

PARLIAMENT OF INDIA

RAJYA SABHA

**DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON TRANSPORT, TOURISM &
CULTURE**

**ONE HUNDRED FORTY EIGHTH REPORT
ON
THE NATIONAL HIGHWAYS AUTHORITY OF INDIA
(AMENDMENT) BILL, 2008**

**(PRESENTED TO THE RAJYA SABHA ON 17.2. 2009)
(LAID ON THE TABLE OF THE LOK SABHA ON 17.2. 2009)**

**RAJYA SABHA SECRETARIAT
NEW DELHI**

FEBRUARY, 2009/MAGHA, 1930 (SAKA)



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TRANSPORT, TOURISM AND CULTURE
(2008-2009)

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RAJYA SABHA

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21. Shri P. Karunakaran
22. Vacant\$
23. Vacant\$\$
24. Shri Samik Lahiri
25. Shri Alok Kumar Mehta
26. Shri Hemlal Murmu
27. Shri Madan Lal Sharma
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29. Shri Dushyant Singh
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31. Shri Suraj Singh

SECRETARIAT

Shri N.K. Singh, Joint Secretary
Shri Jagdish Kumar, Joint Director
Shri Swarabji B., Deputy Director
Shrimati Nidhi Chaturvedi, Committee Officer

* Ceased to be a member of the committee w.e.f. 26.11.2008 due to retirement of Shri Shahid Siddiqui from the membership of Rajya Sabha.

** Ceased to be a member of the Committee w.e.f. 18.12.2008 due to resignation of Shri Sartaj Singh Chhatwal from the membership of Lok Sabha.

\$ Ceased to be member w.e.f. 9th January, 2009 due to disqualification of Dr. P.P. Koya from the membership of Lok Sabha.

\$\$ Ceased to be a member of the Committee w.e.f. 19.12.2008 due to resignation of Dr. Ramakrishna Kusmaria from the membership of Lok Sabha.

INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Transport, Tourism and Culture, having been authorised by the Committee to present on its behalf, do hereby present this One Hundred and Forty Eighth Report of the Committee on the National Highways Authority of India (Amendment) Bill, 2008 *.

2. The Bill was introduced in the Lok Sabha on the 22nd December, 2008. In pursuance of rules relating to the Department-related Parliamentary Standing Committees, the Honøble Chairman, Rajya Sabha, referred** the Bill to the Committee on the 31st December, 2008 for examination and report on or before 15th February, 2009.

3. The Committee took oral evidence of the Secretary, Department of Road Transport and Highways and Chairman, National Highways Authority of India at its meeting held on the 19th January, 2009.

4. The Committee considered the draft Report on the subject and adopted the same on 13th February, 2009.

6. The Committee wishes to express its thanks to the Secretary and other officers of the Department of Road Transport and Highways, Chairman, National Highways Authority of India and Ministry of Law and Justice for the assistance and inputs provided during deliberations on the provisions of the Bill.

NEW DELHI ;
February 13, 2009
Magha 24, 1930 (Saka)

SITARAM YECHURY
Chairman,
Department-related Parliamentary Standing
Committee on Transport, Tourism & Culture.

* Published in the Gazette of India Extraordinary Part II, Section-2, dated 22nd December, 2008

** Rajya Sabha Parliamentary Bulletin Part II, No.45652 dated 31st December, 2008.

R E P O R T

The National Highways Authority of India (Amendment) Bill, 2008 was introduced in the Lok Sabha on the 22nd December, 2008. The Bill was referred to the Department-related Parliamentary Standing Committee on Transport, Tourism and Culture for examination and report. Under the mandate, the Committee has examined the Bill and finalised the Report after hearing the views of the nodal Department *i.e.* Department of Road Transport and Highways. The Bill seeks to further amend the National Highways Authority of India Act, 1988.

2. The reasons for introduction of the Bill, as informed by the Department of Road Transport and Highways have been enumerated in the succeeding paragraphs.

