

JOINT COMMITTEE ON OFFICES OF PROFIT

EIGHTEENTH LOK SABHA

**MINISTRY OF LAW AND JUSTICE
(LEGISLATIVE DEPARTMENT)**

**Seeking Clarification on the Eligibility of a Sitting MP to be Considered for the
Post of Chairperson, National Commission for Protection of Child Rights
(NCPCR).**

SECOND REPORT



LOK SABHA SECRETARIAT

NEW DELHI

August, 2025 / Shravan, 1947 (Saka)

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**Seeking Clarification on the Eligibility of a Sitting MP to be Considered for the
Post of Chairperson, National Commission for Protection of Child Rights
(NCPCR).**

Presented to Lok Sabha on 19.08.2025

Laid on the Table of Rajya Sabha on 19.08.2025



LOK SABHA SECRETARIAT

NEW DELHI

August, 2025 / *Shravan*, 1947 (Saka)

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**COMPOSITION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT
(EIGHTEENTH LOK SABHA)**

Shri Eatala Rajender - Chairperson

**MEMBERS
LOK SABHA**

2. Shri Benny Behanan
3. Shri Ajay Bhatt
4. Shri Arvind Dharmapuri
5. Prof. Varsha Eknath Gaikwad
6. Shri Chavda Vinod Lakhamshi
7. Shri Janardan Mishra
8. Shri Jagadish Shettar
9. Dr. Kalanidhi Veeraswamy
10. Shri Lalji Verma

MEMBERS RAJYA SABHA

11. Shrimati Sulata Deo
12. Shri N.R. Elango
13. Ms. Kavita Patidar
14. Shri Deepak Prakash
15. Shri Ghanshyam Tiwari

SECRETARIAT

- | | | | |
|----|------------------------|----|-------------------|
| 1. | Shri Srinivasulu Gunda | -- | Joint Secretary |
| 2. | Shri V.K. Shailon | -- | Director |
| 3. | Smt. Manjinder Pubbi | -- | Deputy Secretary |
| 4. | Dr. Kundan Kumar | -- | Under Secretary |
| 5. | Smt. Anjali Sharma | -- | Committee Officer |

INTRODUCTION

I, the Chairperson of the Joint Committee on Offices of Profit, having been authorized by the Committee to present the Report on its behalf, present this Second Report regarding eligibility of a sitting Member of Parliament to be considered for the Post of Chairperson, National Commission for Protection of Child Rights (NCPCR).’

2. At their sitting held on 24th July, 2025, the Committee considered and adopted Memorandum No.3 on the subject and concluded that the Members of Parliament, if nominated as Chairperson to the NCPCR, might incur disqualification in terms of sub-clause (a) of clause (1) of article 102 of the Constitution.

The Report was considered and adopted by the Committee at their sitting held on 06th August, 2025.

3. For facility of reference and convenience, the Recommendations/ Observations of the Committee have been printed in bold letters.

4. The Committee wish to express their thanks to the officials of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) for appearing before the Committee and giving opinion in connection with the matter.

5. The Committee would also like to place on record their deep sense of appreciation for the invaluable assistance rendered by the officials of Lok Sabha Secretariat attached to the Committee.

NEW DELHI:
19th August, 2025
Shravan, 28, 1947 (Saka)

EATALA RAJENDER
Chairperson,
Joint Committee on Offices of Profit.

Seeking Clarification on the Eligibility of a Sitting MP to be Considered for the Post of Chairperson, National Commission for Protection of Child Rights (NCPCR).

REPORT

An email communication dated 21st March, 2025 (**Annexure-I**) addressed to the Secretary-General Lok Sabha from the Ministry of Women and Child Development (Child Welfare – I Section) has been received in this Secretariat on 24th March, 2025 seeking clarification as to whether a sitting member of Parliament can apply and be considered for the post of Chairperson of the National Commission for Protection of Child Rights (NCPCR), from the angle of ‘Office of Profit’. The Ministry requested this Secretariat to place the matter before the Joint Committee on Offices of Profit for consideration.

2. The National Commission for Protection of Child Rights (NCPCR) is a statutory body established under the Commission for Protection of Child Rights (CPCR) Act, 2005. The Chairperson of the NCPCR is appointed as per the provisions of the CPCR Act, 2005 and the NCPCR Rules, 2006.

3. Section 3(2) of the CPCR Act, 2005 (**Annexure – II**) states that the Chairperson should be a person of eminence with outstanding work credentials for promoting the welfare of children. Section 4 provides for the appointment of Chairperson by the Central Government based on the recommendation of a Selection Committee constituted by the Central Government under the Chairmanship of the Minister-in-charge of the Ministry or the Department of Women and Child Development.

4. Rule 6A of the NCPCR Rules 2006 (**Annexure – III**) provides for invitation of applications for the post of Chairperson and Members. Rule 6A (3) prescribes that the application shall be submitted in the Form specified in Schedule IV. As per item (e) of Para 14 of this form, any individual applying for the post of Chairperson has to submit an Undertaking in which it is mentioned that:

If selected, I shall not hold office of profit or pursue any profession or carry on any business other than my office as Chairperson, NCPCR.

5. Article 102(1)(a) of the Constitution of India provides that a *person shall be disqualified for being chosen as, and for being, a member of either House of Parliament if he holds any Office of Profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder.*

6. Under Articles 102 and 191 of the Indian Constitution, Members of Parliament are barred from holding government positions that may lead to conflict of interest or disqualification. Under the Parliament (Prevention of Disqualification) Act, 1959, certain Commissions, such as the National Commission for Minorities (NCM), National Commission for Scheduled Castes (NCSC), National Commission for Scheduled Tribes (NCST), and National Commission for Women (NCW), have been exempted, allowing MPs to hold the position of Chairperson without disqualification. It is pertinent to highlight that NCPCR is not exempted under the 1959 Act and the Chairperson is entitled to receive government remuneration.

7. In pursuance of Article 102(1)(a), the Parliament (Prevention of Disqualification), Act 1959 was enacted which declares that certain offices would not disqualify holders thereof from the membership of Parliament. As per Section 3(i) of the Act, if a Chairman or Director or Member of any statutory or non-statutory body is not entitled to any remuneration other than the compensatory allowance, he/she would not incur disqualification for being chosen as, or for being, a member of Parliament.

8. Under Section 2(a) of the Act, ‘compensatory allowance’ has been defined as “any sum of money payable to the holder of an office by way of daily allowance (such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under [the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954)], any conveyance allowance, house-rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office;”.

9. The expression ‘holds any office of profit under the Government’ occurring in article 102(1)(a) of the Constitution has nowhere been defined precisely. In order to determine whether an office held by a person is an office of profit under the Government, the Joint Committee on Offices of Profit in their Tenth Report (7th Lok Sabha), presented to Lok Sabha on 7th May, 1984, laid down the following guiding principles: -

The Broad criteria for the determination of the question whether an office held by a person is an office of profit have been laid down in judicial pronouncements. If the Government exercises control over the appointment to and dismissal from the office and over the performance and the functions of the office and in case the remuneration or pecuniary gain, either tangible or intangible in nature, flows from such office irrespective of whether the holder for the time being actually receives such remuneration or gain or not, the office should be held to be an office of profit under the Government. Otherwise, the object of imposition of the disqualification as envisaged in the Constitution will become frustrated. This first basic principle should be the guiding factor in offering positions to a member of the Legislature.

10. It may also be submitted that keeping in view various judicial pronouncements as well as its earlier recommendations, the Joint Committee have been following certain criteria to test the Committees, Commissions, etc., for deciding the question as to which of the offices should disqualify and which should not disqualify a person for being chosen as, and for being a Member of Parliament: -

- (i) Whether Government exercises control over the appointment to and removal from the office and over the performance and functions of the office;
- (ii) Whether the holder draws any remuneration, like sitting fee, honorarium, salary, etc. i.e. any remuneration other than the “compensatory allowance” as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959; (The Principle thus is that if a member draws not more than what is required to cover the actual out of Pocket expenses and does not give her/him pecuniary benefit, it will not act as a disqualification.)
- (iii) Whether the body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotments of lands, issue of licences, etc., or gives powers of appointment, grant of scholarship, etc.; and
- (iv) Whether the body in which an office is held wields influence or power by way of patronage.

If reply to any of the above criteria is in affirmative, then the office in question may entail disqualification.

11. Though from the above, it appeared that holding office of the Chairperson, NCPCR by a Member of Parliament would attract disqualification under article 102(1)(a) of the Constitution, for a conclusive opinion, the matter was forwarded to the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) *vide* this Secretariat OM of even number dated 28.03.2025 (**Annexure – IV**).

12. The Ministry of Law and Justice *vide* their OM dated 01.04.2025 (**Annexure – V**) requested this Secretariat to forward the reply furnished by the administrative Ministry to the List of Points in the prescribed proforma and also the copies of all the relevant rules/regulations/notifications etc. enabling them to examine the case.

13. A List of Points (**Annexure – VI**) was forwarded to the Ministry of Women and Child Development *vide* this Secretariat OM of even number dated 02.04.2025 (**Annexure – VII**) to furnish replies in detail to each point to examine the case from the angle of office of profit.

14. The Ministry of Women and Child Development *vide* their OM dated 08.04.2025 (**Annexure – VIII**) furnished the replies to the list of points and the same was forwarded to the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) *vide* this Secretariat OM dated 08.04.2025 (**Annexure – IX**) for their consolidated opinion in the matter.

15. The Ministry of Law and Justice (Legislative Department) in concurrence with the Department of Legal Affairs, *vide* their OM dated 2nd May, 2025 (**Annexure – X**) have furnished a consolidated opinion.

16. As per the reply of the administrative Ministry, NCPCR has been constituted under section 3 of the Commission for Protection of Child Rights

Act, 2005 consisting of a Chairperson and six other Members. As provided under section 4, the Chairperson shall be appointed on the recommendation of a three-member selection Committee constituted by the Central Government under the Chairmanship of the Minister in-charge of the Ministry of Women and Child Development. As provided under section 5, the term of office of Chairperson is three years from the date on which he assumes office. Further, section 13 of the Act provides for the functions of the Commission. Besides the functions assigned under this Act, monitoring and implementation of the Right of Children to Free and Compulsory Education Act, 2009(section 31), the Juvenile Justice (Care and Protection of Children) Act, 2015 (section 109) and of the Protection of Children from Sexual Offences Act, 2012 (section 44) are also assigned to the NCPCR. The National Commission for Protection of Child Rights Rules, 2006 and the Prevention of Children from Sexual Offences Rules, 2012 also assigns certain functions to the Commission.

17. To the query at Sl. No. 4 of the list of points as to whether the functions of the Commission are purely advisory in nature, the administrative Ministry has replied that the functions of the Commission are not merely advisory in nature but also encompass quasi-judicial powers. Mentioning to Sections 13 and 14 of the Act, the NCPCR plays a dual role- both advisor and enforcement oriented-in safeguarding and promoting the rights of children in India.

18. With regard to the query at Sl.No.5 (ii) of the list of points as to whether the Government exercises control over the appointment to and removal from the office and over the performance and functions of the office, the administrative Ministry has mentioned Sections 4 and 7 of the CPCR Act clearly mentioning the active role of Government therein. Further, to the query at Sl.No.5(iv) of the list of points on the role of the Member of Parliament as Member/Chairperson in the Board, they have replied that the Chairperson serves as the head and primary representative of the Commission. They have further stated that, although the Act and the NCPCR Rules, 2006 do not detail the day-to-day functions of the Chairperson separately. By virtue of the position, the Chairperson plays a key role in presiding over meetings, guiding policy direction and overseeing the functioning of the Commission.

19. To the query at serial No. 6(i) of the list of points as to whether the Committee exercise legislative or judicial powers, it was stated by the Administrative Ministry that section 14 of the Act strengthens the Commission's authority by conferring upon it the powers of a civil court while conducting inquiries under clause(j) of section 13(1). They have further stated that the Commission do not exercise legislative powers and the NCPCR rules also do not confer legislative authority. Against the queries at serial No.6(ii), (C), and (D) regarding the power of the disbursement of funds of the Committee, powers of appointment/removal and possibility that the committee would influence power by way of patronage, the Administrative Ministry has given the reply in negative.

20. With regard to the query at serial number 7(i) of the list of points regarding the expenses payable to the Members of Parliament as Member/Chairperson of the Commission, specifying the actual rates of payment with break-up of sitting fee, daily allowances, travelling allowance, house rent allowance, compensatory allowance, honorarium etc., in the reply of the administrative Ministry it is stated that the position of Chairperson of NCPCR is equivalent to the rank of Secretary to the Government of India and the remuneration attached to the post is in level 17 (i.e. basic salary of Rs. 2,25,000 per month) along with all other allowances and entitlements admissible to a Secretary level Officer in the Central Government as per prevailing Government norms. It is further stated that besides remuneration, Chairperson is entitled to all facilities/perks available to an Officer of the level of Secretary to the Government of India.

21. With regard to the query at serial No.7(iii) of the list of points as to whether the allowances payable to the Member of Parliament as Member of the Committee are covered under the Compensatory Allowance defined in section 2(a) of Parliament (Prevention of Disqualification) Act, 1959, the reply of the administrative Ministry is that it would fall within the scope of compensatory allowance as defined under section 2(a) of the Parliament (Prevention of disqualification) Act, 1959. They have further stated that such allowances received by a Member of Parliament in their capacity as Chairperson or

Member of the NCPCR are covered under this definition, provided they are strictly in the nature of reimbursement for official duties and do not constitute a salary or honorarium that could attract disqualification under the Act.

22. Further, for determining the question regarding “office of Profit”, the Apex court has laid down the following tests in the case of Shivamurthy Swami Inamdar Vs Sanganna Andanappa (1971) 3 SCC 870: –

- (a) whether the Government makes the appointment;
- (b) Whether the Government has the right to remove or dismiss the holder;
- (c) Whether the Government pays the remuneration;
- (d) What are the functions of the holder.? Does he perform them for the Government; and
- (e) Does the Government exercises any control over the performance of these functions?

23. It is pertinent to mention here that, the administrative Ministry in response to query at serial No. 6(A) to the list of points, specifically stated that the Board has quasi-judicial powers. This may attract the criteria consistently adopted by the Joint Committee on Offices of Profit for disqualifying a person from the “angle of office of profit”. Further, they have also stated that NCPCR plays a dual role-both advisor and enforcement oriented. Besides, ongoing through various functions assigned to the Commission under various Acts/rules etc., it is felt that the Commission exercises several executive functions. Further, by virtue of rules 7, 8 and 9 of the National Commission for Protection of Child Rights Rules, 2006, it may be noted that a definite salary and other allowances is attached to the office of the Chairperson. Regarding the remuneration payable to a Member of Parliament if appointed as the Chairperson of a Committee, Commission etc., observations made by the Joint Committee on Office of Profit in paragraph 6 of the Second Report (10th Lok Sabha) is noteworthy to mention. Relevant Extracts are as under: –

“6. In this connection, the Committee also note the following observations in the judgement given by the Election Commission in July, 1991 in regard to Shri R.K. Hegde, who held the post of Deputy Chairman, Planning Commission and was a Member of Karnataka Legislative Assembly:

‘What is to be seen for determining whether an office is office of profit is whether such office is capable of profit being derived and not whether a person is actually deriving that benefit or not. It cannot be gainsaid that the office of the Deputy Chairman of the Planning Commission is capable of ‘profit’ being derived as a definite salary is attached to that office. The fact

that the opposite party did not draw any salary does not materially alter the status of that office being office of profit'."

24. The Department of Legal Affairs have examined the issue in the light of various observations of the Apex Court and established legal provisions. In their Note dated 28.4.2025 (**Annexure-XI**), it is stated that the concept of "office of profit" includes two essential elements: firstly, the existence of an Office and secondly, the receipt of remuneration associated with that Office. They have further stated that, in the present case, the sitting Member of Parliament is receiving pecuniary benefits from government funds, thereby attracting the principle of Office of Profit.

25. The Legislative Department have concurred with the views of the Department of Legal Affairs with regard to the functions of the Commission and remuneration receivable by the Office of the Chairperson and have opined that the Members of Parliament, if nominated as Chairperson to the NCPCR, may incur disqualification in terms of sub-clause (a) of clause (1) of article 102 of the Constitution.

26. The representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) were called for the sitting held on 24th July, 2025. During the sitting the Secretary, Ministry of Law and Justice (Legislative Department) briefed the Committee on the issue and reiterated the position as highlighted in their Office Memorandum dated 2nd May, 2025.

Observations/Recommendations

27. The Committee note that the functions of the Commission are not merely advisory in nature but also encompass quasi-judicial powers. The Committee further note that the provisions of Sections 13 and 14 of the National Commission for Protection of Child Rights Act, 2005, clearly stipulates that the NCPCR plays a dual role- both advisor and enforcement oriented-in safeguarding and promoting the rights of children in India.

28. The Committee observe that the position of Chairperson of the NCPCR is equivalent to the rank of Secretary to the Government of India and the remuneration attached to the post is in level 17 (i.e. basic salary of Rs. 2,25,000 per month) along with all other allowances and entitlements admissible to a secretary level Officer in the Central Government as per prevailing Government norms. The Chairperson is also entitled to all facilities/perks available to an Officer of the level of Secretary to the Government of India.

29. The Committee note that the allowances payable to the Chairperson of the NCPCR would not fall within the scope of compensatory allowance as defined under section 2(a) of the Parliament (Prevention of disqualification) Act, 1959. The Committee further note that such allowances received by a Member of Parliament in their capacity as Chairperson or Member of the NCPCR are not covered under this Definition, provided they are strictly in the nature of reimbursement for official duties and do not constitute a salary or honorarium that could attract disqualification under the Act.

30. In view of the above, the Committee recommend that the Members of Parliament, if nominated as Chairperson to the NCPCR, may incur disqualification in terms of sub-clause (a) of clause (1) of article 102 of the Constitution of India.

**NEW DELHI:
19th August, 2025
Shravan, 28, 1947 (Saka)**

**EATALA RAJENDER
Chairperson,
Joint Committee on Offices of Profit.**

Email

SG Lok Sabha

Fwd: Clarification on the Eligibility of a Sitting MP to be Considered for the post of Chairperson, NCPCR

From : Child Welfare I Section <cw1-mwcd@gov.in>
Subject : Fwd: Clarification on the Eligibility of a Sitting MP to be Considered for the post of Chairperson, NCPCR
To : SG Lok Sabha <sg-loksabha@sansad.nic.in>
Cc : Ms Tripti Gurha <triptigurha.edu@nic.in>, Maneesh Rajan <maneesh.rajan@nic.in>, T Songzalian <ts.zalian@gov.in>, Sajjan Pal <sajjan.pal@nic.in>, Natasha Anthony <natasha.anthony@govcontractor.in>

Fri, Mar 21, 2025 05:24 PM

Respected Sir/Ma'am,

Refer trailing email for necessary action at your end.

Regards,
 Child Welfare-I Section
 Ministry of Women and Child Development
 Government of India

[Handwritten signature]
 21/3/25
 24/3/25

[Handwritten notes]
 B-2/W-12
 OSC-GBF1
 24/3/25

===== Forwarded message =====

From: Child Welfare-I Section <cw1-mwcd@gov.in>
 To: "committee-br2" <committee-br2@sansad.nic.in>
 Cc: "Ms Tripti Gurha" <triptigurha.edu@nic.in>, "Maneesh Rajan" <maneesh.rajan@nic.in>, "T Songzalian DDG" <ts.lian@nic.in>, "Sajjan Pal" <sajjan.pal@nic.in>
 Date: Tue, 18 Mar 2025 17:47:21 +0530
 Subject: Clarification on the Eligibility of a Sitting MP to be Considered for the post of Chairperson, NCPCR

===== Forwarded message =====

Respected Sir,

Background

1. The **National Commission for Protection of Child Rights (NCPCR)** is a **statutory body** established under the **Commission for Protection of Child Rights (CPCR) Act, 2005**. The **Chairperson of the National Commission for Protection of Child Rights (NCPCR)** is appointed as per the provisions of the **Commission for Protection of Child Rights (CPCR) Act, 2005** and the **NCPCR Rules, 2006**.

- **Section 3(2)** of the Act states that the Chairperson should be a person of eminence and has done outstanding work for promoting the welfare of children.
- **Section 4:** states that the Chairperson is appointed by the **Central Government** based on the recommendation of a **Selection Committee constituted by the Central Government under the Chairmanship of the Minister in charge of the Ministry or the Department of Women and Child Development**.

2. Rule 6A of NCPCR Rules 2006 is regarding Invitation of application for

Chairperson and Members. **Rule 6A (3)** prescribes that the application shall be submitted in Form specified in Schedule iv. As per this Form any individual applying for the post of Chairperson has to submit an **Undertaking** in which it is mentioned that: **if selected, I shall not hold office of profit or pursue any profession or carry on any business other than my office as Chairperson, NCPCR.**

Clarification is required on whether a sitting Member of Parliament (MP) can apply and be considered for the post of Chairperson of NCPCR?

