been erstwhile office-bearers? The answer to this question will be found in the 'Present Financial Position of Co-operative Sugar Factories' described earlier in this Note and the following data: "In 1995-96, of the total 103 factories in operation, only 67 could achieve capacity utilisation of over 80 per cent. In 1996-97, of the 104 factories in operation, the corresponding figure was only 56. In the year 1997-98, as many as 24 factories were closed. Of the balance 91 factories, only 55 could achieve capacity utilisation of over 80 per cent" (vide para 5.21 of the present Report). "The sickness has become more widespread and acute with 48 of the total 116 factories, for which data was analysed, being very sick, sick or on way to becoming sick. This is a staggering 41 per cent of the total number of factories" (vide para 5.23 of the present Report). According to the Commissionerate of Sugar of the State, out of 116 co-operative sugar factories in the State, 97 factories are running in losses at present. It is sad to note that even the Pravara Co-operative Sugar Factory, which had built up a corpus of Rs. 1.2 crore by 1960, in the first ten years of its existence, has now accumulated losses. So, all this is the output of the vociferousness, articulation and vibrancy of the political leadership of the co-operative sugar factories.

In another para of the present Report, namely, 4.2, the Committee says: "In several cases the CSF was therefore treated as a personal fiefdom or empire to be run as he (the political leader) pleased. The much touted co-operative management culture was nowhere to be seen". If the co-operative culture is nowhere to be seen in the running of the co-operative sugar factories by the political leaders, as admitted by the Committee, it is not difficult to imagine the culture these political leaders must be inculcating in other institutions listed by the Committee, co-operative or otherwise, with which they are associated and about which the Committee talks so appreciatively.

As far back as 1965, Professor Gadgil wrote as follows: "The leadership of co-operative sugar factories in Maharashtra is, for the most part, able and vigorous.

Unfortunately the focus of its interest is on expansion and on obtaining concessions and privileges rather than on internal management and efficiency<sup>54</sup> (emphasis added). Professor Gadgil also said: "The importance which sugar co-operatives have attained in their areas as leaders of economic activity has naturally led to keen competition among members for participating in control over them. ... The result is that electioneering and intrigue and pressurising for office is almost continuously in evidence"<sup>55</sup> (emphasis added). Thus, it had become very clear to Professor Gadgil even in those days that the leadership of sugar co-operatives in Maharashtra focussed its interest on (i) obtaining concessions and privileges from the Government for the factories, (ii) expansion (not the expansion of the crushing capacities of the factories but expansion of the number of factories); and (iii) electioneering, intrigues and pressurising for office for exercising control over those factories. It is this focus of the political leadership of the co-operative sugar factories which continues unabated even today, which is evident from the sanctioning of 57 new sugar factories in the State, in the face of huge losses of the existing ones and the bleak prospects for success of the newly proposed ones, as mentioned above. It appears that all that the political leadership of the sugar co-operatives has done in the last 50 years is to get as many concessions and privileges as possible for those factories from the Government at the cost of the State exchequer. The leadership of the sugar co-operatives did not spend its ability and vigour on internal management and efficiency of the factories. It is doubtful whether it is familiar with the intricacies of business in its manifold aspects.

The crux of the matter is whether the political leadership has helped the sugar co-operatives or the sugar co-operatives have helped the political leadership to climb the ladder in their political careers. If the political leadership is responsible for the growth of the sugar co-operatives in the State, it also is evidently responsible for the sorry state of affairs of these co-operatives today. The initial success of the sugar co-operatives, which turned the heads of the political leadership of those co-operatives, was a nine days' wonder and the sugar co-operatives which once enjoyed palmy days have now come to rack and ruin at the hands of the political leadership. It is surprising that the retention of these factories at any cost is considered almost a sacred and pious duty and also a vital necessity and a political expediency. In endeavouring to save such

<sup>54</sup> Writings and Speeches of Professor D.R. Gadgil on Co-operation, op.cit., p.290.

<sup>55</sup> *ibid.*

factories from dissipation, the Government will be attempting the labour of a Sisyphus. It is absolutely necessary to approach the problem in a business context and no other.