3. The National Highways Authority of India was established as a statutory body under the National Highways Authority of India (NHAI) Act, 1988, and was operationalized in February, 1995 with the appointment of a full-time Chairman. NHAI's initial mandate in 1996 was the projects undertaken with the assistance of Asian Development Bank (ADB) and Japan Bank for International Cooperation (JBIC). Subsequently in 1998, the Government of India announced the National Highways Development Project (NHDP) comprising mainly the Golden Quadrilateral and other projects in Phase-I and the North-South & East-West corridors in Phase-II. The Government of India (GoI) has now entrusted NHAI the responsibility of implementing a greatly expanded National Highways Development Project (additional Phases III to VII) with an investment of about Rs.2,20,000 crore. The new phases of NHDP are to be implemented mainly through Public Private Partnership (PPP), either as Build, Operate and Transfer (BOT) (Toll) projects or as BOT (Annuity) projects.

4. The proposed Bill focuses on building up the institutional capacity of the NHAI by expanding its membership to ensure focused attention to all PPP policy issues, appraisal and implementation of PPP projects.

5. The Committee on Infrastructure (COI) under the chairmanship of the Prime Minister had taken following decision in respect of the institutional strengthening of NHAI in its meeting held on 13.01.2005:

"In order to provide autonomy and delegate more powers to NHAI for approval of individual projects within the overall programme including the financing structure approved by CCEA, it is necessary to build institutional capacity of NHAI by making it a multidisciplinary professional body with high quality financing management and contract management expertise."

6. In pursuance to the decisions of the COI as mentioned above and suggestions of the Planning Commission, an Inter-Ministerial Committee (IMC) was constituted under the Chairmanship of Secretary, Road Transport and Highways and members from Department of Economic Affairs, NHAI, Planning Commission and experts in the field

ous drafts prepared by NHAI as well as by Planning Commission. The Commission identified the need of restructuring, in view of the mandate being given to NHAI particularly in the context of paradigm shift in project implementation from civil works contract with full government funding to project implementation mainly through Public Private Partnership (PPP).

7. IMC recognized that within the broad policy framework set by the Government of India, NHAI has to act as a professional, commercially-oriented organization and has to focus on cost-effective and timely delivery. For this, the key approaches and underlying considerations for the new organizations structure are:

- A structure designed to improve decision making efficiency in a transparent manner ensuring responsiveness to changes taking place in the environment.
- A lean organization structure continuing the tradition of significant outsourcing and leveraging the skills and resources available from the private sector
- An organization with high dependency on technology and a proper system of ensuring accountability.
- Achieving improved retention of experience and staff within the organization so as to maintain the level of expertise and organizational competence.
- Inculcating multidisciplinary skills within the organization for better project appraisal and monitoring.

8. IMC recommended following vision statement for NHAI:

"To meet the nation's need for the provision and maintenance of National Highways network to global standards and to meet user's expectations in the most time-bound and cost-effective manner, within the strategic policy framework set by the Government of India and thus promote economic well being and quality of life of the people."

9. NHAI has adopted a business model that rests on outsourcing of specific tasks related to design, construction and supervision of works and the subsequent management of corridors. IMC was of the view that for managing such a large programme within the prescribed time-frame, there is no alternative to the model of outsourcing. NHAI should, therefore, continue with the outsourcing model which also has the advantages of keeping the organisation relatively lean, harnessing private sector efficiencies, and providing flexibility in execution of works.

10. NHAI, nevertheless, remains accountable to the NH users and the Government of India for the quality of service/output provided by contracted service providers, hence, NHAI need to have in-house capacity for efficient procurement and monitoring of contract outputs and services.

11. IMC considered strengthening of the NHAI Board, its organizational structure,

and strengthening of systems and processes as the key

12. Currently, Chairman, NHAI is nominated by Government of India, from among serving civil servants. IMC has recommended that the selection of candidates for the post of Chairman, NHAI should be done by a search committee chaired by the Cabinet Secretary comprising the Secretary, Department of Road Transport and Highways; Secretary, Planning Commission and one of the Directors of the IIMs and one CMD/MD of a financial institution. To ensure continuity of the Chairman for effective management, the Chairman should be given a minimum tenure of three years extendable by another two years. The age limit may also be relaxed upto 62 years in case it is necessary to provide the minimum tenure of three years.

13. As per the provisions of the NHAI Act 1988, the Authority consists of a Chairman, not more than five full time members; and not more than four part time members. At present, the full time Members include Member (Administration), Member Finance) and three Members (Technical), while the four part time Members include Secretary, Department of Road Transport and Highways; Secretary, Planning Commission; Secretary, Department of Expenditure and Director General (Road Development), Department of Road Transport and Highways.