3. Under Articles 102 and 191 of the Indian Constitution, MPs are barred from holding government positions that may lead to conflict of interest or disqualification. Under the **Parliament (Prevention of Disqualification) Act, 1959 (PPD Act, 1959)** certain commissions, such as the **National Commission for Minorities (NCM)**, **National Commission for Scheduled Castes (NCSC)**, **National Commission for Scheduled Tribes (NCST)**, and **National Commission for Women (NCW)**, have been exempted, allowing MPs to hold their Chairperson positions without disqualification.

4. The **office of profit** principle, shaped by various Supreme Court rulings, considers a position to be an office of profit if it provides financial gain, is under government control, and involves appointment and removal powers.

5. Further, the Department of Legal Affairs has advised that the matter may be referred to the Lok Sabha Secretariat, Committee Branch, Joint Committee on Offices of Profit (JCOP) to place the query for the consideration of the said Committee.

6. Clarification is sought on the following points:

- Whether a sitting MP can apply for and be considered for the post of Chairperson, NCPCR, particularly in light of the above-referenced provisions and any other relevant legislations, rules, or guidelines.
- That NCPCR is not exempt under the PPD Act, 1959, and the Chairperson receives government remuneration.

7. In view of the above, the Lok Sabha Secretariat, Committee Branch, JCOP is kindly requested to place the matter before the said Committee to provide their considered opinion on the above-mentioned points in light of the above-referenced provisions and any other relevant legislations, rules, or guidelines.

8. This issues with the approval of the competent authority.

Warm regards,

Child Welfare-I Section
Ministry of Women and Child Development
Government of India

Child Welfare-I Section
Ministry of Women and Child Development
Government of India

Fwd: Clarification on the Eligibility of a Sitting MP to be Considered for the post of Chairperson, NCP CR

SL

SG Lok Sabha <sg-loksabha@sansad.nic.in>

Fri, 21 Mar 2025 6:25:50 PM +0530

To "Srinivasulu" <srinivasulu.gunda@sansad.nic.in>

Sir/Madam,

Kindly find forwarded herewith mail, as received in this office, for further necessary action as deemed fit.

Regards.

O/o Secretary-General, LS
23034567; 23034255

From: "Child Welfare I Section" <cw1-mwcd@gov.in>

To: "SG Lok Sabha" <sg-loksabha@sansad.nic.in>

Cc: "Ms Tripti Gurha" <triptigurha.edu@nic.in>, "Maneesh Rajan" <maneesh.rajan@nic.in>, "T Songzalian" <ts.zalian@gov.in>, "Sajjan Pal" <sajjan.pal@nic.in>, "Natasha Anthony" <natasha.anthony@govcontractor.in>

Sent: Friday, March 21, 2025 5:24:21 PM

Subject: Fwd: Clarification on the Eligibility of a Sitting MP to be Considered for the post of Chairperson, NCP CR

Respected Sir/Ma'am,

Refer trailing email for necessary action at your end.

Regards,
Child Welfare-I Section
Ministry of Women and Child Development
Government of India

JS (S) 21-3-25
===== Forwarded message =====

From: Child Welfare-I Section <cw1-mwcd@gov.in>

To: "committee-br2" <committee-br2@sansad.nic.in>

Cc: "Ms Tripti Gurha" <triptigurha.edu@nic.in>, "Maneesh Rajan" <maneesh.rajan@nic.in>, "T Songzalian DDG" <ts.lian@nic.in>, "Sajjan Pal" <sajjan.pal@nic.in>

Date: Tue, 18 Mar 2025 17:47:21 +0530

Subject: Clarification on the Eligibility of a Sitting MP to be Considered for the post of Chairperson, NCP CR

===== Forwarded message =====

21/3/25
Respected Sir,

24/3/25
Background

1. The National Commission for Protection of Child Rights (NCP CR) is a statutory body established under the Commission for Protection of Child Rights (CPCR) Act, 2005. The Chairperson of the National Commission for Protection of Child Rights (NCP CR) is appointed as per the provisions of the Commission for Protection of Child Rights (CPCR) Act, 2005 and the NCP CR

Rules, 2006.

CPCR Act, 2005

- Section 3(2) of the Act states that the Chairperson should be a person of eminence and has done outstanding work for promoting the welfare of children.
- Section 4: states that the Chairperson is appointed by the Central Government based on the recommendation of a Selection Committee constituted by the Central Government under the Chairmanship of the Minister in charge of the Ministry or the Department of Women and Child Development.

2. Rule 6A of NCPCR Rules 2006 is regarding Invitation of applications for the post of Chairperson and Members. Rule 6A (3) prescribes that the application shall be submitted in Form specified in Schedule iv. As per this Form any individual applying for the post of Chairperson has to submit an Undertaking in which it is mentioned that: **If selected, I shall not hold office of profit or pursue any profession or carry on any business other than my office as Chairperson, NCPCR.**

Clarification is required on whether a sitting Member of Parliament (MP) can apply and be considered for the post of Chairperson of NCPCR?

3. Under Articles 102 and 191 of the Indian Constitution, MPs are barred from holding government positions that may lead to conflict of interest or disqualification. Under the Parliament (Prevention of Disqualification) Act, 1959 (PPD Act, 1959) certain commissions, such as the National Commission for Minorities (NCM), National Commission for Scheduled Castes (NCSC), National Commission for Scheduled Tribes (NCST), and National Commission for Women (NCW), have been exempted, allowing MPs to hold their Chairperson positions without disqualification.

4. The office of profit principle, shaped by various Supreme Court rulings, considers a position to be an office of profit if it provides financial gain, is under government control, and involves appointment and removal powers.

5. Further, the Department of Legal Affairs has advised that the matter may be referred to the Lok Sabha Secretariat, Committee Branch, Joint Committee on Offices of Profit (JCOP) to place the query for the consideration of the said Committee.

6. Clarification is sought on the following points:

- Whether a sitting MP can apply for and be considered for the post of Chairperson, NCPCR, particularly in light of the above-referenced provisions and any other relevant legislations, rules, or guidelines.
- That NCPCR is not exempt under the PPD Act, 1959, and the Chairperson receives government remuneration.

7. In view of the above, the Lok Sabha Secretariat, Committee Branch, JCOP is kindly requested to place the matter before the said Committee to provide their considered opinion on the above-mentioned points in light of the above-referenced provisions and any other relevant legislations, rules, or guidelines.

8. This issues with the approval of the competent authority.

Warm regards,

Child Welfare-I Section
Ministry of Women and Child Development
Government of India

Child Welfare-I Section
Ministry of Women and Child Development
Government of India

THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005

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THE COMMISSIONS FOR PROTECTION OF CHILDRIGHTS ACT, 2005

ACT NO. 4 OF 2006

[20th January, 2006.]

An Act to provide for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto.

WHEREAS India participated in the United Nations (UN) General Assembly Summit in 1990, which adopted a Declaration on Survival, Protection and Development of Children;

AND WHEREAS India has also acceded to the Convention on the Rights of the Child (CRC) on the 11th December, 1992;

AND WHEREAS CRC is an international treaty that makes it incumbent upon the signatory States to take all necessary steps to protect children's rights enumerated in the Convention;

AND WHEREAS in order to ensure protection of rights of children one of the recent initiatives that the Government have taken for Children is the adoption of National Charter for Children, 2003;

AND WHEREAS the UN General Assembly Special Session on Children held in May, 2002 adopted an Outcome Document titled "A World Fit for Children" containing the goals, objectives, strategies and activities to be undertaken by the member countries for the current decade;

AND WHEREAS it is expedient to enact a law relating to children to give effect to the policies adopted by the Government in this regard, standards prescribed in the CRC, and all other relevant international instruments;

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Commissions for Protection of Child Rights Act, 2005.

(2) It extends to the whole of India ^{1***}.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "Chairperson" means the Chairperson of the Commission or of the State Commission, as the case may be;

(b) "child rights" includes the children's rights adopted in the United Nations convention on the Rights of the Child on the 20th November, 1989 and ratified by the Government of India on the 11th December, 1992;

(c) "Commission" means the National Commission for Protection of Child Rights constituted under section 3;

(d) "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chairperson;

1. The words "except the State of Jammu and Kashmir" omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).

2. 5th February, 2007, *vide* notification No. S.O. 229(E), dated 15th February, 2007, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii).

- (e) “notification” means a notification published in the Official Gazette;
- (f) “prescribed” means prescribed by rules made under this Act;
- (g) “State Commission” means a State Commission for Protection of Child Rights constituted under section 17.

CHAPTER II

THE NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

3. Constitution of National Commission for Protection of Child Rights.—(1) The Central Government shall, by notification, constitute a body to be known as the National Commission for Protection of Child Rights to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of the following Members, namely:—

(a) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children; and

(b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the Central Government from amongst persons of eminence, ability, integrity, standing and experience in,—

- (i) education;
- (ii) child health, care, welfare or child development;
- (iii) juvenile justice or care of neglected or marginalized children or children with disabilities;
- (iv) elimination of child labour or children in distress;
- (v) child psychology or sociology; and
- (vi) laws relating to children.

(3) The office of the Commission shall be at Delhi.

4. Appointment of Chairperson and Members.—The Central Government shall, by notification, appoint the Chairperson and other Members:

Provided that the Chairperson shall be appointed on the recommendation of a three member Selection Committee constituted by the Central Government under the Chairmanship of the ¹[Minister in-charge of the Ministry or the Department of Women and Child Development].

5. Term of office and conditions of service of Chairperson and Members.—(1) The Chairperson and every Member shall hold office as such for a term of three years from the date on which he assumes office:

Provided that no Chairperson or a Member shall hold the office for more than two terms:

Provided further that no Chairperson or any other Member shall hold office as such after he has attained—

- (a) in the case of the Chairperson, the age of sixty-five years; and
- (b) in the case of a Member, the age of sixty years.

1. Subs. by Act 4 of 2007, s.2., for “Minister in-charge of the Ministry of Human Resource Development” (w.e.f. 29-12-2006).

(2) The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign his office at any time.

6. Salary and allowances of Chairperson and Members.—The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members, shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

7. Removal from office.—(1) Subject to the provisions of sub-section (2), the Chairperson may be removed from his office by an order of the Central Government on the ground of proved misbehaviour or incapacity.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may by order remove from office the Chairperson or any other Member, if the Chairperson or, as the case may be, such other Member,—

- (a) is adjudged an insolvent; or
- (b) engages during his term of office in any paid employment outside the duties of his office; or
- (c) refuses to act or becomes incapable of acting; or
- (d) is of unsound mind and stands so declared by a competent court; or
- (e) has so abused his office as to render his continuance in office detrimental to the public interest; or
- (f) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude; or
- (g) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission.

(3) No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

8. Vacation of office by Chairperson or Members.—(1) If the Chairperson or, as the case may be, a Member,—

- (a) becomes subject to any of the disqualifications mentioned in section 7; or
- (b) tenders his resignation under sub-section (2) of section 5,

his seat shall thereupon become vacant.

(2) If a casual vacancy occurs in the office of the Chairperson or a Member, whether by reason of his death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making afresh appointment in accordance with the provisions of section 4 and the person so appointed shall hold office for the remainder of the term of office for which the Chairperson, or a Member, as the case may be, in whose place he is so appointed would have held that office.

9. Vacancies, etc., not to invalidate proceedings of Commission.—No act or proceeding of the Commission shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Commission; or
- (b) any defect in the appointment of a person as the Chairperson or a Member; or
- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

10. Procedure for transaction of business.—(1) The Commission shall meet regularly at its office at such time as the Chairperson thinks fit, but three months shall not intervene between its last and the next meeting.

(2) All decisions at a meeting shall be taken by majority:

Provided that in the case of equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

(3) If for any reason, the Chairperson, is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting, shall preside.

(4) The Commission shall observe such rules of procedure in the transaction of its business at a meeting, including the quorum at such meeting, as may be prescribed by the Central Government.

(5) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by Member-Secretary in this behalf.

11. Member-Secretary, officers and other employees of Commission.—(1) The Central Government shall, by notification, appoint an officer not below the rank of the Joint Secretary or the Additional Secretary to the Government of India as a Member-Secretary of the Commission and shall make available to the Commission such other officers and employees as may be necessary for the efficient performance of its functions.

(2) The Member-Secretary shall be responsible for the proper administration of the affairs of the Commission and its day-to-day management and shall exercise and discharge such other powers and perform such other duties as may be prescribed by the Central Government.

(3) The salary and allowances payable to, and the other terms and conditions of service of the Member-Secretary, other officers and employees, appointed for the purpose of the Commission shall be such as may be prescribed by the Central Government.

12. Salaries and allowances to be paid out of grants.—The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Member-Secretary, other officers and employees referred to in section 11, shall be paid out of the grants referred to in sub-section (1) of section 27.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

13. Functions of Commission.—(1) The Commission shall perform all or any of the following functions, namely:—

(a) examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation;

(b) present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;

(c) inquire into violation of child rights and recommend initiation of proceedings in such cases;

(d) examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures;

(e) look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law,

juveniles, children without family and children of prisoners and recommend appropriate remedial measures;

(f) study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendations for their effective implementation in the best interest of children;

(g) undertake and promote research in the field of child rights;

(h) spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, the media, seminars and other available means;

(i) inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority, including any institution run by a social organisation; where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary;

(j) inquire into complaints and take *suo motu* notice of matters relating to,—

(i) deprivation and violation of child rights;

(ii) non-implementation of laws providing for protection and development of children;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children,

or take up the issues arising out of such matters with appropriate authorities; and

(k) such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

(2) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

14. Powers relating to inquiries.—(1) The Commission shall, while inquiring into any matter referred to in clause (j) of sub-section (1) of section 13 have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) and, in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office; and

(e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall have the power to forward any case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

15. Steps after inquiry.—The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely:—

(i) where the inquiry discloses, the Commission of violation of child rights of a serious nature or contravention of provisions of any law for the time being in force, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;

(ii) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(iii) recommend to the concerned Government or authority for the grant of such interim relief to the victim or the members of his family as the Commission may consider necessary.

16. Annual and special reports of Commission.—(1) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Central Government and the State Government concerned, as the case maybe, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any, within a period of one year from the date of receipt of such report.

(3) The annual report shall be prepared in such form, manner and contain such details as may be prescribed by the Central Government.

CHAPTER IV

STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS

17. Constitution of State Commission for Protection of Child Rights.—(1) A State Government may constitute a body to be known as the(name of the State) Commission for Protection of Child Rights to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.

(2) The State Commission shall consist of the following Members, namely:—

(a) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children; and

(b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the State Government from amongst persons of eminence, ability, integrity, standing and experience in,—

(i) education;

(ii) child health, care, welfare or child development;

(iii) juvenile justice or care of neglected or marginalized children or children with disabilities;

(iv) elimination of child labour or children in distress;

(v) child psychology or sociology; and

(vi) laws relating to children.

(3) The headquarter of the State Commission shall be at such place as the State Government may, by notification, specify.

18. Appointment of Chairperson and other Members.—The State Government shall, by notification, appoint the Chairperson and other Members:

Provided that the Chairperson shall be appointed on the recommendation of a three Member Selection Committee constituted by the State Government under the Chairmanship of the Minister in-charge of the Department dealing with children.

19. Term of office and conditions of service of Chairperson and Members.—(1) The Chairperson and every Member shall hold office as such for a term of three years from the date on which he assumes office:

Provided that no Chairperson or a Member shall hold the office for more than two terms:

Provided further that no Chairperson or any other Member shall hold office as such after he has attained—

(a) in the case of Chairperson, the age of sixty-five years; and

(b) in the case of a Member, the age of sixty years.

(2) The Chairperson or a Member may, by writing under his hand addressed to the State Government, resign his office at any time.

20. Salary and allowances of Chairperson and Members.—The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed by the State Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

21. Secretary, officers and other employees of the State Commission.—(1) The State Government shall, by notification, appoint an officer not below the rank of the Secretary to the State Government as the Secretary of the State Commission and shall make available to the State Commission such other officers and employees as may be necessary for the efficient performance of its functions.

(2) The Secretary shall be responsible for the proper administration of the affairs of the State Commission and its day-to-day management and shall exercise and discharge such other powers and perform such other duties as may be prescribed by the State Government.

(3) The salary and allowances payable to, and the other terms and conditions of service of the Secretary, other officers and employees, appointed for the purpose of the State Commission shall be such as may be prescribed by the State Government.

22. Salaries and allowances to be paid out of grants.—The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Secretary, other officers and employees referred to in section 21, shall be paid out of the grants referred to in sub-section (1) of section 28.

23. Annual and special reports of State Commission.—(1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause all the reports referred to in sub-section (1) to be laid before each House of State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) The annual report shall be prepared in such form, manner and contain such details as may be prescribed by the State Government.

24. Application of certain provisions relating to National Commission for Protection of Child Rights to State Commissions.—The provisions of sections 7, 8, 9, 10, sub-section (1) of section 13 and sections 14 and 15 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:—

- (a) references to “Commission” shall be construed as references to “State Commission”;
- (b) references to “Central Government” shall be construed as references to “State Government”; and
- (c) references to “Member-Secretary” shall be construed as references to “Secretary”.

CHAPTER V

CHILDREN’S COURTS

25. Children's Courts.—For the purpose of providing speedy trial of offences against children or of violation of child rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify at least a court in the State or specify, for each district, a Court of Session to be a Children's Court to try the said offences:

Provided that nothing in this section shall apply if—

- (a) a Court of Session is already specified as a special court; or
- (b) a special court is already constituted, for such offences under any other law for the time being in force.

26. Special Public Prosecutor.—For every Children's Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

27. Grants by Central Government.—(1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums of money as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

28. Grants by State Governments.—(1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

(2) The State Commission may spend such sums of money as it thinks fit for performing the functions under Chapter III of this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

29. Accounts and audit of Commission.—(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

30. Accounts and audit of State Commission.—(1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

CHAPTER VII

MISCELLANEOUS

31. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Commission, the State Commission, or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made there under or in respect of the publication by or under the authority of the Central Government, State Government, Commission, or the State Commission of any report or paper.

32. Chairperson, Members and other officers to be public servant.—Every Member of the Commission, State Commission and every officer appointed in the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

33. Directions by Central Government.—(1) In the discharge of its functions under this Act, the Commission shall be guided by such directions on questions of policy relating to national purposes, as may be given to it by the Central Government.

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government thereon shall be final.

34. Returns or information.—The Commission shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

35. Power to Central Government to make rules.—(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) terms and conditions of service of the Chairperson and Members of the Commission and their salaries and allowances under section 6;

(b) the procedure to be followed by the Commission in the transaction of its business at a meeting under sub-section (4) of section 10;

(c) the powers and duties which may be exercised and performed by the Member- Secretary of the Commission under sub-section (2) of section 11;

(d) the salary and allowances and other terms and conditions of service of officers and other employees of the Commission under sub-section (3) of section 11; and

(e) form of the statement of accounts and other records to be prepared by the Commission under sub-section (1) of section 29.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions afore said, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

36. Power of State Government to make rules.—(1) The State Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) terms and conditions of service of the Chairperson and Members of the State Commission and their salaries and allowances under section 20;

(b) the procedure to be followed by the State Commission in the transaction of its business at a meeting under sub-section (4) of section 10 read with section 24;

(c) the powers and duties which may be exercised and performed by the Secretary of the State Commission under sub-section (2) of section 21;

(d) the salary and allowances and other terms and conditions of service of officers and other employees of the State Commission under sub-section (3) of section 21; and

(e) form of the statement of accounts and other records to be prepared by the State Commission under sub-section (1) of section 30.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.

37. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

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अधिसूचना

नई दिल्ली, 31 जुलाई, 2006

सा.का.नि. 450(अ).— केन्द्रीय सरकार, बालक अधिकार संरक्षण आयोग अधिनियम, 2005 (2006 का 4) की धारा 35 की उपधारा (2) के खंड (क) से खंड (घ) के साथ पठित उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित नियम बनाती है, अर्थात् :-

1. (1) **संक्षिप्त नाम और प्रारंभ :-** इन नियमों का संक्षिप्त नाम और प्रारंभ बालक अधिकार संरक्षण राष्ट्रीय आयोग नियम, 2006 है।

(2) ये उस तारीख को प्रवृत्त होंगे जब बालक अधिकार संरक्षण आयोग अधिनियम, 2006 (2006 का 4) प्रवृत्त होगा।

2. **परिभाषाएं :-** इन नियमों में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,-

(क) “अधिनियम” से बालक अधिकार संरक्षण आयोग अधिनियम, 2005 (2006 का 4) अभिप्रेत है ;

- (ख) “आयोग” से धारा 3 के अधीन गठित राष्ट्रीय बालक अधिकार संरक्षण आयोग अभिप्रेत है ;
- (ग) “अध्यक्ष” से आयोग का अध्यक्ष अभिप्रेत है ;
- (घ) “सदस्य” से आयोग का सदस्य अभिप्रेत है ;
- (ङ) “सदस्य सचिव” से आयोग का सदस्य सचिव अभिप्रेत है ;
- (च) “धारा” से अधिनियम की धारा अभिप्रेत है ;
- (छ) उन शब्दों और पदों के जो इन नियमों में प्रयुक्त हैं और परिभाषित नहीं हैं किंतु अधिनियम में परिभाषित हैं वही अर्थ होंगे जो उस अधिनियम में है ।

3. अध्यक्ष और अन्य सदस्यों के रूप में नियुक्ति के लिए पात्रता :- कोई भी व्यक्ति जिसका मानव अधिकार या बालक अधिकारों के अतिक्रमण का पूर्ववृत्त रहा है, आयोग में अध्यक्ष या अन्य सदस्यों के रूप में नियुक्ति का पात्र नहीं होगा ।

4. सदस्य सचिव :- (1) धारा 11 की उपधारा (1) के अधीन केन्द्रीय सरकार द्वारा नियुक्त सदस्य सचिव

(2) सदस्य सचिव का न्यूनतम कार्यकाल तीन वर्ष होगा ।

5. सदस्य सचिव की शक्तियां और कर्तव्य :- (1) सदस्य सचिव--

- (i) धारा 13 और धारा 14 में यथा उपबंधित आयोग की शक्तियां और कृत्यों को करने के क्रम में आयोग द्वारा किए गए सभी विनिश्चयों का निष्पादन करने की शक्ति रखेगा ;
- (ii) आयोग के कार्य के समुचित प्रशासन और धारा 11 में यथा विनिर्दिष्ट इसके दिन प्रतिदिन प्रबंध के लिए यथा अपेक्षित ऐसी शक्तियों का प्रयोग करेगा और ऐसे कर्तव्यों का पालन करेगा ।
- (iii) अध्यक्ष के परामर्श से आयोग की बैठकों को आहूत करेगा और सभी सम्बद्ध व्यक्तियों की बैठकों की सूचनाओं को तामील करेगा ;
- (iv) यह सुनिश्चित करने के लिए कदम उठाएगा कि आयोग की बैठक आहूत करने के लिए अपेक्षित गणपूर्ति सुनिश्चित हों ;
- (v) अध्यक्ष के परामर्श से आयोग की प्रत्येक बैठक के लिए कार्यसूची तैयार करेगा और सचिवालय द्वारा तैयार किए टिप्पण रखेगा और जहां तक संभव हों ऐसे टिप्पण स्वतः स्पष्ट हों ;

- (vi) कार्यसूची मर्दों में आने वाले विनिर्दिष्ट अभिलेखों को आयोग को संदर्भ के लिए आयोग को उपलब्ध कराएगा ;
 - (vii) यह सुनिश्चित करेगा कि कार्यसूची के कागजपत्र कम से कम बैठक से अग्रिम दो स्पष्ट कार्यदिवसों में सदस्यों को परिचालित करेगा, सिवाय उन मामलों के जहां तत्काल ध्यान अपेक्षित हो ।
 - (viii) आयोग की बैठक के कार्यवृत्त तैयार करेगा और बैठक में लिए गए आयोग के विनिश्चयों का निष्पादन करेगा और इसकी पश्चात्पूर्ती बैठक में आयोग के समक्ष आयोग के विनिश्चयों पर की गई कार्यवाही के टिप्पण का रखवाना भी सुनिश्चित करेगा ।
 - (ix) यह सुनिश्चित करेगा कि आयोग की प्रक्रिया इसके कारबार के संव्यवहार द्वारा अनुसरित है ।
 - (x) अनुदान देने, पदों के सृजन, वेतनमान का पुनरीक्षण, यानों का उपापन, कर्मचारिवृंद की नियुक्ति, संसद् में वार्षिक और लेखा परीक्षा रिपोर्ट को रखने, नियमों का पुनर्विनियोग, आवासीय स्थान, विदेश में प्रतिनियुक्ति के लिए आयोग के किसी अधिकारियों को अनुज्ञात करने और केन्द्रीय सरकार के अनुमोदन के लिए अपेक्षा करने वाले किसी अन्य विषय के संबंध में, महिला और बाल विकास मंत्रालय से ऐसे सभी मामलों पर विचार करेगा ।
 - (xi) ऐसी वित्तीय शक्तियों का प्रयोग करना जो उसे अध्यक्ष द्वारा आयोग की ओर से प्रत्यायोजित की गई हों ;
परंतु एक लाख रुपए से अधिक की किसी मद पर कोई व्यय अध्यक्ष के अनुमोदन बिना उपगत नहीं किया जाएगा ;
 - (xii) आयोग के अधिकारियों और अन्य कर्मचारिवृंद के संबंध में नियुक्ति और अनुशासनिक प्राधिकारी होगा ।
6. अध्यक्ष और अन्य सदस्यों की पदावधि :- (1) अध्यक्ष, जब तक उसे धारा 7 के अधीन पद से हटा नहीं दिया जाता, तीन वर्ष से अनधिक अवधि या 65 वर्ष की आयु तक, जो भी पूर्वतर हो, पद धारण करेगा ।

(2) प्रत्येक सदस्य जब तक कि उसे धारा 7 के अधीन पद से हटा नहीं दिया जाता तीन वर्ष की अनधिक अवधि या 60 वर्ष की आयु जो भी पहले हो, पद धारण करेगा ।

(3) उपनियम (1) या उपनियम (2) में किसी भी बात के अंतर्विष्ट होते हुए भी,-

- (क) कोई व्यक्ति जो अध्यक्ष का पद धारण कर चुका वह है पुनःनामनिर्देशन के लिए पात्र होगा ; और
- (ख) कोई सदस्य जो सदस्य का पद धारण कर चुका है वह सदस्य के रूप में पुनःनामनिर्देशन के लिए या अध्यक्ष के रूप में नामनिर्देशन का पात्र होगा ;

परन्तु यह कि कोई व्यक्ति जो दो अवधि के लिए अध्यक्ष या सदस्य किसी भी क्षमता में रह चुका है, तो यथास्थिति, अध्यक्ष के रूप में या सदस्य के रूप में पुनःनामनिर्देशन के लिए पात्र नहीं होगा ।

(4) यदि अध्यक्ष, बीमारी या किसी अन्य अक्षमता के कारण अपने कृत्यों का निर्वहन करने में असमर्थ है तो केंद्रीय सरकार किसी अन्य सदस्य को अध्यक्ष के रूप में कार्य करने के लिए नामनिर्दिष्ट करेगी और इस प्रकार नामनिर्दिष्ट सदस्य अध्यक्ष का पद तब तक धारित करेगा जब तक अध्यक्ष अपनी शेष अवधि तक पद पुनः ग्रहण नहीं कर लेता ।

(5) अध्यक्ष या कोई सदस्य, केन्द्रीय सरकार को अपने हस्ताक्षर सहित लेख द्वारा सम्बोधन में किसी समय अपना पद त्याग कर सकेगा ।

(6) मृत्यु, पद त्याग या किसी अन्य कारण से हुई कोई रिक्ति, ऐसी रिक्ति के होने की तारीख से नब्बे दिन के भीतर नामनिर्दिष्टन द्वारा पुनः भर ली जाएगी ।

7. वेतन और भत्ते --(1) धारा 6 में अन्यथा यथाउपबंधित के सिवाए, अध्यक्ष को भारत सरकार के मंत्रिमंडल सचिव के वेतन के समतुल्य वेतन संदत्त किया जाएगा और प्रत्येक अन्य सदस्य को भारत सरकार के सचिव के समतुल्य वेतन संदत्त किया जाएगा :

परन्तु जहां कोई अध्यक्ष या कोई अन्य सदस्य सरकारी, अर्धसरकारी निकाय, पब्लिक सेक्टर उपक्रम या अन्यथा प्राप्त अनुसंधान संस्था से सेवानिवृत्त सेवक है वहां उसके द्वारा प्राप्त पेंशन या सेवांत प्रसुविधाओं के पेंशनरी मूल्य या दोनों के साथ संदेय वेतन, अंतिम लिए गए वेतन से अधिक नहीं होगा ।

(2) आयोग के प्रयोजन के लिए नियुक्त किए गए सदस्य सचिव और अन्य अधिकारियों तथा कर्मचारियों को संदेय वेतन और भत्ते पर उनकी निबंधन और शर्तें ऐसी होंगी जो केन्द्रीय सरकार द्वारा समय-समय पर अवधारित की जाएं ।

(3) यदि अध्यक्ष या कोई सदस्य केन्द्रीय सरकार या राज्य सरकार की सेवा में है तो उसका वेतन उसको लागू नियमों के अनुसार विनियमित किया जाएगा ।

8. मंहगाई भत्ता--अध्यक्ष और प्रत्येक अन्य सदस्य, केन्द्रीय सरकार के समतुल्य स्तर के अधिकारियों को अनुज्ञेय दर पर उनके वेतन का समुचित मंहगाई भत्ता प्राप्त करेगा ।

9. प्रतिकरात्मक (नगर) भत्ता--अध्यक्ष और प्रत्येक अन्य सदस्य केन्द्रीय सरकार के समतुल्य स्तर के अधिकारियों को अनुज्ञेय दरों पर उनके वेतन का समुचित प्रतिकरात्मक (नगर) भत्ता प्राप्त करेगा ।

10. छुट्टी--अध्यक्ष और प्रत्येक अन्य सदस्य निम्नानुसार छुट्टी का पात्र होगा--

(क) समय-समय पर यथासंशोधित केन्द्रीय सिविल सेवा (छुट्टी) नियम, 1972 के अनुसार केन्द्रीय सरकार के सेवकों की यथा अनुज्ञेय अर्जित छुट्टी, अर्धवेतन छुट्टी और परिवर्तित छुट्टी ;

(ख) समय-समय पर यथासंशोधित केन्द्रीय सिविल सेवा (छुट्टी) नियम, 1972 के अधीन अस्थायी केन्द्रीय सरकार के सेवकों को यथा अनुज्ञेय असाधारण छुट्टी ।

11. छुट्टी मंजूर करने का प्राधिकारी—(1) केन्द्रीय सरकार अध्यक्ष को छुट्टी मंजूर करने के लिए सक्षम प्राधिकारी होगी।

(2) अध्यक्ष प्रत्येक सदस्य जिसमें सदस्य सचिव भी सम्मिलित है, छुट्टी मंजूर करने के लिए प्राधिकारी होगा।

(3) सदस्य-सचिव, आयोग के किसी अधिकारी या अन्य कर्मचारी की छुट्टी मंजूर करने के लिए प्राधिकारी होगा।

12. यात्रा भत्ता—(1) अध्यक्ष और प्रत्येक अन्य सदस्य, केन्द्रीय सरकार के पद के समतुल्य अनुज्ञेय उनके वेतन की समुचित दरों पर यात्रा भत्ता और दैनिक भत्ता लेने के लिए हकदार होगा।

(2) अध्यक्ष और प्रत्येक अन्य सदस्य अपनी यात्रा भत्ता और दैनिक भत्ते से संबंधित अपने बिलों के संबंध में स्वयं का नियंत्रक अधिकारी होगा।

13. निवास स्थान—(1) अध्यक्ष और प्रत्येक अन्य सदस्य भारत सरकार द्वारा यथा अवधारित किसी शासकीय निवास का उपयोग करने के लिए हकदार होगा।

(2) यदि अध्यक्ष या सदस्य को उपनियम (1) के अधीन उपबंधित वास सुविधा नहीं दी गई है या वह स्वयं प्राप्त नहीं करता है तो उसे केन्द्रीय सरकार के किसी समतुल्य पंक्ति के अधिकारियों को अनुज्ञेय दरों पर प्रत्येक मास में किराया भत्ता संदाय किया जाएगा।

14. वाहन की सुविधा—अध्यक्ष और प्रत्येक अन्य सदस्य, समय-समय पर यथासंशोधित भारत सरकार के स्टाफ कार नियम के अनुसार शासकीय और प्राइवेट प्रयोजन के लिए यात्रा के लिए स्टाफ कार की सुविधा का हकदार होगा।

15. चिकित्सीय उपचार की सुविधा—अध्यक्ष और प्रत्येक अन्य सदस्य केन्द्रीय सरकार अंशदान स्वास्थ्य स्कीम नियम, 1954 में यथाउपबंधित समतुल्य पंक्ति के केन्द्रीय सरकार के सेवकों को यथा लागू चिकित्सीय उपचार और अस्पताल सुविधाओं का हकदार होगा।

16. अवशिष्ट उपबंध—अध्यक्ष और अन्य सदस्यों की सेवा की शर्तें, जिनके लिए इन नियमों में कोई स्पष्ट उल्लेख नहीं किए गए हैं, वे ऐसी होंगी जैसी केन्द्रीय सरकार द्वारा अवधारित की जाएं।

17. आयोग के कृत्य—आयोग, धारा 13 की उपधारा (1) के खंड (क) से खंड (ज) तक के अधीन समनुदेशित कृत्यों के अतिरिक्त निम्नलिखित कृत्य करेगा, अर्थात् :—

(क) बालक के अधिकार संबंधी अभिसमय का अनुपालन का निर्धारण करने के लिए विद्यमान विधि, नीति, और पद्धति का विश्लेषण करना, बालकों को प्रभावित करने वाली नीति या प्रथा के किसी पहलु के संबंध में जांचें करना और रिपोर्ट प्रस्तुत करना तथा बालक अधिकार परिप्रेक्ष्य से प्रस्तावित नए विधान पर टिप्पणी करना ;

(ख) उन सुझावों के कार्यकरण पर केन्द्रीय सरकार को वार्षिक रूप में और ऐसे अन्य अन्तरालों पर, जैसा आयोग ठीक समझे, रिपोर्ट देना ;

(ग) वहां औपचारिक अन्वेषण करना जहां चिन्ता या तो स्वयं बालकों द्वारा या उनकी ओर से संबद्ध व्यक्ति द्वारा की गई है।

(घ) यह सुनिश्चित करना कि आयोग का कार्य बालकों की दृष्टि द्वारा सीधा सूचित किया जाता है जिससे उनकी प्राथमिकताओं तथा परिप्रेक्ष्यों को परिलक्षित किया जा सके ;

(ङ) अपने कार्य में तथा बालक से संबंधित सभी सरकारी विभागों तथा संगठनों के कार्य में बालकों की दृष्टि का संवर्धन करना, उनका आदर करना तथा उनपर गंभीर विचार करना ;

(च) बालक अधिकारों के संबंध में सूचना प्रस्तुत करना और उसका प्रसार करना ;

(ज) बालकों के संबंध में आकड़े संकलित करना तथा उनका विश्लेषण करना ;

(झ) विद्यालय पाठ्यक्रम, अध्यापक तथा बालकों से संबंधित कार्मिकों के प्रशिक्षण में बालक अधिकारों के समावेशन को प्रोत्साहन देना ।

18. कारबार के संव्यवहार के लिए प्रक्रिया—(1) आयोग दिल्ली स्थित अपने कार्यालय में ऐसे समय पर नियमित रूप से बैठक करेगा जैसा अध्यक्ष ठीक समझे, किन्तु अन्तिम बैठक तथा अगली बैठक के बीच तीन मास का अन्तर नहीं होगा ।

(2) आयोग सामान्यतः दिल्ली अवस्थित अपने कार्यालय में अपनी बैठक करेगा किन्तु अपने विवेकानुसार भारत में किसी अन्य स्थान पर अपनी बैठक कर सकेगा यदि वह ऐसा करना आवश्यक या समीचीन समझता है ।

(3) सचिवालय सहायता :— सदस्य सचिव, ऐसे अधिकारियों के साथ, जैसा अध्यक्ष निदेश दे, आयोग की बैठकों में उपस्थित होगा ।

(4) (i) सदस्य सचिव, अध्यक्ष के परामर्श से आयोग की प्रत्येक बैठक के लिए कार्यसूची तैयार करेगा और सचिवालय द्वारा तैयार टिप्पण रखेगा और ऐसे टिप्पण, यथासंभव स्वतः पूर्ण होंगे ।

(ii) कार्यसूची की मदों को सम्मिलित करने वाले अभिलेखों को आयोग के निर्देश के लिए तुरंत उपलब्ध कराया जाएगा ;

(iii) ऐसे मामलों को, जिनमें अत्यावश्यक ध्यान अपेक्षित हो, छोड़कर कार्यसूची पत्रों को सदस्यों को सामान्यतः बैठक से कम से कम दो स्पष्ट कार्य दिवस पूर्व परिचालित किया जाएगा ।

5) आयोग की प्रत्येक बैठक में अध्यक्ष सहित चार सदस्य गणपूर्ति करेंगे ।

(6) आयोग की बैठकों में सभी निर्णय बहुमत से लिए जाएंगे :

परन्तु समान मतों के मामले में अध्यक्ष, या उसकी अनुपस्थिति में पीठासीन व्यक्ति द्वितीय या निर्णायक मत का प्रयोग करेगा ।

(7) यदि किसी कारणवश, अध्यक्ष आयोग की बैठक में उपस्थित होने के लिए असमर्थ है तो बैठक में उपस्थित सदस्यों द्वारा स्वयं में से चुना गया कोई सदस्य अध्यक्षता करेगा ।

19. बैठक के कार्यवृत्त : (1) आयोग की प्रत्येक बैठक के कार्यवृत्तों को स्वयं बैठक के दौरान या उसके तुरंत पश्चात् आयोग के सदस्य-सचिव या किसी अन्य अधिकारी द्वारा, जैसा कि निदेश दिया जाए, लेखबद्ध किया जाएगा ।

(2) आयोग की बैठक के कार्यवृत्तों को अनुमोदन के लिए अध्यक्ष को प्रस्तुत किया जाएगा और अनुमोदन के पश्चात् उन्हें शीघ्रतम और किसी भी दशा में अगली बैठक के प्रारंभ से पर्याप्त समय पूर्व सभी सदस्यों को परिचालित किया जाएगा।

(3) आयोग द्वारा प्रारंभ किए गए प्रत्येक मामले में उसके निष्कर्षों को किसी राय के रूप में लेखबद्ध किया जाएगा और विरोधी राय, यदि दी जाती है तो अभिलेख का भाग होगी और उसमें रखी जाएगी। जहां राय में कोई मतभेद है वहां बहुमत राय के आधार पर कार्यवाही की जाएगी।

(4) आयोग के सभी आदेशों और विनिर्देशों को सदस्य सचिव या सदस्य सचिव द्वारा अध्यक्ष के इस निमित्त पूर्व अनुमोदन के साथ सम्यक् रूप से प्राधिकृत आयोग के किसी अन्य अधिकारी द्वारा अधिप्रमाणित किया जाएगा।

(5) जब तक कि विनिर्दिष्ट रूप से प्राधिकृत न किया गया हो आयोग के सचिवालय द्वारा बैठक के कार्यवृत्तों पर तब तक कोई कार्यवाही नहीं की जाएगी जब तक अध्यक्ष उसकी पुष्टि न कर दे।

(6) आयोग की सभी बैठकों और रायों की, सदस्य-सचिव द्वारा सम्यक् रूप से अधिप्रमाणित अभिलेख की एक मास्टर प्रति बनाए रखी जाएगी।

(7) प्रत्येक मद से संबंधित कार्यवृत्तों की एक प्रति को समुचित कार्यवाही के लिए संबंधित फाइलों में रखा जाएगा। रायों को संबंधित अभिलेखों में रखा जाएगा और सुविधा के लिए उनकी प्रतियों को समुचित अनुक्रमणिका के साथ गार्ड फाइलों में रखा जाएगा।

20. की गई कार्रवाई की रिपोर्ट—सदस्य-सचिव प्रत्येक पश्चातवर्ती बैठक में अनुवर्ती कार्रवाई की रिपोर्ट आयोग को प्रस्तुत करेगा जिसमें ऐसी मदों को छोड़कर जिनपर आगे कार्रवाई अपेक्षित नहीं है, ऐसी प्रत्येक मद पर, जिसके संबंध में आयोग द्वारा उसकी किसी पूर्व बैठक में कोई निर्णय लिया गया था, पर की गई कार्रवाई के विद्यमान प्रक्रम को उपदर्शित किया जाएगा।

21. मुख्यालय से बाहर कारबार का संव्यवहार : अध्यक्ष द्वारा जब कभी पूर्व में अनुमोदित किए जाने पर आयोग या कोई सदस्य मुख्यालय से बाहर कारबार का संव्यवहार कर सकेंगे, परन्तु यदि अधिनियम के अधीन किसी जांच के संबंध में पक्षकारों को सुना जाना है, तो कम से कम दो सदस्य ऐसे प्रयोजन के लिए आयोग की खंडपीठ गठित करेंगे।

22. परामर्शदाताओं का पैनल : (1) आयोग विभिन्न प्रकार के कार्यों जैसे अन्वेषण या जांच, कृतिक बलों या समितियों को सेवा देने और विश्लेषण के लिए अनुसंधान और परामर्शदाताओं का एक पैनल बना सकेगा।

(2) आयोग पैनल बनाने के लिए शैक्षिक, अनुसंधान, प्रशासनिक, अन्वेषणीय, विधिक या सिविल सामाजिक समूहों से विशेषज्ञ ले सकेगा।