The involvement of the State Government for political reasons in a business venture of running co-operative sugar factories, having large resources, has proved like halters round the necks of the factories and with the halters the factories can not survive long unless they get rid of the political involvement of the State Government permanently. The dependence of the sugar co-operatives on the State Government and the dependence of the political leadership on the co-operative sugar factories must come to an end. Dr. Verghes Kurien has shown in the case of milk that working purely on business footing and freed from the political involvement of the Government and the clutches of the bureaucrats, co-operation can do wonders. When I said in one of the meetings of the Committee that in addition to delicensing of sugar factories and decontrolling of sugar, the sugar co-operatives should be delinked from party politics, I was told that it was not possible, though finally a sentence finds place, in para 5.32 of the present Report, which says that the "whole sector will have to be depoliticised if it is to stand on its own". I go back to Professor Gadgil again to borrow his words. He said: "It is highly desirable that nothing is done to suggest that either an individual sugar factory or its board is, as such, an affiliate of any political group or party"<sup>56</sup> If it is not possible to do so then one has to see the writing on the wall. The sugar co-operatives will have to lie in the bed they make.

## 10. CONCLUSION

### *Summing Up*

To recapitulate, it will be seen from this Note that the zoning was introduced in the State in 1984 with the express objectives (a) of preventing the co-operative sugar factories from incurring heavy losses; (b) of enabling the factories (i) to pay to their employees their salaries, wages and other dues, (ii) to discharge their liabilities towards various financial institutions and other creditors, (iii) to discharge their tax liabilities towards the Government; and (c) of ensuring that the sugarcane growers do not suffer financially.

It is crystal clear from the present Note that during 13 years of the life of zoning (from 1984 to 1997), it utterly failed to achieve its avowed objectives for which it

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<sup>56</sup> *ibid.*

was introduced. The factories have accumulated heavy losses and are over head and ears in debt. They have failed to pay to their employees their salaries, wages and other dues in full. They have failed to discharge their liabilities towards various financial institutions and the Government. They have also failed to discharge their tax liabilities towards the Government. The sugarcane growers are suffering the economic consequences of all the above-mentioned failures of the co-operative sugar factories because they are denied the market price for their produce.

Therefore, it is submitted that it is not the absence of zoning that is responsible for the present malady of the co-operative sugar factories in the State. It is the presence of the deeply rooted financial and political involvement of the State Government in these factories that is responsible for abject condition of these factories.

#### ***Need of the Hour***

So, it is not the re-introduction of zoning but the elimination of the financial and political involvement of the State Government that is the need of the hour.

#### ***B. Dilution of Zoning to Teach a Lesson***

In para 6.119 of the present Report, it is stated: "To insist on diluting zoning to teach a lesson to a few sugar factories is like cutting one's nose to spite one's neighbour. There can be more effective and less counter-productive ways of dealing with the recalcitrant CSFs by taking recourse to the existing and the newly proposed provisions, recommended by this committee, of the M.C.S. Act". This means that the act of diluting the zoning restriction by the State Government is in truth a mere device to accomplish a bye or collateral and sinister object of the Government of teaching a lesson to a few sugar factories - an act *mala fide* substituted for another. The Committee has neither given the names of the recalcitrant co-operative sugar factories nor has mentioned in the Report as to what they had done to invite this so called punishment for them through the dilution of zoning. It may be pointed out here, at the cost of repetition, that the dilution of zoning, which the Committee considers as counter-productive, was done on the direction of the Supreme Court of India, in its judgement dated April 18, 1995, and has been later held by that Court in its judgement dated April 27, 1998, as "a balancing act on the part of the State Government to protect the interests of farmers who are not members of co-operative societies".

As there is no material in the Report for imputing such a dishonest motive to the

Government of Maharashtra for diluting the zoning restriction, I regret to say that I cannot endorse this unsubstantiated statement of the Committee. I may further point out that even the Supreme Court of India has held that "nothing has been placed on record to show that the impugned order (of diluting the zoning restriction) is vitiated by *mala fides*"<sup>57</sup>.

## II. MINIMUM DISTANCE BETWEEN TWO SUGAR FACTORIES

### *Recommendation of the Committee*

In para 6.108 of the present Report, it is stated: "The minimum distance between two sugar factories has been progressively brought down, by policies of the central government, from 40 kms to 15 kms. It is necessary to remember that this is a raw material-based industry and excessive competition in procurement of raw material will undercut the very existence of the industry. It will also lead to all sugar factories in the close vicinity of each other coming to grief and becoming sick. The question of minimum distance is also related to the size of holdings, the administration of land ceiling laws, availability of water, other competing crops, and so on". In para 6.109 of the said Report, it is stated that "after the announcement of delicensing of the industry, as many as 212 applications for setting up new sugar factories in Maharashtra have been registered by the central government for varying crushing capacity of 500 to 2,500 tpd. ... this rush for registration is an indicator of the likely competition in this sector. The implications of this for the future financial health of the industry in general, and co-operatives in particular, cannot be overlooked". In para 6.110, it is stated thus: "Looked at from this perspective, and keeping in view the important consideration of ensuring vertical rather than horizontal expansion of the industry, the minimum distance between two sugar factories needs to be increased to 40 kms, by making a representation to the Government of India. This should hold good for the period of next ten years. The matter could be re-examined thereafter in the light of experience gained".