14 Keeping in view the vastly increased mandate for NHAI and also the greatly enhanced participation envisaged for the private sector, it is proposed to increase the full time Members from five to six and part-time Members from four to six, to allow induction of professionals of repute in the fields of financial management, transportation planning and other relevant areas. Induction of outside professionals will enhance the capacity of the Authority to take strategic decisions, widen its perspective, bring in best management practices, and assist in achieving the goal of higher private participation.

15. The Cabinet in its meeting held on 5th July, 2007 approved the proposal for restructuring of NHAI which includes:-

- (i) NHAI to have six full time members (against five at present) - one each for finance, administration, public private partnership (PPP), two Members (Projects) and one Member (Technical).
- (ii) Increase in the number of part-time Members by two (from 4 to 6), who would be from the non-Government sector, one from IITs/IIMs and the other from financial institutions.
- (iii) Amendment to NHAI Act, 1988 (to effect the revised strength of the Board)

16. Amendment will be required in sub-section (3) of section 3 of the NHAI Act, 1988 for increasing the number of full-time Members from five to six and part-time Members from four to six. Subsequent to the amendment in the NHAI Act, 1988, the National Highways Authority of India (the term of office and other conditions of service of Members) Rules, 2003 will be amended accordingly.

17. The expenditure on salary, allowances, other remuneration and facilities provided

the National Highways Authority of India Fund as
t.

18. The Committee in its meeting held on the 19th January, 2009 heard the views of the Secretary and other Officials of the Department of Road Transport and Highways, Chairman, National Highways Authority of India and Ministry of Law and Justice on the Bill and sought replies to the queries on the subject. The Committee in its meeting held on 13th February, 2009 considered the Bill and the Committee's consideration/recommendations have been given in the succeeding paragraphs.

19. Clause 2 of the Bill reads - In the National Highways Authority of India Act, 1988, in section 3, for sub-section (3), the following shall be substituted, namely:-

ö(3) The Authority shall consist of:-

- (i) a Chairman;
- (ii) not more than six full-time members; and
- (iii) not more than six, but at the least four, part-time members,

to be appointed by the Central Government by the notification in the Official Gazette:

Provided that the Central Government shall, while appointing the part-time members, ensure that at least two of them are non-government professionals having knowledge or experience in financial management, transportation planning or any other relevant discipline.

20. When the Committee specifically asked about the need for induction of additional members through the amendment, the Secretary replied that

öí í í .sometime in 2006, the Committee on Infrastructure had reviewed the capacity of the NHAI to implement such a large programme. It was felt that the institutional capacity of NHAI needs to be strengthened, both by way of giving additional manpower and also by creating posts for experts. The areas which were found to be strengthened, particularly were the areas of say financial management, legal expertise and, of course, managerial expertise, in generalí í í ö

21. The Department while submitting the detailed background note to the Committee as mentioned in earlier paragraphs of the report substantiated the need for this amendment. The Department has further stated that the NHAI which was operationalized in February, 1995 with the appointment of full-time Chairman has come a long way from implementing projects with the assistance of international agencies to have the responsibility of implementing the greatly expanded National Highways Development Project (additional phases III to VII) with a large investment of about Rs.2, 20,000 crore at present. The National Highways Development Project announced by the Government of India in the year 1998 has really changed the functioning of the NHAI. The NHAI started off with only ten projects in certain stretches of the Golden Quadrilateral in its earlier days, has now projects spread all over the country. Funding pattern of the projects

anged during the course of time. Earlier the projects
ent funding and aid from international financial
institutions, but the new phases of NHDP are to be implemented mainly through Public
Private Partnership (PPP), either as Build, Operate and Transfer (BOT) (Toll) projects or
as BOT (Annuity) projects.

22. The institutional strengthening process of NHAI which started in the year 2005 by the decision of Committee on Infrastructure (COI) under the chairmanship of the Prime Minister was finally approved by the cabinet in its meeting held on the 5th July, 2007. During the deliberations of the Committee, the Secretary Department of Road Transport and Highways and the Chairman, National Highways Authority of India placed their views on the necessity to bring this amendment.