(3) आयोग इन परामर्शदाताओं का पैनल बनाने के लिए एक पारदर्शी प्रक्रिया अपना सकेगा ताकि वे कार्यों के त्वरित प्रत्यायोजन के लिए उपलब्ध हो सकें।

23. वार्षिक रिपोर्ट : (1) आयोग प्रत्येक वर्ष 31 दिसंबर से पूर्व केन्द्रीय सरकार को प्रस्तुत करने के लिए एक वार्षिक रिपोर्ट तैयार और प्रकाशित करेगा।

(2) आयोग अध्यक्ष के निदेश के अधीन जब कभी विनिर्दिष्ट विवादों पर विशेष रिपोर्टें भी तैयार कर सकेगा।

(3) केन्द्रीय सरकार, आयोग की वार्षिक रिपोर्ट और विशेष रिपोर्टों को संसद के प्रत्येक सदन के समक्ष रखवाएगी ।

(4) वार्षिक रिपोर्ट में किसी अन्य मामले के, जिसे आयोग रिपोर्ट में सम्मिलित करना आवश्यक समझे, अलावा प्रशासनिक और वित्तीय मामलों पर जानकारी, अन्वेषित/जांच किए गए परिवादों, मामलों पर की गई कार्रवाई, अनुसंधान के ब्यौरे, पुनरीक्षणों, शैक्षणिक और संवर्धन प्रयासों, परामर्शों, किसी मामले पर आयोग के ब्यौरे और विनिर्दिष्ट सिफारिशों को सम्मिलित करेगी ।

(5) यदि आयोग यह समझता है कि वार्षिक रिपोर्ट तैयार करने में समय लग सकता है, तो वह विशेष रिपोर्ट तैयार कर सकेगा और केन्द्रीय सरकार को प्रस्तुत कर सकेगा ।

(6) वे प्ररूप जिनमें बजट तैयार और उपबंधित किया जा सकेगा तथा केन्द्रीय सरकार को भेजा जा सकेगा अनुसूची 1 के प्ररूप 1, प्ररूप 2, प्ररूप 3 और प्ररूप 4 में उपबंधित के अनुसार होगा ।

(7) सुसंगत वित्तीय वर्ष के लिए प्राक्कलित प्राप्तियां और व्यय पुनरीक्षित बजट प्राक्कलनों के साथ होंगे ।

(8) बजट, जहां तक हो सके, अनुसूची 2 में विनिर्दिष्ट लेखा शीर्षों पर आधारित होगा ।

24. वित्तीय शक्तियां—(1) आयोग इस अधिनियम के प्रयोजनों के लिए उसके द्वारा प्राप्त धनराशियों को व्यय करेगा ।

(2) उन मामलों के सिवाय, जिनको केन्द्रीय सरकार का पूर्व अनुमोदन अपेक्षित है, अध्यक्ष आयोग के वित्तीय संव्यवहार से संबंधित सभी शक्तियां रखेगा ।

(3) अध्यक्ष, पदों के सृजन, वेतनमानों के पुनरीक्षण, यानों के उपापन, निधियों के एक शीर्ष से दूसरे शीर्ष में पुनर्विनियोग, आयोग के किसी अधिकारी को सेमीनारों, सम्मेलनों या प्रशिक्षण कार्यक्रमों में विदेश में भाग लेने के लिए अनुज्ञात करने और केन्द्रीय सरकार द्वारा आदेश द्वारा अक्धारित ऐसे अन्य मामलों में केन्द्रीय सरकार का पूर्व अनुमोदन प्राप्त करेगा ।

(4) अध्यक्ष, ऐसी शर्तों और परिसीमाओं तथा नियंत्रण और पर्यवेक्षण के अधीन रहते हुए, अपनी वित्तीय शक्तियों को किसी सदस्य या सदस्य-सचिव को प्रत्यायोजित करेगा :

परन्तु अध्यक्ष के पूर्व अनुमोदन के बिना ऐसी कोई शक्ति किसी मद पर एक लाख रुपए से अधिक व्यय उपगत करने के संबंध में प्रत्यायोजित नहीं की जाएगी ।

(5) अध्यक्ष को मानदेय, यात्रा भत्ता, मंहगाई भत्ता से संबंधित अग्रिम निबंधनों और शर्तों पर सहमत होने पर किसी विनिर्दिष्ट प्रयोजन और विनिर्दिष्ट अवधि के लिए किसी व्यक्ति या व्यक्तियों को परामर्शदाता या परामर्शदाताओं के रूप में नियुक्त करने की शक्तियां होंगी ।

(6) सदस्य-सचिव को अध्यक्ष या किसी अन्य सदस्य द्वारा वित्तीय मामलों से संबंधित उसकी ओर से लिए गए सभी विनिश्चयों को निष्पादित करने की शक्तियां होंगी ।

(7) आयोग की सभी वित्तीय शक्तियां साधारण वित्तीय नियम, वित्तीय शक्ति नियम के प्रत्यायोजन और केन्द्रीय सरकार के वित्त मंत्रालय द्वारा समय-समय पर जारी आर्थिक अनुदेशों द्वारा शासित होंगी ।

प्ररूप 2
राष्ट्रीय बालक अधिकार संरक्षण आयोग
स्थापना
वर्ष 200.....-200..... के लिए अधिकारियों के वेतन/स्थापन के लिए उपबंध की विवरणी
(नियम 23(6) देखिए)

1 नाम और पदनाम	2 प्राप्तकालित प्ररूप के पृष्ठ संदर्भ	3		4 संलग्न में वर्ष के लिए दी गई दर पर उपबंध की रकम	5 वर्ष के भीतर शोध वेतन वृद्धि			6 वर्ष के लिए कुल उपबंध कुल अर्थात् कुल संलग्न 4 और 5	7 टिप्पणियाँ
		पद का स्वीकृत वेतन	अगले वर्ष की 1 अप्रैल को देय संबंधित व्यक्ति का न्यूनतम/अधिकतम वार्षिक वास्तविक वेतन		वेतनवृद्धि की तारीख	वेतनवृद्धि की दर	वर्ष के लिए वेतनवृद्धि रकम		
		(क)	(ख)	(ग)	(क)	(ख)	(ग)		

प्ररूप 3
राष्ट्रीय बालक अधिकार संरक्षण आयोग
अभिहित नामावली
(नियम 23(6) देखिए)

नाम और पदनाम	वेतन	मंहुगाई भत्ता	प्रतिकरात्मक (नगरे) भत्ता	गृह किराया भत्ता	अतिकाल भत्ता	बालक शैक्षणिक भत्ता	यात्रा छुट्टी स्थायित	अन्य भत्ते	कुल
1	2	3	4	5	6	7	8	9	10

अधिकार संख्या १८
अधिकार संख्या १८
अधिकार संख्या १८
(निम्न २३ (६) देखिए)

1	2	3	4	5	6	7	8	9
1. वर्ष, 200... को वास्तविक स्वीकृत संख्या	वर्ष को विवरण	राज्य राजट अनुदान 20...-20...	पुनरीक्षित 20...-20...	प्राक्कलन	बजट प्राक्कलन 20...-20...	स्वीकृत प्राक्कलन और प्राक्कलनों के बीच अंतर के लिए स्पष्टीकरण		
		सम्मिलित पदों की सं०	वैतन भत्ते	सम्मिलित पदों की सं०	वैतन भत्ते	सम्मिलित पदों की सं०	वैतन भत्ते	
1	2	3	4	5	6	7	8	9
I. अधिकारी (क) भरे गए पद (ख) खाली पद कुल अधिकारी I								
II. स्थापन (क) भरे गए पद (ख) खाली पद कुल II स्थापन								
III. वर्ग IV (क) भरे गए पद (ख) खाली पद कुल III- वर्ग IV								
कुल योग - I, II और III								

अनुसूची 2
बजट और लेखा शीर्ष
(नियम 23(8) देखिए)
प्रशासन
लेखाओं के शीर्ष (व्यय)

1. वेतन
2. मजदूरी
3. यात्रा व्यय
4. कार्यालय व्यय
 - (क) फर्नीचर
 - (ख) पोस्टेज
 - (ग) कार्यालय मशीन/उपकरण
 - (घ) बर्तन
 - (ङ) गर्म और ठंडे मौसम मद भार
 - (च) टेलीफोन
 - (छ) विद्युत और जल प्रभार
 - (ज) लेखन सामग्री
 - (झ) मुद्रण
 - (ञ) स्टाफ कार और अन्य वाहन
 - (ट) अन्य मदें
5. फीस और मानदेय
6. व्यावसायिक और विशेष सेवाओं के लिए संदाय
7. भाटक, दरें और कर/रायल्टी
8. प्रकाशन
9. विज्ञापन विक्रय और प्रकाशन व्यय
10. सहायता अनुदान/अभिदाय/सहायिकी
11. आतिथ्य व्यय/सत्कार भत्ता आदि
12. पेंशन/ग्रेच्युटी
13. अपलिखित/हानि
14. अनुलंब
15. अन्य प्रभार (अवशिष्ट शीर्ष जिसमें सम्मान और पुरस्कार भी सम्मिलित होंगे)

लेखा शीर्ष (प्राप्तियां)

1. केन्द्रीय सरकार द्वारा संदाय
2. अन्य प्राप्तियां

[फा. सं. 3-2/2005-सीडब्ल्यू]
 लवलीन कक्कड़, संयुक्त सचिव

MINISTRY OF WOMEN AND CHILD DEVELOPMENT**NOTIFICATION**

New Delhi, the 31st July, 2006

G.S.R. 450(E).—In exercise of the powers conferred by sub-section (1), read with clauses (a) to (d) of sub-section (2), of section 35 of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.— (1) These rules may be called the National Commission for Protection of Child Rights Rules, 2006.

(2) They shall come into force on the date on which the Commission for Protection of Child Rights Act, 2005 (4 of 2006) shall come into force.

2. Definitions.— In these rules, unless the context otherwise requires,—

- (a) “Act” means the Commissions for Protection of Child Rights Act, 2005 (4 of 2006);
- (b) “Commission” means the National Commission for Protection of Child Rights constituted under section 3;
- (c) “Chairperson” means the Chairperson of the Commission;
- (d) “Member” means the Member of the Commission;
- (e) “Member Secretary” means the Member Secretary of the Commission;
- (f) “section” means a section of the Act;
- (g) words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Eligibility for appointment as Chairperson and other Members: No person having any past record of violation of human rights or child rights shall be eligible for appointment as Chairperson or other Members of the Commission.

4. Member Secretary.— (1) The Member–Secretary appointed by the Central Government under sub-section (1) of section 11

(2) The Member Secretary shall have a minimum tenure of three years.

5. Powers and duties of the Member-Secretary— (1) The Member-Secretary shall—

- (i) have power to execute all decisions taken by the Commission in order to carry out the powers and functions of the Commission as provided in sections 13 and 14;
- (ii) exercise and discharge such powers and perform such duties as are required for the proper administration of the affairs of the Commission and its day to day management as specified in section 11;
- (iii) convene the meetings of the Commission in consultation with its Chairperson and serve notices of the meetings to all concerned;
- (iv) take steps to ensure that the quorum required for convening a meeting of the Commission is secured;
- (v) prepare, in consultation with the Chairperson, the agenda for each meeting of the Commission and have notes prepared by the Secretariat and such notes shall, as far as possible, be self-contained;
- (vi) make available specific records covering the agenda items to the Commission for reference;
- (vii) ensure that the agenda papers are circulated to the Members at least two clear working days in advance of the meeting, except in cases when urgent attention is required;
- (viii) prepare the minutes of the meetings of the Commission and shall execute the decisions of the Commission taken in the meeting and shall also ensure placing of the Action Taken Note of the decisions of the Commission before the Commission in its subsequent meetings;
- (ix) ensure that the procedure of the Commission is followed by it in transaction of its business;
- (x) take up all such matters with the Ministry of Women and Child Development for release of grants, creation of posts, revision of scales, procurement of vehicles, appointment of staff, laying of annual and audit report in Parliament, re-appropriation of funds, residential accommodation, permitting any officer of the Commission for deputation abroad and any other matter requiring the approval of the Central Government;
- (xi) exercise such financial powers as are delegated to him by the Chairperson on behalf of the Commission:
Provided that no expenditure on an item exceeding one lakh rupees shall be incurred without the sanction of the Chairperson;
- (xii) be the appointing and disciplinary authority in respect of officers and other employees of the Commission.

6. Term of office of Chairperson and other Members.— (1) The Chairperson shall, unless removed from office under section 7, hold office for a period not exceeding three years, or till the age of sixty-five years, whichever is earlier.

(2) Every Member shall, unless removed from office under section 7, hold office for a period not exceeding three years, or till the age of sixty years, whichever is earlier.

(3) Notwithstanding anything contained in sub-rule (1) or sub-rule (2),—

(a) a person who has held the office of chairperson shall be eligible for re-nomination, and

(b) a person who has held the office of a Member shall be eligible for re-nomination as a member or nomination as a Chairperson:

Provided that a person who has held an office of Chairperson or Member for two terms, in any capacity shall not be eligible for re-nomination as Chairperson or, as the case may be, as Member.

(4) If the Chairperson is unable to discharge his functions owing to illness or other incapacity, the Central Government shall nominate any other Member to act as Chairperson and the Member so nominated shall hold office of Chairperson until the Chairperson resumes office or till the remainder of his term.

(5) The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign his office at any time.

(6) A vacancy caused by death, resignation or any other reason shall be filled-up by nomination within ninety days from the date of occurrence of such vacancy.

7. Salaries and allowances.— (1) Save as otherwise provided in section 6, the Chairperson shall be paid salary equivalent to the salary of the Cabinet Secretary to the Government of India and every other Member shall be paid salary equivalent to that of a Secretary to the Government of India.

Provided that where the Chairperson or any other Member is a retired Government servant, Semi-Government body, public sector undertaking or recognized research institution, the salary payable together with the pension or pensionary value of the terminal benefits, or both, received by him shall not exceed to the last pay drawn.

(2) The salary and allowances payable to, and the other terms and conditions of service of the Member-Secretary and the other officers and other employees appointed for the purpose of the Commission shall be such as may be determined by the Central Government from time to time.

(3) If the Chairperson or a Member is in service of the Central Government or a State Government, his salary shall be regulated in accordance with the rules applicable to him.

8. Dearness allowance.— The Chairperson and every other Member shall receive dearness allowance appropriate to their pay at the rates admissible to officers of the equivalent level of the Central Government.

9. Compensatory (City) Allowance.— The Chairperson and every other Member shall receive compensatory (city) allowance appropriate to their pay at the rates admissible to officers of the Central Government of equivalent level.

10. Leave.— The Chairperson and every other Member shall be entitled to leave as follows:-

- (a) earned leave, half pay leave and commuted leave as admissible to Central Government servants in accordance with the Central Civil Services (Leave) Rules, 1972, as amended from time to time.
- (b) Extraordinary leave as admissible to the temporary Central Government servants under the Central Civil Services (Leave) Rules, 1972, as amended from time to time.

11. Leave sanctioning authority.— (1) The Central Government shall be the authority competent to sanction leave to the Chairperson.

(2) The Chairperson shall be the authority to sanction leave to every Member including the Member-Secretary.

(3) The Member-Secretary shall be the authority to sanction leave to any officer or other employee of the Commission.

12. Traveling allowance.— (1) The Chairperson and every other Member shall be entitled to draw traveling allowances and daily allowance at the rates appropriate to their pay admissible to equivalent post of the Central Government.

(2) The Chairperson and every other Member shall be his own controlling officer in respect of his bills relating to traveling allowances and daily allowances.

13. Residential accommodation.— (1) The Chairperson and every other Member shall be entitled to the use of an official residence as may be determined by the Government of India.

(2) If the Chairperson or a Member is not provided with or does not avail himself of the accommodation provided under sub-rule (1), he shall be paid every month house rent allowance at the rates admissible to officers of an equivalent rank in the Central Government.

14. Facility for conveyance.— The Chairperson and every other Member shall be entitled to the facilities of staff car for journeys for official and private purpose in accordance with the Staff Car Rules of the Government of India, as amended from time to time.

15. Facility for medical treatment.— The Chairperson and every other Member shall be entitled to medical treatment and hospital facilities as applicable to Central Government servants of equivalent rank as provided in the Central Government Contributory Health Scheme Rules, 1954 or as may be determined by the Central Government.

233567/06—3

16. Residuary provisions.— The conditions of service of the Chairperson and the other Members for which no express provision has been made in these rules shall be such as may be determined by the Central Government.

17. Functions of the Commission.— The Commission shall, in addition to the functions assigned to it under clauses (a) to (j) of sub-section(1) of section 13, perform the following functions, namely:—

- (a) analyze existing law, policy and practice to assess compliance with Convention on the Rights of the Child undertake inquiries and produce reports on any aspect of policy or practice affecting children and comment on proposed new legislation from a child rights perspective;
- (b) present to the Central Government annually and at such other intervals as the Commission may deem fit, reports upon the working of those safeguards;
- (c) undertake formal investigations where concern has been expressed either by children themselves or by concerned person on their behalf;
- (d) ensure that the work of the Commission is directly informed by the views of children in order to reflect their priorities and perspectives;
- (e) promote, respect and serious consideration of the views of children in its work and in that of all Government Departments and Organizations dealing with child;
- (f) produce and disseminate information about child rights;
- (g) compile and analyze data on children;
- (h) promote the incorporation of child rights into the school curriculum, teachers training and training of personnel dealing with children.

18. Procedure for transaction of business.— (1) The Commission shall meet regularly at its office at Delhi at such time as the Chairperson thinks fit, but three months shall not intervene between its last meeting and the next meeting.

(2) The Commission shall ordinarily hold its meetings in its office located in Delhi but may, in its discretion, hold its meetings at any other place in India if it considers it necessary or expedient to do so.

(3) **Secretariat assistance:** The Member-Secretary, along with such officers as the Chairperson may direct, shall attend the meetings of the Commission.

(4) (i) The Member-Secretary shall, in consultation with the Chairperson, prepare the agenda for each meeting of the Commission and shall have notes prepared by the Secretariat and such notes shall, as far as possible, be self-contained;

(ii) The records covering the agenda items shall be made readily available to the Commission for its reference;

(iii) The agenda papers shall ordinarily be circulated to members at least two clear working days in advance of the meeting, except in cases when urgent attention is required.

(5) Four members including the Chairperson shall form the quorum at every meeting of the Commission.

(6) All decisions of the Commission at its meetings shall be taken by majority:

Provided that in the case of equality of votes, the Chairperson, or in his absence the person presiding shall have and exercise a second or a casting vote.

(7) If, for any reason, the Chairperson is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting, shall preside.

19. Minutes of the meeting: (1) The minutes of each meeting of the Commission shall be recorded during the meeting itself or immediately thereafter by the Member-Secretary or by any other officer of the Commission as directed.

(2) The minutes of meeting of the Commission shall be submitted to the Chairperson for approval and, upon approval, be circulated to all members of the Commission at the earliest and in any case, sufficiently before the commencement of the next meeting.

(3) The conclusions of the Commission in every matter undertaken by it shall be recorded in the form of an opinion and dissenting opinions, if given, shall also form part of and be kept on record. Action shall be taken on the basis of majority opinion where there is any difference of opinion.

(4) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorized by the Member-Secretary with the prior approval of the Chairperson in this behalf.

(5) Unless specifically authorized, no action shall be taken by the Secretariat of the Commission on the minutes of the meetings until the Chairperson confirms the same.

(6) A master copy of the record of all meetings and opinions of the Commission shall be maintained duly authenticated by the Member-Secretary.

(7) A copy of the minutes pertaining to each item shall be kept in the respective files for appropriate action. Opinions shall be kept in respective records and for convenience, copies thereof with appropriate indexing shall be kept in guard files.

20. Report of Action Taken: Report of the follow up action shall be submitted by the Member Secretary to the Commission at every subsequent meeting indicating therein the present stage of action taken on each item on which the Commission had taken any decision in any of its earlier meetings, excepting the items on which no further action is called for.

21. Transaction of business outside headquarters: The Commission or some members may transact business at places outside its headquarters as and when previously approved by the Chairperson, provided that if parties are to be heard in connection with any inquiry under the Act, at least two members shall constitute the bench of the Commission for such purpose.

22. Panel of consultants: (1) The Commission may constitute a panel of consultants for assisting the Commission in a wide range of tasks such as investigation or inquiry; to serve on task forces or Committees and for research and analysis.

(2) The Commission may draw on experts from academic, research, administrative, investigative, legal or civil society groups to form the panel.

(3) The Commission may devise a transparent process for the empanelling these consultants so that they are available for quick delegation of tasks.

23. Annual report: (1) The Commission shall prepare and publish an annual report before the 31st December every year for submission to the Central Government.

(2) The Commission shall also prepare special reports on specific issues as and when necessary under the direction of the Chairperson.

(3) The Central Government shall cause the annual report and the special reports of the Commission to be laid before each House of Parliament.