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<sup>57</sup> Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd. and others v. State of Maharashtra and others, AIR 1998 S.C. 1937, at 1944.

### *Zoning Through Back Door*

The above-mentioned recommendation of the Committee will virtually result in re-introducing zoning through the back door and encourage monopoly and inefficiency. It also negates the policy of delicensing. Once an industry has been freed from licence and permit raj, it is not the business of the Government but that of the prospective entrepreneur to see as to where to locate the factory. He should be the best judge of the situation. It is he who takes the risk of competition and if his judgement proves to be wrong, he will have to get out because if he flounders, he can not fall back on the Government to bail him out through munificent assistance, as the sugar co-operatives have been doing. If the recommendation of the Committee is accepted, an existing unit, howsoever inefficient it may be, will continue its monopolistic inefficient operations because no other factory, even if it appears promising, will be allowed to come there. This will not be in the interest of the sugarcane growers, sugar industry and consumers of sugar. So, it is submitted that no restriction of distance between two factories should be imposed, not even 15 kms., not to speak of 40 kms.

### **III. AUDIT OF CO-OPERATIVE SUGAR FACTORIES**

#### *Quality of Audit*

In para 6.30 of the Report, it is stated that "the audit has not been able to bring into open any major misappropriations, frauds, mismanagement, etc., in spite of the system of concurrent audit. This itself goes to show the poor quality of the audit". With all humility, it is submitted that it is illogical to say that if the audit does not result in bringing into open any major misappropriations or frauds, it proves that the quality of the audit is poor. The Committee assumes that there were cases of major misappropriations and frauds which the audit failed to bring into open. But, neither the Committee itself has unearthed any case of misappropriation or fraud nor has it cited in the Report any instance of an established case of misappropriation or fraud unearthed by some one else. So, it is highly improper, and perhaps defamatory, for the Committee to say that the quality of the audit has been poor. The auditors can always argue that if there are no cases of misappropriation or fraud found during the audit and after, how can they be accused of not bringing them into open. The statement of the Committee casts aspersion on the integrity of the auditors without any proof. As it is an unsubstantiated allegation against the auditors, I am sorry to say that I do not

subscribe to it and do not agree with this statement.

### *Objectives of Audit*

Moreover, this statement introduces a wrong concept of auditing. The objectives of the audit were laid down for the first time by the Chancery Division in 1895<sup>58</sup> when it held that the business of the auditor is to ascertain and state the true financial position of the company at the time of the audit, and his duty is confined to that. An auditor, according to the Chancery Division, is not bound to do more than exercise reasonable care and skill in making enquiries and investigations even in a case of suspicion. He is not an insurer; he does not guarantee that the books do correctly show the true position of the Company's affairs.

### *Audit and Detection of Frauds*

As regards the detection of frauds, the Chancery Division laid down in 1896<sup>59</sup> that the "auditors must not be made liable for not tracking out ingenious and carefully laid schemes of fraud when there is nothing to arouse their suspicions and when those frauds are perpetrated by tried servants of the company and are undetected for years ... So, to hold, would make the position of an auditor intolerable". It was further held that "an auditor is not bound to be a detective, or, as was said, to approach his work with suspicion or with a foregone conclusion that there is something wrong. He is a watchdog, but not a bloodhound. ... He does not guarantee the discovery of all fraud".

### *Institute of Chartered Accountants on Audit*

Thus, it is stated by the Institute of Chartered Accountants of India that "if there remains a deep laid fraud in the accounts, which in the normal course of examination of accounts may not come to light, it will not be construed as failure of audit, provided the auditor was not negligent in the carrying out of his normal work"<sup>60</sup>.

To say all this is not to say that there are no cases of frauds. All that is intended to be conveyed through this Note is to say that it is improper for the Committee to find fault with the auditors without giving any proof. Absence of detection of fraud is not a proof of the poor quality of the audit.

<sup>58</sup> In re London and General Bank (no.2), (1895-9) All E.R. Rep. 953, at 956-7.

<sup>59</sup> In re Kingston Cotton Mill Company (no.2) (1876) 2 Ch. 279, at 288-90.

<sup>60</sup> The Institute of Chartered Accountants of India, Intermediate Course (New), Study Material, Paper 2: Auditing, pp. 10-11.