23. **The Committee is of the view that this Bill appears to be a piece-meal effort on the part of the Government that does not really address the basic issues highlighted in the decision of the Committee on Infrastructure (COI) particularly those relating to greater autonomy and delegation of more powers to NHAI for approval of individual projects. The Committee feels that the Bill has been used as a contingent legislative tool. The Government should avoid such attempt so that the dignity and importance of the Parliament is maintained. The Committee appreciates the Government's attempt for strengthening the NHAI by adding professionals of repute in the fields of financial management and transportation planning, it, however, feels that merely by adding numbers in the Board will not yield the desired results as expected in the new vision statement of NHAI. The Committee is of the opinion that having road projects worth Rs.2, 20,000 crore, NHAI would certainly require much more than that, such as delegation of more powers to NHAI for approval of individual projects; strengthening of its organization structure; improving its human resources management and systems and processes of NHAI.**

24. The Committee also finds that the amendment is silent on the issue of fixed tenure for the Chairman, NHAI. The Committee notes the recommendation of the Inter-Ministerial Committee (IMC) that to ensure continuity of the Chairman for effective management, the Chairman should be given a minimum tenure of three years extendable by another two years. The IMC also recommended that the age limit may also be relaxed up to 62 years in case it is necessary to provide the minimum tenure of three years. The Committee expresses its disappointment over the non-inclusion of such important recommendations which will have a longstanding effect on the functioning of NHAI in this amendment.

25. The Committee finds discrepancy in this amendment on the inclusion of additional part-time members. The Statement of Objects and Reasons of the Amendment Bill states that in order to increase the efficiency, the number of part-time members of the Board has been increased from four to six but the formulation of the Bill in Clause 2 reads 'not more than six but not less than four' thus defeating the objective of increasing the numbers from four to six. Section 8 of the original Act and Section 3 of the present Bill are not in harmonious construction. Section 8 says no vacancy will invalidate the decisions of NHAI Board, whereas Section 3 says there will be minimum four and maximum six part time members in the Board of

er is less than four, the Board cannot take any
confusion which needs to be looked into for removing
possible ambiguity. The Committee therefore, urges upon Government to carefully
consider all the points mentioned above and recommends that the Government
should come up with a comprehensive legislation incorporating all the suggestions
made by IMC and covering all the issues concerned with the strengthening of NHAI.

26. The Committee adopted the Clause of the Bill without any amendments.
27. The enacting formula and the title are adopted with consequential changes.
28. The Committee recommends that the Bill may be passed after incorporating the suggestions made by it.

S/RECOMMENDATIONS- AT A GLANCE

The Committee is of the view that this Bill appears to be a piece-meal effort on the part of the Government that does not really address the basic issues highlighted in the decision of the Committee on Infrastructure (COI) particularly those relating to greater autonomy and delegation of more powers to NHAI for approval of individual projects. The Committee feels that the Bill has been used as a contingent legislative tool. The Government should avoid such attempt so that the dignity and importance of the Parliament is maintained. The Committee appreciates the Government's attempt for strengthening the NHAI by adding professionals of repute in the fields of financial management and transportation planning, it, however, feels that merely by adding numbers in the Board will not yield the desired results as expected in the new vision statement of NHAI. The Committee is of the opinion that having road projects worth Rs.2, 20,000 crore, NHAI would certainly require much more than that, such as delegation of more powers to NHAI for approval of individual projects; strengthening of its organization structure; improving its human resources management and systems and processes of NHAI. (Para 23)

The Committee also finds that the amendment is silent on the issue of fixed tenure for the Chairman, NHAI. The Committee notes the recommendation of the Inter-Ministerial Committee (IMC) that to ensure continuity of the Chairman for effective management, the Chairman should be given a minimum tenure of three years extendable by another two years. The IMC also recommended that the age limit may also be relaxed up to 62 years in case it is necessary to provide the minimum tenure of three years. The Committee expresses its disappointment over the non-inclusion of such important recommendations which will have a longstanding effect on the functioning of NHAI in this amendment. (Para 24)

The Committee finds discrepancy in this amendment on the inclusion of additional part-time members. The Statement of Objects and Reasons of the Amendment Bill states that in order to increase the efficiency, the number of part-time members of the Board has been increased from four to six but the formulation of the Bill in Clause 2 reads 'not more than six but not less than four' thus defeating the objective of increasing the numbers from four to six. Section 8 of the original Act and Section 3 of the present Bill are not in harmonious construction. Section 8 says no vacancy will invalidate the decisions of NHAI Board, whereas Section 3 says there will be minimum four and maximum six part time members in the Board of NHAI. It means, if the number is less than four, the Board cannot take any decisions. This might create confusion which needs to be looked into for removing possible ambiguity. The Committee therefore, urges upon Government to carefully consider all the points mentioned above and recommends that the Government should come up with a comprehensive legislation incorporating all the suggestions made by IMC and covering all the issues concerned with the strengthening of NHAI.