(4) The annual report shall include information on administrative and financial matters; complaints investigated/inquired into; action taken on cases; details of research; reviews; education and promotion efforts; consultations; details and specific recommendations of the Commission on any matter, besides any other matter that the Commission may consider warranting inclusion in the report.

(5) In case the Commission considers that there could be a time lag for the preparation of the annual report, it may prepare and submit a special report to the Central Government.

(6) The forms in which the budget may be prepared and provided and forwarded to the Central Government shall be as provided in forms I, II, III and IV of Schedule I.

(7) The estimated receipts and expenditure shall be accompanied by the revised budget estimates for the relevant financial year.

(8) The budget shall, as far as may be, based on the account heads specified in Schedule II.

24. Financial powers.— (1) The Commission shall spend the sums of money received by it for the purposes of the Act.

(2) The Chairperson shall have all powers relating to financial transaction of the Commission, except in cases, which require prior approval of the Central Government.

(3) The Chairperson shall obtain prior approval of the Central Government in matters of creation of posts, revision of pay scales, procurement of vehicles, re-appropriation of funds from one head to another, permitting any officer of the Commission to participate in Seminars, conferences or training programmes abroad and such other matters determined by the Central Government, by order.

(4) The Chairperson shall, subject to such conditions and limitations and control and supervision, have powers to delegate his financial powers to any Member or the Member- Secretary:

Provided that no such powers shall be delegated in respect of incurring an expenditure on an item exceeding one lakh rupees without the prior approval of the Chairperson.

(5) The Chairperson shall have powers to engage any person or persons as consultant or consultants for a specific purpose and for a specific period on the terms and conditions agreed in advance relating to honorarium, traveling allowance, dearness allowance.

(6) The Member-Secretary shall have powers to execute all decisions taken by the Chairperson or any other Member on his behalf relating to financial matters.

(7) All financial powers of the Commission shall be governed by the General Financial Rules, delegation of financial powers Rules and economy instructions issued by the Ministry of Finance of the Central Government from time to time.

ADMINISTRATION
EXPENDITURE
FOR PROTECTION OF CHILD RIGHTS
Year 2000
 Budget Estimates for the Year 2000
 (See rule 23(6))
ADMINISTRATION
(Expenditure)

Head of Accounts	Actual for the past three year			Sanctioned estimate for the current year 200....	Actuals of last six months i.e. 200.... 200....	Actuals of six months current year 200....	Revised estimate for the current year 200...	Budget estimate for the next year 200...	Variations between columns 5 & 8	Variations between columns 8 & 9	Explanation for columns 10 & 11
1	2	3	4	5	6	7	8	9	10	11	12

FORM II
THE NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS
ESTABLISHMENT
Statement details of provision for pay of officers/Establishment for the year 200... - 200...
(See rule 23(6))

1	2	3			4	5			6	7
Name and Designation	Reference to page of estimate form	Sanctioned pay of the Post			Amount of provisions for the year at the rate in column	Increment falling due within the year			Total provision for the year i.e. total columns 4 & 5	Remarks
		Minimum/Maximum	Actual			Date of increment	Rate of increment	Amount of increment for the year		
		Pay of the Person concerned due on 1 st April next year.								
		(a)	(b)	(c)	3(c)	(a)	(b)	(c)		

FORM III
THE NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS
NOMINAL ROLLS
 (See rule 23(6))

Name and Designation	Pay	Dearness Allowance	Compensatory (City) allowance	House rent allowance	Over time allowance	Children educational allowance	Leave travel concession	Other allowances	Total
1	2	3	4	5	6	7	8	9	10
Total									

SCHEDULE II
BUDGET AND ACCOUNT HEADS
(See rule 23(8))
ADMINISTRATION
Heads of Accounts(Expenditure)

1. Salaries
2. Wages
3. Travel Expenses
4. Office Expenses
 - (a) Furniture
 - (b) Postage
 - (c) Office machines/equipment
 - (d) Liveries
 - (e) Hot and cold weather charges
 - (f) Telephones
 - (g) Electricity and water charges
 - (h) Stationery
 - (i) Printing
 - (j) Staff car and other vehicles
 - (k) Other items
5. Fee and honoraria
6. Payment for professional and special services
7. Rents, rates and taxes/royalty
8. Publications
9. Advertising sales and publicity expenses
10. Grant in aid/contributions/subsidies
11. Hospitality expenses sumptuary allowances etc.
12. Pensions/gratuities
13. Write off/losses
14. Suspenses
15. Other charges (a residuary head, this will also include rewards and prizes)

Heads of Account(Receipts)

1. Payments by Central Government
2. Other receipts

[F. No. 3-2/2005-CW]

LOVELEEN KACKER, Jt. Secy.

(COMMITTEE BRANCH)
(Joint Committee on Offices of Profit)
G-013, B Block, EPHA

PARLIAMENT HOUSE ANNEXE
NEW DELHI-110 001

LAFEAS-CB-II029/1/2025-CB-II

28th March, 2025
Chaitra 7, 1947 (Saka)

OFFICE MEMORANDUM

Sub: Seeking clarification on the Eligibility of a sitting MP to be considered for the Post of Chairpersons, National Commission for Protection of Child Rights (NCP CR).

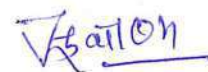
The undersigned is directed to refer to the email communication dated 21st March, 2025 received from Ministry of Women and Child Development seeking clarification as to whether a sitting MP can apply and be considered for the Post of Chairperson, National Commission for Protection of Child Rights (NCP CR) and to request the Ministry to furnish a comprehensive opinion in the matter.

2. It is, therefore, requested that the Legislative Department and the Department of Legal Affairs may kindly furnish their comprehensive opinion in the matter within 15 days of the issue of this Memorandum so that the matter may be placed before the Committee for consideration. The said information may be e-mailed at committee-br2@sansad.nic.in. The hard copy of the same may also be furnished separately.

3. This has the approval of the competent authority.

4. Receipt of this communication may please be acknowledged.

5. This may kindly be treated as Most Urgent.



(V.K. SHAILON)
DIRECTOR

Ph.No.23034278 /5713

To

1. The Ministry of Law and Justice
(Legislative Department),
(Dr. Rajiv Mani, Secretary)
Room No.405, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi – 110001.
2. The Ministry of Law and Justice
(Department of Legal Affairs),
(Dr. Anju Rathi Rana, Secretary)
Room No.404, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi – 110001.

F.No.17(1)/2025-Leg.III
Government of India
Ministry of Law and Justice
Legislative Department

Shastri Bhawan, New Delhi
Dated the 1st April, 2025

OFFICE MEMORANDUM

Subject: Seeking clarification on the eligibility of a sitting MP can apply and be considered for the Post of Chairperson, National Commission for Protection of Child Rights (NCPCR) - reg

The undersigned is directed to refer to Lok Sabha Secretariat OM No. LAFEAS-CB-11029/1/2025-CB-II dated the 28th March, 2025, forwarding therewith an e-mail communication dated 21st March, 2025 received from the Ministry of Women and Child Development, seeking the opinion of the Ministry.

2. In this regard, it may be noted that, for examining the issues as to whether the post of Chairperson in the above mentioned Body will attract disqualification from the angle of profit or not, the nature and composition of the Body, its powers, functions the emoluments receivable by the Chairperson in the form of salary and allowances etc. are to be verified. However, Lok Sabha Secretariat has not forwarded any document for verification or examination. Further Lok Sabha Secretariat has to obtain the reply of the administrative Ministry to the List of Points (LoP) and forward the same to Department for verification.

3. Therefore, you are requested to forward reply furnished by the administrative Ministry to the List of Points in the prescribed proforma and also the copies of all the relevant rules/regulations/notifications etc. at the earliest enabling this Department to examine the case.



(Navneet Patial)
Assistant Legislative Counsel,
Tel. 23382923

The Lok Sabha Secretariat
Committee Branch-II
{Joint Committee on Offices of Profit }
[Kind Attn: Shri V.K.Shailon, Director]
G-013, PHA, Extension Building
New Delhi. 110 001

LIST OF POINTS

1. Please state whether the **National Commission for Protection of Child Rights (NCPCR)** is a Standing or an Adhoc body.
2. Please furnish details of the composition of the **National Commission for Protection of Child Rights (NCPCR)** indicating the number of officials and non-officials in the body.
3. Please give in detail the powers and functions of the **National Commission for Protection of Child Rights (NCPCR)** as well as those of the Chairperson.
4. Whether the functions of the **National Commission for Protection of Child Rights (NCPCR)** are purely advisory in nature.
5. Please furnish details with respect to the following :-
 - (i) the term of the Member of Parliament as non-official Member / Chairperson in the Board of the **National Commission for Protection of Child Rights (NCPCR)**;
 - (ii) whether the Government exercise control over the appointment to and removal from the office and over the performance and functions of the office;
 - (iii) the qualifications for Membership; and
 - (iv) the role of the Member of Parliament as a Member / Chairperson in the **National Commission for Protection of Child Rights (NCPCR)**.
6. Please also give a specific reply to each of the following:-
 - (i) Whether the **National Commission for Protection of Child Rights (NCPCR)** exercise executive, legislative or judicial powers;
 - (ii) Whether the **National Commission for Protection of Child Rights (NCPCR)** confers powers of disbursement of funds, allotment of lands, etc;
 - (iii) Whether it would have powers of appointment/removal; and
 - (iv) Whether the **National Commission for Protection of Child Rights (NCPCR)** would wield influence or power by way of patronage.
7.
 - (i) Please indicate the details of expenses payable to the Member of Parliament as a Member / Chairperson of the **National Commission for Protection of Child Rights (NCPCR)** specifying the actual rates of payment with break-up of sitting fee, daily allowance, travelling allowance, house-rent allowance, compensatory allowance, honorarium, etc.
 - (ii) Please specify the facilities, other than the remuneration given or proposed to be given to the Member of Parliament as a Member / Chairperson of the **National Commission for Protection of Child Rights (NCPCR)**.
 - (iii) Please state whether the allowances payable to the Member of Parliament as a Member / Chairperson of the **National Commission for Protection of Child Rights (NCPCR)** are covered under the Compensatory Allowance defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959.
8. Please supply a copy each of the CPCR Act, 2025 and the NCPCR Rules, 2006.
9. Please furnish any information which the **National Commission for Protection of Child Rights (NCPCR)** wish to furnish on the subject.

LOK SABHA SECRETARIAT

Most Immediate
Parliamentary Matters
Out Today By Special Messenger
NEW DELHI-110001

(COMMITTEE BRANCH)

(Joint Committee on Offices of Profit)
G-013, B Block, EPHA

LAFEAS-CB-II029/1/2025-CB-II

2nd April, 2025.

Chaitra 12, 1947 (Saka)

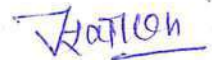
OFFICE MEMORANDUM

Subject: Seeking clarification on the Eligibility of a sitting MP to be considered for the Post of Chairperson, National Commission for Protection of Child Rights (NCPCR).

Reference:- Ministry of Women and Child Development (Child Welfare - I Section) email dated 21st March, 2025.

With reference to the above-mentioned subject, the undersigned is directed to forward herewith a List of Points (copy enclosed) for furnishing replies in detail to each point, to examine the instant case from the angle of office of profit.

2. The Ministry of Women and Child Development is, therefore, requested to furnish a copy of each of the relevant Rules/bye-laws/order (in Hindi and English) under which the NCPCR has been constituted, so that the matter can be put up before the Committee for its consideration and processed in a time bound manner. The said information may be e-mailed at committee-br2@sansad.nic.in. The hard copy of the same may also be furnished separately.
3. The receipt of this communication may please be acknowledged.
4. This may kindly be treated as Most Urgent.



(V.K. SHAILON)
DIRECTOR

Ph.No.23034278 /5713

To

The Ministry of Women and Child Development,
(Shri Anil Malik, Secretary)
Room No.601, Shastri Bhawan,
New Delhi – 110001.

LIST OF POINTS

1. Please state whether the **National Commission for Protection of Child Rights (NCPCR)** is a Standing or an Adhoc body.
2. Please furnish details of the composition of the **National Commission for Protection of Child Rights (NCPCR)** indicating the number of officials and non-officials in the body.
3. Please give in detail the powers and functions of the **National Commission for Protection of Child Rights (NCPCR)** as well as those of the Chairperson.
4. Whether the functions of the **National Commission for Protection of Child Rights (NCPCR)** are purely advisory in nature.
5. Please furnish details with respect to the following :-
 - (i) the term of the Member of Parliament as non-official Member / Chairperson in the Board of the **National Commission for Protection of Child Rights (NCPCR)**;
 - (ii) whether the Government exercise control over the appointment to and removal from the office and over the performance and functions of the office;
 - (iii) the qualifications for Membership; and
 - (iv) the role of the Member of Parliament as a Member / Chairperson in the **National Commission for Protection of Child Rights (NCPCR)**.
6. Please also give a specific reply to each of the following:-
 - (i) Whether the **National Commission for Protection of Child Rights (NCPCR)** exercise executive, legislative or judicial powers;
 - (ii) Whether the **National Commission for Protection of Child Rights (NCPCR)** confers powers of disbursement of funds, allotment of lands, etc;
 - (iii) Whether it would have powers of appointment/removal; and
 - (iv) Whether the **National Commission for Protection of Child Rights (NCPCR)** would wield influence or power by way of patronage.
7.
 - (i) Please indicate the details of expenses payable to the Member of Parliament as a Member / Chairperson of the **National Commission for Protection of Child Rights (NCPCR)** specifying the actual rates of payment with break-up of sitting fee, daily allowance, travelling allowance, house-rent allowance, compensatory allowance, honorarium, etc.
 - (ii) Please specify the facilities, other than the remuneration given or proposed to be given to the Member of Parliament as a Member / Chairperson of the **National Commission for Protection of Child Rights (NCPCR)**.
 - (iii) Please state whether the allowances payable to the Member of Parliament as a Member / Chairperson of the **National Commission for Protection of Child Rights (NCPCR)** are covered under the Compensatory Allowance defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959.
8. Please supply a copy each of the CPCR Act, 2025 and the NCPCR Rules, 2006.
9. Please furnish any information which the **National Commission for Protection of Child Rights (NCPCR)** wish to furnish on the subject.

CW-I-19011/2/2024-CW-I
Government of India
Ministry of Women and Child Development
CW-I Section

4th floor, Jeevan Tara Building,
Parliament Street, 110001
Date: 08.04.2025

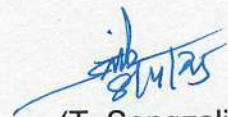
OFFICE MEMORANDUM

Subject: Clarification on the Eligibility of a Sitting Member of Parliament for Appointment as Chairperson, NCPCR.

The undersigned is directed refer to Lok Sabha Secretariate's O.M. dated 02.04.2025 seeking additional pointwise information regarding the eligibility of a sitting Member of Parliament to be considered for the post of Chairperson, National Commission for Protection of Child Rights (NCPCR).

2. In this regard, it is mentioned that the pointwise information as sought is enclosed herewith. Further, bilingual copies of the Commissions for Protection of Child Rights (CPCR) Act, 2005 and NCPCR Rules, 2006 have already been shared vide email dated 04.04.2025 (copy enclosed).

Encl: as above



(T. Songzalian)

Under Secretary to the Government of India

To
Director
Committee Branch,
Joint Committee on Offices of Profit
G-013, B Block, EPHA

LIST OF POINTS (LOK SABHA SECRETARIAT)

Q1) Please state whether the National Commission of Protection of Child Rights (NCPCR) is a Standing or Adhoc Body.

Reply: The National Commission for Protection of Child Rights (NCPCR) is a statutory body established in March 2007 by the Government of India under the Commission for Protection of Child Rights (CPCR) Act, 2005, an Act of Parliament passed in December 2005. The Commission's mandate is to ensure that all laws, policies, programs, and administrative systems conform to the vision of child rights as enshrined in the Constitution of India and the United Nations Convention on the Rights of the Child (UNCRC). The NCPCR defines a child as a person in the age group of 0 to 18 years. It has been constituted to exercise and perform the powers and functions assigned to it under the CPCR Act, 2005, with the primary aim of protecting and promoting the rights and welfare of children across the country.

Q2) Please furnish details of the composition of the National Commission of Protection of Child Rights (NCPCR) indicating the number of officials and non-officials in the body.

Reply: Section 3 of the Commissions for Protection of Child Rights (CPCR) Act, 2005 lays down the provisions for the constitution of the National Commission for Protection of Child Rights (NCPCR). As per this section, the Central Government, through an official notification, shall establish a statutory body known as the National Commission for Protection of Child Rights. Additionally, it also states that the office of the Commission shall be in Delhi. The Commission shall consist of the following Members namely: -

- A chairperson who, is a person of eminence and has done outstanding work for promoting the welfare of children; and
- Six members, out of which at least two are woman, from the following fields, is appointed by the Central Government from amongst person of eminence, ability, integrity, standing and experience in, -
 1. Education.
 2. Child health, care, welfare or child development.
 3. Juvenile justice or care of neglected or marginalized children or children with disabilities.
 4. Elimination of child labour or children in distress.
 5. Child psychology or sociology; and
 6. Laws relating to children.

Q3) Please give in detail the powers and functions of the National Commission for Protection of Child Rights (NCPCR) as well as those of Chairperson.

Reply: The functions and powers of the National Commission for Protection of Child Rights (NCPCR) are outlined in Section 13 of the Commissions for Protection of Child Rights (CPCR) Act, 2005. Some of the key functions and powers of NCPCR are as under:

- (a) examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation.
- (b) present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards.
- (c) inquire into violation of child rights and recommend initiation of proceedings in such cases.
- (d) examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures.
- (e) look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures.
- (f) mandated explicitly the responsibility of monitoring the implementation of various Acts as provided in the relevant provisions under Section 31 of RTE, Section 109 of J.J. Act and Section 44 of POCSO Act.
- (g) study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendations for their effective implementation in the best interest of children.
- (h) undertake and promote research in the field of child rights.
- (i) spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, the media, seminars and other available means.
- (j) inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority, including any institution run by a social organisation; where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary;
- (k) inquire into complaints and take suo motu notice of matters relating to, —
 - (i) deprivation and violation of child rights.
 - (ii) non-implementation of laws providing for protection and development of children;
 - (iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children, or take up the issues arising out of such matters with appropriate authorities; and
 - (l) such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

2) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

The **functions and powers of the Chairperson** of the **National Commission for Protection of Child Rights (NCPCR)** are **not explicitly detailed in the CPCR Act, 2005 itself**, but are provided under the **Rules** framed under the Act. While the **CPCR Act, 2005** primarily details the overall **composition (Section 3)**, **functions of the Commission (Section 13)**, and **terms and conditions of service (Sections 4–10)**, it leaves the **specific roles and powers of the Chairperson** to be governed by the **Rules**. Some of which are outlined as below:

- Presiding over the meetings of the Commission,
- Overseeing the implementation of the decisions of the Commission,
- Directing the work of the Commission and its staff,
- Exercising administrative and financial powers as may be delegated by the Commission.

Q4) Whether the functions of the National Commission for Protection of Child Rights (NCPCR) are purely advisory in nature?

Reply: The functions of the National Commission for Protection of Child Rights (NCPCR) are not merely advisory in nature but also encompass quasi-judicial powers. As per Section 13 of the Commissions for Protection of Child Rights Act, 2005, the Commission is mandated to examine and review the safeguards provided by laws for the protection of child rights, inquire into violations of such rights, recommend measures for their effective implementation, and undertake research and awareness initiatives. Furthermore, the Commission has the authority to summon individuals, require the production of documents, and inspect custodial institutions, thereby reinforcing its enforcement capabilities. Section 14 of the Act further strengthens the Commission's authority by conferring upon it the powers of a civil court while conducting inquiries under clause (j) of Section 13(1). These powers include summoning and examining witnesses under oath, requiring the discovery and production of documents, receiving evidence on affidavits, requisitioning public records, and issuing commissions for the examination of witnesses or documents. Additionally, the Commission has the power to forward any case to a Magistrate having jurisdiction, who shall proceed with the case as if it had been forwarded under Section 346 of the Code of Criminal Procedure, 1973. Thus, the NCPCR plays a dual role—both advisory and enforcement-oriented—in safeguarding and promoting the rights of children in India.

Q5) Please furnish details with respect to the following: -

(i) the term of the Member of Parliament as non-official Member/Chairperson in the board of **National Commission for Protection of Child Rights (NCPCR)**

Reply: Section 5 of the Commissions for Protection of Child Rights Act (CPCR), Act 2005 outlines the term of office and conditions of service for the Chairperson and Members of the National Commission for Protection of Child Rights (NCPCR). According to this provision, the Chairperson and every Member shall hold office for a term of three years from the date they assume office. However, no Chairperson or Member shall hold office for more than two terms. Additionally, the Act prescribes an upper age limit: the Chairperson shall not hold office after attaining the age of sixty-five years, and a Member shall not continue in office after attaining the age of sixty years. Furthermore, the Act allows for voluntary resignation; the Chairperson or any Member may resign from office at any time by submitting a written resignation addressed to the Central Government.

(ii) whether the Government exercise control over the appointment to and removal from the office and over the performance and functions of the office;

Reply: Appointment: As per Section 4 of the CPCR Act, 2005, the Chairperson and other Members of the National Commission for Protection of Child Rights (NCPCR) are appointed by the Central Government through an official notification. The appointment of the Chairperson is specifically made on the recommendation of a three-member Selection Committee constituted by the Central Government. This Committee is chaired by the Minister-in-charge of the Ministry or Department of Women and Child Development. This ensures a transparent and structured selection process involving competent authorities.

Removal from the office: Section 7 of the CPCR Act, 2005, lays down the provisions regarding the removal of the Chairperson or Members from office. The removal may occur under two broad categories:

(1) Removal on Grounds of Misbehaviour or Incapacity

The Central Government may remove the Chairperson from office by an official order if there is proved misbehaviour or incapacity, subject to an appropriate inquiry.

(2) Other Grounds for Removal

Notwithstanding the above, the Chairperson or any Member may be removed from office by the Central Government if they:

- (a) Are adjudged insolvent.
- (b) Engage in paid employment outside the duties of their office during their term.
- (c) Refuse to act or become incapable of acting.
- (d) Are of unsound mind, as declared by a competent court.
- (e) Abuse their office in a manner detrimental to the public interest.

- (f) Are convicted and sentenced to imprisonment for an offence involving moral turpitude;
- (g) Are absent without leave from three consecutive meetings of the Commission.

(3) Right to a Fair Hearing

Before removal under any of the above grounds, the individual concerned must be given an opportunity to be heard, ensuring adherence to principles of natural justice.

(iii) the qualifications for membership; and

Reply: Eligibility criteria for Appointment as Chairperson and other Members is mentioned under the NCPCR Rules, 2006 **Section 3** -No person having any past record of violation of human rights or child rights shall be eligible for appointment as Chairperson or other Members of the Commission.

Further, **Section 3A** of NCPCR Rules, 2006 specifies the Norms of Selection of Chairperson and Members: A person shall be eligible to be selected as Chairperson or Member if he;

- a. is an Indian National
- b. possesses a graduate degree from a recognized University
- c. has not been convicted or sentenced to imprisonment for an offence under any law for the time being in force.
- d. has not been removed or dismissed from service of the Central or State Government or a body or corporation owned or controlled by Central or State Government

(iv) the role of the Member of Parliament as a Member/Chairperson in the NCPCR

Reply: The **Chairperson** of the **National Commission for Protection of Child Rights (NCPCR)** serves as the **head and primary representative** of the Commission, entrusted with providing leadership in promoting and protecting the rights of children in India. As laid down in **Section 3(2)(a)** of the **CPCR Act, 2005**, the Chairperson must be a person of eminence who has made **outstanding contributions to the welfare of children**. Although the Act and the NCPCR Rules, 2006 do not detail the day-to-day functions of the Chairperson separately, by virtue of the position, the Chairperson plays a key role in **presiding over meetings, guiding policy direction, and overseeing the functioning** of the Commission in coordination with other Members and the Member-Secretary. The Chairperson also represents the Commission in interactions with the government, civil society, and international bodies, thereby ensuring the visibility and authority of the NCPCR in the broader child rights landscape. Additionally, the Chairperson may be involved in the approval of inquiries, reports, and key recommendations made by the Commission under its mandate as per **Section 13** of the CPCR Act.

Q6) Please also give a specific reply to each of the following: -

(i) Whether the NCPCR exercise, legislative or judicial powers

Reply: Judicial Powers: Section 14 of the Act strengthens the Commission's authority by conferring upon it the powers of a civil court while conducting inquiries under clause (j) of Section 13(1). These powers include summoning and examining witnesses under oath, requiring the discovery and production of documents, receiving evidence on affidavits, requisitioning public records, and issuing commissions for the examination of witnesses or documents. Additionally, the Commission has the power to forward any case to a Magistrate having jurisdiction, who shall proceed with the case as if it had been forwarded under Section 346 of the Code of Criminal Procedure, 1973.

Legislative Powers: The National Commission for Protection of Child Rights (NCPCR) does not exercise legislative powers. As per the Commission for Protection of Child Rights (CPCR) Act, 2005, the NCPCR is a statutory body mandated to monitor and ensure the protection of child rights in India. Its powers are primarily advisory and recommendatory in nature. Under Section 13 of the Act, the Commission can inquire into violations of child rights, recommend remedial measures, review safeguards under existing laws, and advise on policy matters. The NCPCR Rules, 2006 further detail its functions and procedures but do not confer legislative authority. Thus, while the NCPCR plays a critical role in shaping child-centric policies and advocating for legal reforms, it does not have the power to enact laws.

(ii) Whether the NCPCR confers powers of disbursement of funds, allotment of land etc;

Reply: The National Commission for Protection of Child Rights (NCPCR) is not vested with powers relating to the disbursement of funds, allotment of land, or similar executive functions. Constituted under the Commission for Protection of Child Rights Act, 2005, the NCPCR functions as a statutory body primarily mandated to monitor the implementation of child rights and related laws. Its functions, as laid down in Section 13 of the Act and elaborated in the NCPCR Rules, 2006, are advisory, recommendatory, and supervisory in nature. The Act does not empower the Commission with financial or executive authority to allocate government funds, allot land, or directly administer welfare schemes—these responsibilities remain with the appropriate government authorities. Further, Section 27 of the CPCR Act, 2005 clarifies that the Commission is funded through grants made by the Central Government, after due appropriation by Parliament. While the Commission may spend such grants as it deems necessary for performing its statutory functions, such expenditure is strictly within the limits of the funds provided and does not extend to independent financial or executive decision-making.

(iii) Whether it would have powers of appointment/ removal and;

Reply: The reply to this point is the same reply as mentioned in Question No 5 Part (ii) above.

(iv) Whether the NCPCR would wield influence or power by way of patronage

Reply: The National Commission for Protection of Child Rights (NCPCR) does not wield influence or power by way of patronage. As a statutory body established under the Commission for Protection of Child Rights Act, 2005, the NCPCR's mandate is limited to the protection, promotion, and monitoring of child rights. Its functions, defined under Section 13 of the Act and further detailed in the NCPCR Rules, 2006, are advisory, recommendatory, and supervisory in nature. The Commission does not have the authority to confer benefits, appointments, or favours that would constitute patronage. Its role is to ensure accountability and transparency in the implementation of laws and policies related to children, not to exercise discretionary power over resources, positions, or entitlements.

Q7) (i) Please indicate the details of expenses payable to the Member of Parliament as a Member/Chairperson of the National Commission for Protection of Child Rights (NCPCR) specifying the actual rates of payment with break-up of sitting fee, daily allowance, travelling allowance, house-rent allowance, compensatory allowance, honorarium etc.

Reply: The position of Chairperson of the National Commission for Protection of Child Rights (NCPCR) is equivalent to the rank of Secretary to the Government of India. The remuneration attached to this post is the pay scale in Level – 17 (ie. Basic salary of ₹2,25,000/- per month), along with all other allowances and entitlements admissible to a Secretary level officer in the Central Government, as per prevailing government norms.

(ii) Please specify the facilities, other than the remuneration given or proposed to be given to the Member of Parliament as a Member/Chairperson of the National Commission for Protection of Child Rights (NCPCR).

Reply: Besides remuneration, Chairperson, NCPCR is entitled to all the facilities/perks available to an officer of the level of Secretary to the Govt. of India.

(iii) Please state whether the allowances payable to the Member of Parliament as a Member/ Chairperson of the National Commission for Protection of Child Rights (NCPCR) are covered under the Compensatory allowance defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959.

Reply: The allowances payable to a Member of Parliament serving as a Member or Chairperson of the National Commission for Protection of Child Rights (NCPCR) would fall within the scope of "compensatory allowance" as defined under Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. As per the said provision,

"compensatory allowance" refers to any sum of money payable to the holder of an office by way of daily allowance (not exceeding the amount payable to a Member of Parliament under the Salary, Allowances and Pension of Members of Parliament Act, 1954), as well as conveyance allowance, house rent allowance, or travelling allowance, intended to enable the office bearer to recoup any expenditure incurred in the performance of official functions. Therefore, such allowances received by a Member of Parliament in their capacity as Chairperson or Member of the NCPCR are covered under this definition, provided they are strictly in the nature of reimbursement for official duties and do not constitute a salary or honorarium that could attract disqualification under the Act.

Q8) Please supply a copy each of the CPCR Act, 2005 and NCPCR Rules, 2006.

Reply: The bilingual versions of the Commission for Protection of Child Rights (CPCR) Act, 2005 and the National Commission for Protection of Child Rights (NCPCR) Rules, 2006 have been separately forwarded vide email dated 4th April 2025, sent by the Child Welfare Division-I, Ministry of Women and Child Development.

Q9) Please furnish any information which the National Commission for Protection of Child Rights (NCPCR) wish to furnish on the subject.

Reply: NIL

बिंदुओं की सूची (लोकसभा सचिवालय)

प्रश्न 1) कृपया बताएं कि क्या राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) एक स्थायी या तदर्थ निकाय है।

उत्तर: राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर), मार्च 2007 में भारत सरकार द्वारा बाल अधिकार संरक्षण आयोग (सीपीसीआर) अधिनियम, 2005 के तहत स्थापित किया गया एक वैधानिक निकाय है, जो दिसंबर 2005 में संसद द्वारा पारित एक अधिनियम है। इस आयोग का अधिदेश यह सुनिश्चित करना है कि सभी कानून, नीतियां, कार्यक्रम और प्रशासनिक प्रणालियां भारत के संविधान और बाल अधिकारों पर संयुक्त राष्ट्र सम्मेलन (यूएनसीआरसी) में निहित बाल अधिकारों के दृष्टिकोण के अनुरूप हों। एनसीपीसीआर 0 से 18 वर्ष की आयु के व्यक्ति को बच्चे के रूप में परिभाषित करता है। देश भर में बच्चों के अधिकारों और कल्याण की रक्षा और बढ़ावा देने के प्राथमिक उद्देश्य के साथ सीपीसीआर अधिनियम, 2005 के तहत सौंपी गई शक्तियों का प्रयोग और कार्यों का निष्पादन करने के लिए यह आयोग गठित किया गया है।

प्रश्न 2) कृपया राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) की संरचना का विवरण प्रस्तुत करें, जिसमें इस निकाय में अधिकारियों और गैर-अधिकारियों की संख्या का संकेत दिया गया हो।

उत्तर: बाल अधिकार संरक्षण आयोग (सीपीसीआर) अधिनियम, 2005 की धारा 3 में राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के गठन के प्रावधान दिए गए हैं। इस धारा के अनुसार, केंद्र सरकार एक आधिकारिक अधिसूचना के माध्यम से राष्ट्रीय बाल अधिकार संरक्षण आयोग के रूप में एक वैधानिक निकाय की स्थापना करेगी। इसके अलावा, इसमें यह भी कहा गया है कि आयोग का कार्यालय दिल्ली में होगा। आयोग में निम्नलिखित सदस्य शामिल होंगे: -

- अध्यक्ष जो एक प्रतिष्ठित व्यक्ति हो और जिसने बच्चों के कल्याण को बढ़ावा देने के लिए उत्कृष्ट कार्य किया हो; और
- छह सदस्य, जिनमें निम्नलिखित क्षेत्रों से कम से कम दो महिलाएं केंद्र सरकार द्वारा नियुक्त की जाती हैं जो निम्नलिखित क्षेत्रों में ख्यातिप्राप्त, योग्य, सत्यनिष्ठ, प्रतिष्ठित और अनुभवी हों-
 1. शिक्षा;
 2. बाल स्वास्थ्य, देखभाल, कल्याण या बाल विकास;
 3. किशोर न्याय या उपेक्षित या वंचित बच्चों या दिव्यांग बच्चों की देखभाल;
 4. बाल श्रम का उन्मूलन या संकटग्रस्त बच्चे;
 5. बाल मनोविज्ञान या समाजशास्त्र; और
 6. बच्चों से संबंधित कानून।

प्रश्न 3) कृपया राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) तथा इसके अध्यक्ष की शक्तियों और कार्यों के बारे में विस्तार से बताएं।

उत्तर: राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के कार्य और शक्तियों का उल्लेख बाल अधिकार संरक्षण आयोग (सीपीसीआर) अधिनियम, 2005 की धारा 13 में किया गया है। एनसीपीसीआर के कुछ प्रमुख कार्य और शक्तियां इस प्रकार हैं:

(क) बाल अधिकारों के संरक्षण के लिए वर्तमान में लागू किसी कानून द्वारा या उसके अंतर्गत उपलब्ध कराए गए सुरक्षा उपायों की जांच और समीक्षा करना तथा उनके प्रभावी कार्यान्वयन के लिए उपायों की सिफारिश करना।

(ख) उन सुरक्षा उपायों के कार्यान्वयन पर रिपोर्ट वार्षिक रूप से और ऐसे अन्य अंतरालों पर, जैसा आयोग उचित समझे, केंद्र सरकार को प्रस्तुत करना।

(ग) बाल अधिकारों के उल्लंघन के मामलों की जांच करना तथा ऐसे मामलों में कार्यवाही शुरू करने की सिफारिश करना।

(घ) आतंकवाद, सांप्रदायिक हिंसा, दंगे, प्राकृतिक आपदा, घरेलू हिंसा, एचआईवी/एड्स, दुर्व्यापार, दुर्व्यवहार, यातना और शोषण, अश्लील सामग्री तथा वेश्यावृत्ति से प्रभावित बच्चों के अधिकारों के आनंद को बाधित करने वाले सभी कारकों की जांच करना तथा उचित उपचारात्मक उपायों की सिफारिश करना।

(ङ) संकटग्रस्त बच्चों, हाशिए पर पड़े और वंचित बच्चों, विधि का उल्लंघन करने वाले बच्चों, किशोरों, परिवारविहीन बच्चों और कैदियों के बच्चों सहित विशेष देखभाल और संरक्षण की आवश्यकता वाले बच्चों से संबंधित मामलों पर गौर करना तथा उचित उपचारात्मक उपायों की सिफारिश करना।

(च) आरटीई की धारा 31, जे.जे. अधिनियम की धारा 109 और पॉक्सो अधिनियम की धारा 44 के तहत प्रासंगिक उपबंधों में दिए गए अनुसार विभिन्न अधिनियमों के कार्यान्वयन की निगरानी की जिम्मेदारी स्पष्ट रूप से सौंपी गई है।

(छ) संधियों और अन्य अंतर्राष्ट्रीय वाचाओं का अध्ययन करना और बाल अधिकारों पर मौजूदा नीतियों, कार्यक्रमों और अन्य कार्यकलापों की समय-समय पर समीक्षा करना और बच्चों के सर्वोत्तम हित में उनके प्रभावी कार्यान्वयन के लिए सिफारिशें करना।

(ज) बाल अधिकारों के क्षेत्र में अनुसंधान करना और उसे बढ़ावा देना।

(झ) समाज के विभिन्न वर्गों में बाल अधिकार साक्षरता का प्रसार करना तथा इन अधिकारों के संरक्षण के लिए उपलब्ध सुरक्षा उपायों के बारे में प्रकाशनों, मीडिया, सेमिनारों और अन्य उपलब्ध उपायों के माध्यम से जागरूकता को बढ़ावा देना।

(ञ) किसी किशोर अभिरक्षा गृह या बच्चों के लिए बने किसी अन्य निवास स्थान या संस्था का निरीक्षण करना या कराना, जो केंद्र सरकार या किसी राज्य सरकार या किसी अन्य प्राधिकरण के नियंत्रण में हो, जिसमें किसी सामाजिक संगठन द्वारा संचालित कोई संस्था भी शामिल है; जहां बच्चों को उपचार, सुधार या संरक्षण के उद्देश्य से अभिरक्षा में लिया गया हो या रखा गया हो और आवश्यक होने पर उपचारात्मक कार्रवाई के लिए इन प्राधिकरणों के समक्ष मामला उठाना;

(ट) शिकायतों की जांच करना और निम्नलिखित मामलों का स्वप्रेरणा से संज्ञान लेना, -

(i) बाल अधिकारों से वंचित करना और उनका उल्लंघन करना।

(ii) बच्चों के संरक्षण और विकास के लिए कानूनों का कार्यान्वयन न करना;

(iii) बच्चों की कठिनाइयां कम करने के उद्देश्य से नीतिगत निर्णयों, दिशानिर्देशों या अनुदेशों का अनुपालन न करने और उनका कल्याण सुनिश्चित करने तथा ऐसे बच्चों को राहत प्रदान करने या ऐसे मामलों से उत्पन्न मुद्दों को उचित प्राधिकारियों के समक्ष उठाना; और

(ठ) ऐसे अन्य कार्य करना जिन्हें वह बाल अधिकारों के संवर्धन के लिए आवश्यक समझे तथा उपर्युक्त कार्यों से संबंधित कोई अन्य मामला।

2) आयोग किसी ऐसे मामले की जांच नहीं करेगा जो किसी राज्य आयोग या किसी कानून के तहत गठित किसी अन्य आयोग के समक्ष लंबित हो।

राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के अध्यक्ष के कार्यों और शक्तियों का सीपीसीआर अधिनियम, 2005 में स्पष्ट रूप से विस्तृत विवरण नहीं दिया गया है, किंतु इस अधिनियम के तहत बनाए गए नियमों के तहत इनका प्रावधान किया गया है। जबकि सीपीसीआर अधिनियम, 2005 में मुख्य रूप से समग्र संरचना (धारा 3), आयोग के कार्य (धारा 13), और सेवा की शर्तों (धारा 4-10) का विवरण दिया गया है, इसमें अध्यक्ष की विशिष्ट भूमिकाओं और शक्तियों को नियमों द्वारा शासित होने के लिए छोड़ दिया गया है। जिनमें से कुछ का विवरण नीचे दिया गया है:

-
- आयोग की बैठकों की अध्यक्षता करना,
- आयोग के निर्णयों के कार्यान्वयन की देखरेख करना,
- आयोग और उसके कर्मचारियों के काम का निर्देशन करना,
- आयोग द्वारा सौंपी गई प्रशासनिक और वित्तीय शक्तियों का प्रयोग करना।

प्रश्न 4) क्या राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के कार्य पूरी तरह से सलाह देने की प्रकृति के हैं?

उत्तर: राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के कार्य केवल सलाह देने की प्रकृति के नहीं हैं, बल्कि इसमें अर्ध-न्यायिक शक्तियां भी शामिल हैं। बाल अधिकार संरक्षण आयोग अधिनियम, 2005 की धारा 13 के अनुसार, आयोग को बाल अधिकारों के संरक्षण के लिए कानूनों द्वारा प्रदान किए गए सुरक्षा उपायों की जांच और समीक्षा करने, ऐसे अधिकारों के उल्लंघन की जांच करने, उनके प्रभावी कार्यान्वयन के लिए उपायों की सिफारिश करने और अनुसंधान और जागरूकता फैलाने का अधिकार है। इसके अलावा, आयोग के पास व्यक्तियों को बुलाने, दस्तावेजों प्रस्तुत करने की आवश्यकता और अभिरक्षा वाले संस्थानों का निरीक्षण करने का अधिकार है, जिससे इसकी प्रवर्तन क्षमताएं सशक्त होती हैं। इस अधिनियम की धारा 14 आयोग के अधिकार को और सशक्त बनाती है, क्योंकि धारा 13(1) के खंड (ज) के तहत जांच करने के लिए उसे सिविल न्यायालय की शक्तियां प्रदान की गई हैं। इन शक्तियों में शपथ के तहत गवाहों को बुलाना और उनकी जांच करना, दस्तावेजों की खोज और तैयार करने की आवश्यकता, हलफनामों पर साक्ष्य प्राप्त करना, सार्वजनिक रिकॉर्ड की मांग करना और गवाहों या दस्तावेजों की जांच के लिए सम्मन जारी करना शामिल है। इसके अलावा, आयोग को किसी भी मामले को क्षेत्राधिकार वाले मजिस्ट्रेट को अग्रेषित करने का अधिकार है, जो मामले को उसी प्रकार आगे बढ़ाएगा जैसे वह दंड प्रक्रिया संहिता, 1973 की धारा 346 के तहत अग्रेषित किया गया हो। इस प्रकार, एनसीपीसीआर भारत में बच्चों के अधिकारों की सुरक्षा और संवर्धन में - सलाहकार और प्रवर्तन-उन्मुख की दोहरी भूमिका निभाता है।

प्रश्न 5) कृपया निम्नलिखित के संबंध में ब्यौरा प्रस्तुत करें: -

(i) राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के बोर्ड में गैर-सरकारी सदस्य/अध्यक्ष के रूप में संसद सदस्य का कार्यकाल

उत्तर: बाल अधिकार संरक्षण आयोग अधिनियम (सीपीसीआर), अधिनियम 2005 की धारा 5 में राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के अध्यक्ष और सदस्यों के लिए कार्यालय की अवधि और सेवा की शर्तों की रूपरेखा दी गई है। इस प्रावधान के अनुसार, अध्यक्ष और प्रत्येक सदस्य पद ग्रहण करने की तिथि से तीन वर्ष की अवधि के लिए पद धारण करेंगे। तथापि, कोई भी अध्यक्ष या सदस्य दो कार्यकाल से अधिक के लिए पद धारण नहीं करेगा। इसके अलावा, इस अधिनियम में अधिकतम आयु सीमा निर्धारित की गई है: अध्यक्ष पैंसठ

वर्ष की आयु प्राप्त करने के बाद पद पर नहीं रहेगा और कोई सदस्य साठ वर्ष की आयु होने पर पद पर बना नहीं रहेगा। इसके अलावा, इस अधिनियम में स्वेच्छिक त्यागपत्र का प्रावधान है; अध्यक्ष या कोई भी सदस्य केंद्र सरकार को संबोधित लिखित त्यागपत्र देकर किसी भी समय पद से त्यागपत्र दे सकता है।

(ii) क्या सरकार पद पर नियुक्त करने और हटाने तथा पद के निर्वहन और कार्यों पर नियंत्रण रखती है?