(Para 25)



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clause of the Bill without any amendments.

(Para 26)

The enacting formula and the title are adopted with consequential changes.

(Para 27)

The Committee recommends that the Bill may be passed after incorporating the suggestions made by it.

(Para 28)

IX NINTH MEETING

The Committee met at 3:00 P.M. on Monday the 19th January, 2009 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. **Shri Sitaram Yechury – *Chairman***

RAJYA SABHA

2. Shri Naresh Gujral
3. Shri Shanta Kumar
4. Shri Birendra Prasad Baishya

LOK SABHA

5. Shri Anandrao Vithoba Adsul
6. Shri Adhir Chowdhury
7. Dr. K. Dhanaraju
8. Shri P. Karunakaran
9. Shri Alok Kumar Mehta
10. Shri Madan Lal Sharma
11. Shri Dushyant Singh

SECRETARIAT

Shri N.K. Singh, Joint Secretary
Shri Jagdish Kumar, Joint Director
Shri Swarabji B., Deputy Director
Smt. Nidhi Chaturvedi, Committee Officer

REPRESENTATIVES OF DEPARTMENT OF ROAD TRANSPORT & HIGHWAYS:

Shri Brahm Dutt, Secretary
Shri Saroj Kumar Dash, Joint Secretary
Ms. S. Narendra, Director
Dr. R.K. Agrawal, Deputy Secretary

Shri Brijeshwar Singh, Chairman,
Shri K. S. Money, Member (A)
Dr. A Didar Singh, Member (F)
Shri S.K. Puri, Member (T)

REPRESENTATIVES OF MINISTRY OF LAW AND JUSTICE

Shri N.L. Meena, Additional Secretary
Shrimati Sudha Rani Relangi, Deputy Legislative Counsel

* * * *

2. At the outset, the Chairman briefed the Members about "The National Highways Authority of India (Amendment) Bill, 2008" which has been referred to the Committee for examination and report. Thereafter, the Committee heard the views of the Secretary and other senior officers of the Department of Road Transport & Highways on the reasons for bringing an amendment in the Bill. The Committee sought to know, if increasing the number of NHAI members both full/part time, was the only requirement for restructuring/strengthening it as was suggested by the Committee on Infrastructure in the year 2005? No convincing explanation for this could be given. The Secretary replied to various other queries raised by the Members, during the meeting. To several other queries raised by the Members, the Ministry representatives were requested to give written replies within a week.

The witnesses then withdrew.

3. * * * *
4. * * * *
5. * * * *
6. * * * *
7. The Committee then adjourned at 5:30 p.m.

X
ENTH MEETING

The Committee met at 3:00 P.M. on Friday the 13th February, 2009 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. **Shri Sitaram Yechury – Chairman**

RAJYA SABHA

2. Shri Naresh Gujral
3. Shri Birendra Prasad Baishya
4. Shri Biswajit Daimary

LOK SABHA

5. Shri Anandrao Vithoba Adsul
6. Shri N.S.V. Chitthan
7. Smt. Priya Dutt
8. Shri P. Karunakaran
9. Shri Alok Kumar Mehta
10. Shri Madan Lal Sharma
11. Shri Dushyant Singh

SECRETARIAT

Shri N.K. Singh, Joint Secretary
Shri Jagdish Kumar, Joint Director
Shri Swarabji B., Deputy Director

2. The Committee considered the draft 148th Report on the National Highways Authority of India (Amendment) Bill, 2008. After some discussion, the Committee adopted the report without any modifications.
3. Thereafter, the Committee authorized its Chairman and in his absence Shri Naresh Gujral to present the report to the Rajya Sabha and Shri Anandrao Vithoba Adsul and Shri N.S.V. Chitthan to lay the report on the Table of the Lok Sabha on 17th February, 2009.
3. The Committee then adjourned at 3:40 p.m.