उत्तर: नियुक्ति: सीपीसीआर अधिनियम, 2005 की धारा 4 के अनुसार, राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के अध्यक्ष और अन्य सदस्यों की नियुक्ति केंद्र सरकार द्वारा एक आधिकारिक अधिसूचना के माध्यम से की जाती है। अध्यक्ष की नियुक्ति विशेष रूप से केंद्र सरकार द्वारा गठित तीन सदस्यीय चयन समिति की सिफारिश पर की जाती है। इस समिति की अध्यक्षता महिला एवं बाल विकास मंत्रालय या विभाग के प्रभारी मंत्री करते हैं। इससे सक्षम अधिकारियों को शामिल करते हुए एक पारदर्शी और संरचित चयन प्रक्रिया सुनिश्चित होती है।

पद से हटाना: सीपीसीआर अधिनियम, 2005 की धारा 7 में अध्यक्ष या सदस्यों को पद से हटाने के संबंध में प्रावधान दिए गए हैं। पद से हटाने की प्रक्रिया दो व्यापक श्रेणियों में हो सकती है:

(1) दुर्व्यवहार या अक्षमता के आधार पर हटाया जाना

दुर्व्यवहार या अक्षमता साबित हो जाने पर उचित जांच के अधीन, केंद्र सरकार अध्यक्ष को आधिकारिक आदेश द्वारा पद से हटा सकती है।

(2) हटाने के अन्य आधार

उपर्युक्त के बावजूद, अध्यक्ष या किसी सदस्य को केंद्र सरकार द्वारा पद से हटाया जा सकता है, यदि वे:

- i. दिवालिया घोषित किए गए हों।
- ii. अपने कार्यकाल के दौरान अपने पद के कर्तव्यों के अलावा किसी अन्य वेतन वाले रोजगार में लगे हों।
- iii. कार्य करने से मना कर दें या कार्य करने में असमर्थ हो जाएं।
- iv. सक्षम न्यायालय द्वारा मानसिक रूप से अस्वस्थ घोषित किए गए हों।
- v. सार्वजनिक हित के लिए हानिकारक तरीके से अपने पद का दुरुपयोग करते हों।
- vi. नैतिक पतन से जुड़े किसी अपराध के लिए दोषी ठहराए गए हों और कारावास की सजा सुनाई गई हो;
- vii. आयोग की लगातार तीन बैठकों से बिना छुट्टी के अनुपस्थित हों।

7.

(3) निष्पक्ष सुनवाई का अधिकार

उपर्युक्त किसी भी आधार पर हटाने से पहले, संबंधित व्यक्ति को सुनवाई का अवसर दिया जाना चाहिए ताकि प्राकृतिक न्याय के सिद्धांतों का पालन सुनिश्चित हो।

(iii) सदस्यता के लिए योग्यताएं; और

उत्तर: अध्यक्ष और अन्य सदस्यों के रूप में नियुक्ति के लिए पात्रता मानदंड एनसीपीसीआर नियम, 2006 की धारा 3 के तहत उल्लिखित है - मानवाधिकारों या बाल अधिकारों के उल्लंघन को कोई रिकार्ड रखने वाला व्यक्ति आयोग के अध्यक्ष या अन्य सदस्यों के रूप में नियुक्ति के लिए पात्र नहीं होगा।

इसके अलावा, एनसीपीसीआर नियम, 2006 की धारा 3 क अध्यक्ष और सदस्यों के चयन के मानदंडों को निर्दिष्ट करती है: एक व्यक्ति अध्यक्ष या सदस्य के रूप में चयनित होने के लिए पात्र होगा यदि वह;

क) भारतीय नागरिक हो

ख) किसी मान्यताप्राप्त विश्वविद्यालय से स्नातक हो

ग) किसी भी कानून के तहत किसी अपराध के लिए दोषी न ठहराया गया हो या कारावास की सजा न सुनाई गई हो।

घ) केंद्र या राज्य सरकार या केंद्र या राज्य सरकार के स्वामित्व या नियंत्रण वाले किसी निकाय या निगम की सेवा से हटाया या बर्खास्त न किया गया हो।

(iv) एनसीपीसीआर में सदस्य/अध्यक्ष के रूप में संसद सदस्य की भूमिका

उत्तर: राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) का अध्यक्ष आयोग के प्रमुख और प्राथमिक प्रतिनिधि के रूप में कार्य करता है, जिसे भारत में बच्चों के अधिकारों को बढ़ावा देने और संरक्षण देने में नेतृत्व प्रदान करने का दायित्व सौंपा गया है। जैसा कि **सीपीसीआर अधिनियम, 2005 की धारा 3(2)(क)** में निर्धारित किया गया है, अध्यक्ष एक प्रतिष्ठित व्यक्ति होना चाहिए जिसने बच्चों के कल्याण में उत्कृष्ट योगदान दिया हो। यद्यपि अधिनियम और एनसीपीसीआर नियम, 2006 में अध्यक्ष के दिन-प्रतिदिन के कार्यों का अलग विवरण नहीं दिया गया है, **लेकिन पद के आधार पर, अध्यक्ष बैठकों की अध्यक्षता करने, नीति निर्देश देने और अन्य सदस्यों और सदस्य-सचिव से आयोग के कामकाज की देखरेख करने में महत्वपूर्ण भूमिका निभाता है।** अध्यक्ष सरकार, सिविल सोसायटी और अंतरराष्ट्रीय निकायों के साथ बातचीत में आयोग का प्रतिनिधित्व भी करते हैं, जिससे व्यापक बाल अधिकार परिदृश्य में एनसीपीसीआर की उपस्थिति और अधिकार सुनिश्चित होता है। इसके अतिरिक्त, अध्यक्ष सीपीसीआर **अधिनियम की धारा 13** के अनुसार आयोग द्वारा अपने अधिदेश के तहत की गई जांच, रिपोर्ट और प्रमुख सिफारिशों के अनुमोदन में शामिल हो सकते हैं।

प्रश्न 6) कृपया निम्नलिखित में से प्रत्येक का विशिष्ट उत्तर भी दें: -

(i) क्या एनसीपीसीआर विधायी या न्यायिक शक्तियों का प्रयोग करता है?

उत्तर: न्यायिक शक्तियां: अधिनियम की धारा 14 आयोग के अधिकार को सुदृढ़ करती है, क्योंकि उसे धारा 13(1) के खंड(ब) के तहत जांच के लिए सिविल कोर्ट की शक्तियां प्रदान की गई हैं। इन शक्तियों में शपथ के तहत गवाहों को बुलाना और उनकी जांच करना, दस्तावेजों की खोज और प्रस्तुत करने की आवश्यकता, हलफनामों पर साक्ष्य प्राप्त करना, सार्वजनिक रिकॉर्ड की मांग करना और गवाहों या दस्तावेजों की जांच के लिए आदेश जारी करना शामिल है। इसके अतिरिक्त, आयोग के पास किसी भी मामले को अधिकार क्षेत्र वाले मजिस्ट्रेट को अग्रेषित करने की शक्ति है, जो मामले को उसी तरह आगे बढ़ाएगा जैसे कि इसे दंड प्रक्रिया संहिता, 1973 की धारा 346 के तहत अग्रेषित किया गया हो।

विधायी शक्तियां: राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) विधायी शक्तियों का प्रयोग नहीं करता है। बाल अधिकार संरक्षण आयोग (सीपीसीआर) अधिनियम, 2005 के अनुसार, एनसीपीसीआर एक सांविधिक निकाय है जिसे भारत में बाल अधिकारों की निगरानी और सुरक्षा सुनिश्चित करने का दायित्व सौंपा गया है। इसकी शक्तियां मुख्य रूप से सलाहकार और संस्तुतिपरक प्रकृति की हैं। अधिनियम की धारा 13 के तहत, आयोग बाल अधिकारों के उल्लंघन की जांच कर सकता है, सुधार

के उपायों की सिफारिश कर सकता है, मौजूदा कानूनों के तहत सुरक्षा उपायों की समीक्षा कर सकता है और नीतिगत मामलों पर सलाह दे सकता है। एनसीपीसीआर नियम, 2006 इसके कार्यों और प्रक्रियाओं का और विस्तार से वर्णन करता है, लेकिन विधायी अधिकार प्रदान नहीं करता है। इस प्रकार, जबकि एनसीपीसीआर बाल-केंद्रित नीतियों को आकार देने और कानूनी सुधारों का प्रचार-प्रसार करने में महत्वपूर्ण भूमिका निभाता है, इसके पास कानून बनाने की शक्ति नहीं है।

(ii) क्या एनसीपीसीआर निधियों के वितरण, भूमि आवंटन इत्यादि की शक्तियां प्रदान की हैं;

उत्तर: राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) को निधियों के वितरण, भूमि आवंटन या इसी तरह के कार्यकारी कार्यों से संबंधित शक्तियां नहीं प्रदान की गई हैं। बाल अधिकार संरक्षण आयोग अधिनियम, 2005 के तहत गठित, एनसीपीसीआर एक सांविधिक निकाय के रूप में कार्य करता है, जिसका मुख्य कार्य बाल अधिकारों और संबंधित कानूनों के कार्यान्वयन की निगरानी करना है। अधिनियम की धारा 13 में निर्धारित और एनसीपीसीआर नियम, 2006 में विस्तृत रूप से बताए गए इसके कार्य सलाहकार, अनुशासनात्मक और पर्यवेक्षी प्रकृति के हैं। अधिनियम आयोग को सरकारी निधि आवंटित करने, भूमि आवंटित करने या कल्याणकारी योजनाओं को सीधे संचालित करने के लिए वित्तीय या कार्यकारी अधिकार नहीं देता है - ये जिम्मेदारियां उपयुक्त सरकारी अधिकारियों के पास रहती हैं। इसके अलावा, सीपीसीआर अधिनियम, 2005 की धारा 27 स्पष्ट करती है कि आयोग का वित्तपोषण संसद द्वारा विधिवत समायोजन के बाद, केन्द्र सरकार द्वारा अनुदान के माध्यम से किया जाता है यद्यपि आयोग अपने ऐसे वैधानिक कार्यों के निष्पादन, जिसे वह आवश्यक समझे के लिए अनुदान को खर्च कर सकता है, लेकिन ऐसा व्यय पूरी तरह से उपलब्ध कराई गई निधि की सीमा के भीतर ही होगा तथा आयोग को स्वतंत्र वित्तीय या कार्यकारी निर्णय लेने का अधिकार नहीं होगा।

(iii) क्या इसे नियुक्ति करने/हटाने की शक्तियां होंगी और;

उत्तर: इस बिंदु का उत्तर वही उत्तर है जो ऊपर प्रश्न संख्या 5 भाग (ii) में उल्लिखित है।

(iv) क्या एनसीपीसीआर संरक्षण के माध्यम से प्रभाव या शक्ति का प्रयोग करेगा?

उत्तर: राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) संरक्षण के माध्यम से प्रभाव या शक्ति का प्रयोग नहीं करता है। बाल अधिकार संरक्षण आयोग अधिनियम, 2005 के तहत स्थापित एक सांविधिक निकाय के रूप में एनसीपीसीआर का दायित्व बाल अधिकारों के संरक्षण, संवर्धन और निगरानी तक सीमित है। अधिनियम की धारा 13 के तहत परिभाषित और एनसीपीसीआर नियम, 2006 में आगे विस्तार से उल्लिखित इसके कार्य, सलाहकारी, अनुशासनात्मक और पर्यवेक्षी प्रकृति के हैं। आयोग के पास ऐसे लाभ, नियुक्तियां या उपकार प्रदान करने का अधिकार नहीं है जिसका मतलब संरक्षण करने से होगा। इसकी भूमिका बच्चों से संबंधित कानूनों और नीतियों के कार्यान्वयन में जवाबदेही और पारदर्शिता सुनिश्चित करना है, न कि संसाधनों, पदों या अधिकारों पर विवेकाधीन शक्ति का प्रयोग करना।

प्रश्न 7) (i) कृपया राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के सदस्य/अध्यक्ष के रूप में संसद सदस्य को देय व्यय का ब्यौरा बताएं, जिसमें बैठक फीस, दैनिक भत्ता, यात्रा भत्ता, मकान किराया भत्ता, प्रतिपूरक भत्ता, मानदेय इत्यादि के विवरण के साथ भुगतान की वास्तविक दरें निर्दिष्ट की गई हों।

उत्तर: राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के अध्यक्ष का पद भारत सरकार के सचिव के पद के बराबर है। इस पद से जुड़ा पारिश्रमिक लेवल - 17 (यानी 2,25,000/-रुपए प्रति माह का मूल वेतन) में वेतनमान है, साथ ही मौजूदा सरकारी मानदंडों के अनुसार केंद्र सरकार में सचिव स्तर के अधिकारी को स्वीकार्य सभी अन्य भत्ते और अधिकार भी शामिल हैं।

(ii) कृपया राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के सदस्य/अध्यक्ष के रूप में संसद सदस्य को दिए जाने वाले या प्रस्तावित पारिश्रमिक के अलावा अन्य सुविधाओं का उल्लेख करें।

उत्तर: पारिश्रमिक के अतिरिक्त, एनसीपीसीआर के अध्यक्ष, भारत सरकार के सचिव स्तर के अधिकारी को उपलब्ध सभी सुविधाओं/भत्तों के हकदार हैं।

(iii) कृपया बताएं कि क्या राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के सदस्य/अध्यक्ष के रूप में संसद सदस्य को देय भत्ते संसद (अयोग्यता निवारण) अधिनियम, 1959 की धारा 2(क) में परिभाषित प्रतिपूरक भत्ते के अंतर्गत आते हैं।

उत्तर: राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) के सदस्य या अध्यक्ष के रूप में कार्यरत संसद सदस्य को देय भत्ते संसद (अयोग्यता निवारण) अधिनियम, 1959 की धारा 2(क) के तहत परिभाषित "प्रतिपूरक भत्ते" के दायरे में आएंगे। उक्त प्रावधान के अनुसार, "प्रतिपूरक भत्ता" किसी कार्यालय के पद धारक को दैनिक भत्ते (संसद सदस्यों के वेतन, भत्ते और पेंशन अधिनियम, 1954 के तहत संसद सदस्य को देय राशि से अधिक नहीं) के साथ-साथ परिवहन भत्ता, मकान किराया भत्ता या यात्रा भत्ता के रूप में देय किसी भी राशि के संदर्भ में है, जिसका उद्देश्य पदाधिकारी को आधिकारिक कार्यों के निष्पादन में किए गए किसी भी व्यय की भरपाई करना है। इसलिए, एनसीपीसीआर के अध्यक्ष या सदस्य के रूप में संसद सदस्य द्वारा प्राप्त ऐसे भत्ते इस परिभाषा के अंतर्गत आते हैं, बशर्ते कि वे आधिकारिक कर्तव्यों के लिए प्रतिपूर्ति की प्रकृति के हों और ऐसा वेतन या मानदेय न हों जो अधिनियम के तहत अयोग्यता का कारण बने।

प्रश्न 8) कृपया सीपीसीआर अधिनियम, 2005 और एनसीपीसीआर नियम, 2006 की एक-एक प्रति उपलब्ध कराएं।

उत्तर: बाल अधिकार संरक्षण आयोग (सीपीसीआर) अधिनियम, 2005 और राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) नियम, 2006 के द्विभाषी संस्करण बाल कल्याण प्रभाग-I, महिला एवं बाल विकास मंत्रालय द्वारा 4 अप्रैल, 2025 को भेजे गए ईमेल के माध्यम से अलग-अलग भेजे दिए गए हैं।

प्रश्न 9) कोई भी ऐसी जानकारी प्रदान करें जो राष्ट्रीय बाल अधिकार संरक्षण आयोग (एनसीपीसीआर) इस विषय पर देना चाहता है।

उत्तर: शून्य

Re: Clarification on the Eligibility of a Sitting MP to be Considered for the post of Chairperson, NCPCR

Me Child Welfare-I Section <cw1-mwcd@gov.in>
Fri, 04 Apr 2025 5:52:48 PM +0530 •

To "committee-br2" <committee-br2@sansad.nic.in>

Cc "Ms Tripti Gurha" <triptigurha.edu@nic.in>, "Maneesh Rajan" <maneesh.rajan@nic.in>, "T Songzalian DDG" <ts.lian@nic.in>, "Sajjan Pal" <sajjan.pal@nic.in>, "Natasha" <natasha.anthony@govcontractor.in>

Respected Sir/Madam,

With reference to the ongoing correspondence, please find enclosed copies of the **Commission for Protection of Child Rights Act, 2005** and the **National Commission for Protection of Child Rights Rules, 2006**, in both **Hindi and English**, for your kind reference and necessary perusal.

Regards,
Child Welfare Section I
Ministry of Women and Child Development
Government of India

----- On Fri, 04 Apr 2025 16:03:46 +0530 **Child Welfare-I Section** <cw1-mwcd@gov.in> wrote

Respected Sir/Madam,

In reference to your letter no. **AFEAS-CB-II029/1/2025-CB-II** dated **2nd April 2025**, please find below the requisite information from the Ministry of Women and Child Development (MWCD):

1. The **National Commission for Protection of Child Rights (NCPCR)** was established in **March 2007** under an Act of Parliament (December 2005) under **Section 3** of the **Commissions for Protection of Child Rights (CPCR) Act, 2005**.
2. Further, in addition to the CPCR Act, 2005, the **National Commission for Protection of Child Rights Rules, 2006** were enacted and came into force on **15th February 2007**.

Regards,
Child Welfare Section I
Ministry of Women and Child Development
Government of India

आदरणीय महोदय/महोदया,

आपके पत्र संख्या **AFEAS-CB-II029/1/2025-CB-II** दिनांक **2 अप्रैल 2025** के संदर्भ में, कृपया महिला एवं बाल विकास मंत्रालय (MWCD) से प्राप्त आवश्यक जानकारी निम्नानुसार है:

1. **राष्ट्रीय बाल अधिकार संरक्षण आयोग (NCPCR)** की स्थापना **मार्च 2007** में संसद द्वारा पारित अधिनियम (दिसंबर 2005) के अंतर्गत, **बाल अधिकार संरक्षण आयोग अधिनियम, 2005** की धारा 3 के तहत की गई थी।
2. इसके अतिरिक्त, **बाल अधिकार संरक्षण आयोग अधिनियम, 2005** के अंतर्गत **राष्ट्रीय बाल अधिकार संरक्षण आयोग नियम, 2006** अधिनियमित किए गए और **15 फरवरी 2007** से प्रभाव में आए हैं।

सादर

बाल कल्याण (अनुभाग-I),
महिला एवं बाल विकास मंत्रालय,
भारत सरकार,

----- On Tue, 18 Mar 2025 17:47:21 +0530 **Child Welfare-I Section** <cw1-mwcd@gov.in> wrote

Respected Sir,

Background

1. The **National Commission for Protection of Child Rights (NCPCR)** is a **statutory body** established under the **Commission for Protection of Child Rights (CPCR) Act, 2005**. The **Chairperson of the National Commission for Protection of Child Rights (NCPCR)** is appointed as per the provisions of the **Commission for Protection of Child Rights (CPCR) Act, 2005** and the **NCPCR Rules, 2006**.

CPCR Act, 2005

- **Section 3(2)** of the Act states that the Chairperson should be a person of eminence and has done outstanding work for promoting the welfare of children.
- **Section 4:** states that the Chairperson is appointed by the **Central Government** based on the recommendation of a **Selection Committee constituted by the Central Government under the Chairmanship of the Minister in charge of the Ministry or the Department of Women and Child Development**.

2. **Rule 6A** of NCPCR Rules 2006 is regarding Invitation of applications for the post of Chairperson and Members. **Rule 6A (3)** prescribes that the application shall be submitted in Form specified in Schedule iv. As per this Form any individual applying for the post of Chairperson has to submit an **Undertaking** in which it is mentioned that: **If selected, I shall not hold office of profit or pursue any profession or carry on any business other than my office as Chairperson, NCPCR.**

Clarification is required on whether a sitting Member of Parliament (MP) can apply and be considered for the post of Chairperson of NCPCR?

3. Under **Articles 102 and 191** of the Indian Constitution, MPs are barred from holding government positions that may lead to conflict of interest or disqualification. Under the **Parliament (Prevention of Disqualification) Act, 1959 (PPD Act, 1959)** certain commissions, such as the **National Commission for Minorities (NCM)**, **National Commission for Scheduled Castes (NCSC)**, **National Commission for Scheduled Tribes (NCST)**, and **National Commission for Women (NCW)**, have been exempted, allowing MPs to hold their Chairperson positions without disqualification.

4. The **office of profit** principle, shaped by various Supreme Court rulings, considers a position to be an office of profit if it provides financial gain, is under government control, and involves appointment and removal powers.

5. Further, the Department of Legal Affairs has advised that the matter may be referred to the Lok Sabha Secretariat, Committee Branch, Joint Committee on Offices of

Profit (JCOP) to place the query for the consideration of the said Committee.

6. Clarification is sought on the following points:

- Whether a sitting MP can apply for and be considered for the post of Chairperson, NCPCR, particularly in light of the above-referenced provisions and any other relevant legislations, rules, or guidelines.
- That NCPCR is not exempt under the PPD Act, 1959, and the Chairperson receives government remuneration.

7. In view of the above, the Lok Sabha Secretariat, Committee Branch, JCOP is kindly requested to place the matter before the said Committee to provide their considered opinion on the above-mentioned points in light of the above-referenced provisions and any other relevant legislations, rules, or guidelines.

8. This issues with the approval of the competent authority.

Warm regards,

Child Welfare-I Section
Ministry of Women and Child Development
Government of India

Child Welfare-I Section
Ministry of Women and Child Development
Government of India

☑ ☐☐ **3 Attachment(s)** • [Download as Zip](#) • [Add To](#) >



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444.5 KB • 🔒



CPCR Act, 2005 (Hindi).pdf
422.9 KB • 🔒

FAX: 23010756

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Out of Today's Special Message
NEW DELHI-110001

(COMMITTEE BRANCH)

(Joint Committee on Offices of Profit)
G-013, B Block, EPHA

LAFEAS-CB-II029/1/2025-CB-II

8th April, 2025.

Chaitra 18, 1947 (Saka)

OFFICE MEMORANDUM

Subject: Seeking clarification on the Eligibility of a sitting MP to be considered for the Post of Chairperson, National Commission for Protection of Child Rights (NCPCR).

With reference to Ministry of Law and Justice (Legislative Department) OM of even number dated 01.04.2025 on the above mentioned subject, I am directed to forward herewith the replies to the List of Points along with copies of NCPCR Rules, 2006 and CPC Act, 2005 (English and Hindi versions) as received from the Ministry of Women and Child Development for examination of the case from the angle of Office of Profit.

2. The Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) are requested to receive the same and forward their consolidated opinion to this Secretariat. The soft copy of the comments of the Ministry may also be mailed at committee-br2@sansad.nic.in.

3. The receipt of this communication may also please be acknowledged.

4. This may be treated as **Most Urgent**.


(V.K. SHAILON)
DIRECTOR
Ph.No.23034278 /5713

To

1. The Ministry of Law and Justice
(Legislative Department),
(Dr. Rajiv Mani, Secretary)
Room No.405, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi – 110001.
2. The Ministry of Law and Justice
(Department of Legal Affairs),
(Dr. Anju Rathi Rana, Secretary)
Room No.404, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi – 110001.

Annexure-X

F.No.17(1)/2025-Leg.III
Government of India
Ministry of Law and Justice
Legislative Department

Shastri Bhawan, New Delhi
Dated the 2nd May, 2025

OFFICE MEMORANDUM

Subject: Seeking clarification on the eligibility of a sitting MP can apply and be considered for the Post of Chairperson, National Commission for Protection of Child Rights (NCPCR) - reg

The undersigned is directed to refer to the Lok Sabha Secretariat OM No. LAFEAS-CB-11029/1/2025-CB-II dated the 8th April, 2025 on the subject mentioned above and to forward herewith the consolidated opinion of the Legislative Department and the Department of Legal Affairs on the above mentioned subject matter.

Encl:A/a


(R.S. Jayakrishnan)
Additional Legislative Counsel
Tel. 23384834

The Lok Sabha Secretariat
Committee Branch-II
{Joint Committee on Offices of Profit }
[Kind Attn: Shri V.K.Shailon, Director]
G-013, PHA, Extension Building
New Delhi. 110 001

Legislative Department

Subject: Clarification on the eligibility of a sitting MP to be considered for the post of Chairperson, National Commission for Protection of Child Rights (NCPCR)

Lok Sabha Secretariat *vide* OM.No. LAFEAS-CB-11029/1/2025-CB. II dated the 8th April, 2025 has forwarded the replies to the list of points along with the copies of National Commission for Protection of Child Rights Rules, 2006 and Commission for Protection of Child Rights Act, 2005 received from the Ministry of Women and Child Development for examination of the eligibility of a sitting Member of Parliament to be considered for the post of Chairperson, National Commission for Protection of Child Rights from the angle of office of profit. It is also requested to furnish the consolidated opinion of the Legislative Department and the Department of Legal Affairs.

2. The question under consideration is whether the appointment/nomination of Members of Parliament as Chairperson, National Commission for Protection of Child Rights (NCPCR) would attract disqualification from membership of the House under 'office of profit' under sub-clause (a) of clause (1) of article 102 of the Constitution.

3. On going through the documents received from Lok Sabha Secretariat, it is seen that regarding the composition, character, functions etc. of the NCPCR, role of members of Parliament as a Member/Chairperson of NCPCR, expenses payable to the chairperson, facilities other than remuneration given/proposed to be given to the Members of Parliament as a Member/Chairperson of NCPCR, etc., the administrative Ministry has given detailed reply.

4. As per the reply of the administrative Ministry, NCPCR has been constituted under section 3 of the Commission for Protection of Child Rights Act, 2005 consisting of a Chairperson and six other Members. As provided under section 4, the Chairperson shall be appointed on the recommendation of a three-member selection Committee constituted by the Central Government under the Chairmanship of the Minister in-charge of the Ministry of Women and Child Development. As provided under section 5, the term of office of Chairperson is three years from the date on which he assumes office. Further, section 13 of the Act provides for the functions of the Commission. Besides the functions assigned under this Act, monitoring and implementation of the Right of Children to Free and Compulsory Education Act, 2009 (section 31), the Juvenile Justice (Care and Protection of Children) Act, 2015 (section 109) and of the Protection of Children from Sexual Offences Act, 2012 (section 44) are also assigned to the NCPCR.

The National Commission for Protection of Child Rights Rules, 2006 and the Prevention of Children from Sexual Offences Rules, 2012 also assigns certain functions to the Commission.

5. To the query at Sl. No. 4 as to whether the functions of the Commission are purely advisory in nature, the administrative Ministry has replied that the functions of the Commission are not merely advisory in nature but also encompass quasi-judicial powers. Mentioning about sections 13 and 14 of the Act, they have stated that NCPCR plays a dual role- both advisor and enforcement oriented- in safeguarding and promoting the rights of children in India.

6. With regard to the query at Sl.No.5 (ii) of the list of points as to whether the Government exercises control over the appointment to and removal from the office and over the performance and functions of the office, the administrative Ministry has mentioned sections 4 and 7 of the CPCR Act clearly mentioning the active role of Government therein. Further, to the query at Sl.No.5(iv) of the list of points on the role of the Member of Parliament as Member/Chairperson in the Board, they have replied that the Chairperson serves as the head and primary representative of the Commission. They have further stated that, although the Act and the NCPCR Rules, 2006 do not detail the day-to-day functions of the Chairperson separately. By virtue of the position, the Chairperson plays a key role in presiding over meetings, guiding policy direction and overseeing the functioning of the Commission.

7. To the query at serial No. 6(i) as to whether the Committee exercise legislative or judicial powers, it was stated by the Administrative Ministry that section 14 of the Act strengthens the Commission's authority by conferring upon it the powers of a civil court while conducting inquiries under clause(j) of section 13(1). They have further stated that the Commission do not exercise legislative powers and the NCPCR rules also do not confer legislative authority. Against the queries at serial No.6(ii), (C), and (D) regarding the power of the disbursement of funds of the Committee, powers of appointment/ removal and possibility that the committee would influence power by way of patronage, the Administrative Ministry has given the reply negatively.

8. With regard to the query at serial number 7(i) regarding the expenses payable to the Members of Parliament as Member/Chairperson of the Commission, specifying the actual rates of payment with break-up of sitting fee, daily allowances, travelling allowance, house rent allowance, compensatory allowance, honorarium etc., in the reply of the administrative Ministry it is stated that the position of Chairperson of NCPCR is equivalent to the rank of Secretary to the Government of India and the remuneration attached to the post is in level 17 (i.e. basic salary of Rs. 2,25,000 per month) along with all other allowances and entitlements admissible to a Secretary level Officer in the Central Government

as per prevailing Government norms. It is further stated that besides remuneration, Chairperson is entitled to all facilities/perks available to an Officer of the level of Secretary to the Government of India.

9. With regard to the query at serial No.7(iii) as to whether the allowances payable to the Member of Parliament as Member of the Committee are covered under the Compensatory Allowance defined in section 2(a) of Parliament (Prevention of Disqualification) Act, 1959, the reply of the administrative Ministry is that it would fall within the scope of compensatory allowance as defined under section 2(2) of the Parliament (Prevention of disqualification) Act, 1959. They have further stated that such allowances received by a Member of Parliament in their capacity as Chairperson or Member of the NCPCR are covered under this Definition, provided they are strictly in the nature of reimbursement for official duties and do not constitute a salary or honorarium that could attract disqualification under the Act.

10. In this regard, attention is drawn to section 3 (i) of the Parliament (Prevention of Disqualification) Act, 1959 (the Act) which reads as under: –

3. Certain offices of profit not to disqualify. —It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament, namely, —

.....

*(i) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (h), **if the holder of such office is not entitled to any remuneration other than compensatory allowance**, but excluding (i) the office of chairman of any statutory or non-statutory body specified in Part I of the Schedule and (ii) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule;*

Further clause (a) of section 2 of the Act defines the term "compensatory allowance" as follows: –

"(a) "compensatory allowance" means any sum of money payable to the holder of an office by way of daily allowance (such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954)), any conveyance allowance, house-rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office".

11. Further, for determining the question regarding "office of Profit", the Apex court has laid down the following tests in the case of Shivamurthy Swami Inamdar Vs Sanganna Andanappa (1971) 3 SCC 870: –

- (a) whether the Government makes the appointment;
- (b) Whether the Government has the right to remove or dismiss the holder;
- (c) Whether the Government pays the remuneration;
- (d) What are the functions of the holder.? Does he perform them for the Government; and
- (e) Does the Government exercises any control over the performance of these functions?

12. Besides, the Joint Committee on Offices of Profit have been following the criteria stated hereunder to test the Committees, Commissions, etc. for deciding the question as to which of the offices should disqualify and which should not disqualify a person for being chosen as and for being a Member of Parliament, namely:- (Relevant extracts at **Annexure. I**): –

"(i) Whether the holder draws any remuneration, like sitting fee, honorarium, salary, etc. i.e. any remuneration other than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959;

[The principle thus is that if a member draws not more than what is required to cover the actual out-of-pocket expenses and does not give him pecuniary benefit, it will not act as a disqualification.]

(ii) Whether the body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licenses etc., or gives powers of appointment, grant of scholarships, etc.; and

(iii) Whether the body in which an office is held wields influence or power by way of patronage.

10.6 If reply to any of the above criteria is in affirmative then the offices in question will entail disqualification."

13. It is pertinent to mention here that, the administrative Ministry in response to query at serial No. 6 (A) to the list of points, specifically stated that the Board has quasi-judicial powers. This may attract the criteria consistently adopted by the Joint Committee on Offices of Profit for disqualifying a person from the "angle of office of profit". Further, they have also stated that NCPDR plays a dual role- both advisor and enforcement oriented. Besides, on going through various functions assigned to the Commission under various Acts/rules etc., it is felt that the Commission exercises several executive functions. Further, by virtue of rules 7,8 and 9 of the National Commission for Protection of Child Rights

Rules, 2006, it may be noted that a definite salary and other allowances is attached to the office of the Chairperson. Regarding the remuneration payable to a Member of Parliament if appointed as the Chairperson of a Committee, Commission etc., observations made by the Joint Committee on Office of Profit in paragraph 6 of the Second Report (10th Lok Sabha) is noteworthy to mention. Relevant Extracts are as under: –

“6. In this connection, the Committee also note the following observations in the judgement given by the Election Commission in July, 1991 in regard to Shri R.K. Hegde, who held the post of Deputy Chairman, Planning Commission and was a Member of Karnataka Legislative Assembly:

‘What is to be seen for determining whether an office is office of profit is whether such office is capable of profit being derived and not whether a person is actually deriving that benefit or not. It cannot be gainsaid that the office of the Deputy Chairman of the Planning Commission is capable of ‘profit’ being derived as a definite salary is attached to that office. The fact that the opposite party did not draw any salary does not materially alter the status of that office being office of profit’.”

14. The Department of Legal Affairs also have examined the issue in the light of various observations of the Apex Court and established legal provisions. In their Note dated 28.4.2025 (**Annexure. II**), it is stated that the concept of “office of profit” includes two essential elements: firstly, the existence of an Office and secondly, the receipt of remuneration associated with that Office. They have further stated that, in the present case, the sitting Member of Parliament is receiving pecuniary benefits from government funds, thereby attracting the principle of Office of Profit.

15. Therefore, in concurrence with the views of the Department of Legal Affairs given in Paragraph 14 and also in view of reasoning given in paragraphs 8, 9, 10, 11, 12 and 13 with regard to the functions of the Commission and remuneration receivable by the Office of the Chairperson, it appears that the Members of Parliament, if nominated as Chairperson to the NCPCR, may incur disqualification in terms of sub-clause (a) of clause (1) of article 102 of the Constitution.

JOINT COMMITTEE ON OFFICES OF PROFIT

TENTH REPORT

(SEVENTH LOK SABHA)

ON

**THE DRAFT PARLIAMENT (PREVENTION OF
DISQUALIFICATION) AMENDMENT BILL, 1983**



Presented to Lok Sabha on 7th May, 1984

Laid in Rajya Sabha on 7th May, 1984

**LOK SABHA SECRETARIAT
NEW DELHI**

May, 1984/Vaisakha, 1906 (Saka)

Price : Rs. 5-20

purpose behind enacting the 1959 Act. So, with a view to make the provision workable, the task of defining the type of executive power, which was to disqualify a member, would have to be taken up. The law would also become very uncertain and would lead to an increase of election petitions. Same would be the case with legislative, Judicial and financial powers as in each case the exact type of such powers which would disqualify, had to be specified making the issue fairly cloudy. He also stated that the work of advice on the exemption of the nature of the office had been entrusted to the Joint Committee on Offices of Profit since a member was entitled to know before he had accepted an office as to whether acceptance of it would lead him to disqualification. With regard to the guidelines that a member would be disqualified if he held an office where he was in a position to wield influence or distribute patronage, the representatives of the Ministry maintained that the trend of judicial decisions had been to equate profit in terms of money or assess in terms of pecuniary gain. Mere patronage under Article 102 (1) (a) would not disqualify.

10.3 The Committee feel that the basic principle underlying the imposition of disqualification under articles 102 (1) (a) and 191 (1) (a) of the Constitution is that a member of the Legislature should not be indebted to Government by accepting an 'office of profit' under the Government and thus compromise his independence. The Legislature should be kept independent of the executive so that the members would be free to carry out fearlessly their duties to their electorate and not to be influenced by any consideration of personal gain. They should not run the risk of conflict between duty and self-interest.

10.4 The broad criteria for the determination of the question whether an office held by a person is an office of profit have been laid down in judicial pronouncements. If the Government exercises control over the appointment to and dismissal from the office, and over the performance and functions of the office and in case the remuneration or pecuniary gain, either tangible or intangible in nature, flows from such office irrespective of whether the holder for the time being actually receives such remuneration or gain or not, the office should be held to be an office of profit under the Government. Otherwise, the object of imposition of the disqualifications as envisaged in the Constitution will become frustrated. This first basic principle (para 10.3) should be the guiding factor in offering positions to a member of the Legislature.

10.5 Keeping the above position in view, the Joint Committee on Offices of Profit have been following the undernoted criteria to test the Committees, Commissions, etc. for deciding the question as to which of the offices

should disqualify and which should not disqualify a person for being chosen as and for being a Member of Parliament :—

- (i) Whether the holder draws any remuneration, like sitting fee-honarium, salary, etc. i.e any remuneration other than the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959 ;

[The principle thus is that if a member draws not more than what is required to cover the actual out- f-pocket expenses and does not give him pecuniary benefit, it will not act as a disqualification.]

- (ii) Whether the body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc , or gives powers of appointment, grant of scholarships, etc. ; and

- (iii) Whether the body in which an office is held wields influence or power by way of patronage.

10.6 If reply to any of the above criteria is in affirmative then the offices in question will entail disqualification.

Note # 8

25/04/2025 12:56 pm

Advice A AND B Section
SUPERINTENDENT LEGALNote # 9

25/04/2025 01:40 pm

NIRAJ KUMAR
JOINT SECRETARY & LEGAL ADVISERNote # 10

विधि और न्याय मंत्रालय / Ministry of Law & Justice

विधि कार्य विभाग / Department of Legal Affairs

File No. LAFEAS-CB-II029/1/2025-CB-II

Computer No. 146585

The Lok Sabha Secretariat, Committee Branch (Joint Committee on Office of Profit), *vide* O.M. dated 28 March 2025, has sought our advice on whether the appointment of a sitting MP as Chairperson of the National Commission for Protection of Child Rights (NCPCR) would constitute holding an office of profit, thereby attracting disqualification under Article 102(1)(a) of the Constitution of India.

2. It is understood that the scope of Article 102(1) is restricted to those cases where a member of Parliament holds an office of profit not exempted by Parliament by law as required by Article 102(1)(a) of the Constitution of India. It further seeks to examine the propriety of the action of the Parliament in retrospectively exempting "office(s) of profit" by giving retrospective effect to the law enacted by it under Article 102(1)(a). Article 102 (1)(a) of the Constitution of India provides that:

102. Disqualifications for membership-

(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament-

(a) If he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder.

3. The essential ingredients for attracting the said article, as established by catena of judgements, are that there must be an office; such office must be an office of 'profit', it must be under the Government

of India or the Government of a State, and such office must not be excluded from the operation of this sub-clause by a law made by Parliament.

4. A Constitution Bench of the Supreme Court in Guru Gobind Basu vs. Sankari Prasad Ghosal & others (AIR 1964 SC 254) ruled that the decisive test for determining whether a person holds any office of profit under the Government is the test of appointment. Several factors enter into the determination of this question such as appointing authority; the authority vested with the power to terminate the appointment; the authority that determines the remuneration; the source from which the remuneration is paid; the authority vested with the power to control the manner in which the duties of the office are discharged and to give protection on that behalf. Though it is not necessary that all these factors must co-exist.

5. Besides, as per section 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, the office of the Chairman of the NCPCR is not exempted under the PPD Act, 1959, and the Chairperson receives government remuneration. Therefore, to decide the issue, it is imperative to examine the nature of government control and the functions of the National Commission for Protection of Child Rights (NCPCR).

6. Further, the issue whether the office in question is an office of profit under the Government has been examined by the Apex Court in the matter of Jaya Bachchan V/s Union of India and Ors (WP(c) 199 of 200) and held that: -

" In this case, as noticed above, the office carried with it a monthly honorarium of Rs 5000, entertainment expenditure of Rs. 10,000., staff car with driver, telephones at office and residence, free accommodation and medical treatment facilities to self and family members, apart from other allowances etc. That these are pecuniary gains, cannot be denied.

Further, in Biharilal V/s Roshan Lal. AIR 1984 SC the Hon'ble Apex Court has decided that the respondent was holding an 'office of profit under the State Government'. and observed as under: -

In order to determine whether a person holds an office of profit under the Government several tests are ordinarily applied such as whether the Government makes the appointment, whether the Government has the right to remove or dismiss the holder of the office, whether the Government pays the remuneration, whether the functions performed by the holder are carried on by him for the Government and whether the Government has control over the duties and functions of the holder."

7. In the present matter, the National Commission for Protection of Child Rights (NCPCR) is a statutory body. The appointment of the Chairperson isn't exempt from the list of the PPD Act, 1959. In this

connection, the Gazette notification published on 31st July 2006 by the Ministry of Women and Child Development, herein section (7) of the G.S.R states that: -

"(7) Salaries & Allowances: - (1) Save as otherwise provided in section 6, the Chairperson shall be paid a salary equivalent to the salary of the Cabinet Secretary to the Government of India, and every other Member shall be paid salary equivalent to that of a Secretary to the Government of India."

8. Attention is also invited to section 3 of the Salary Allowances and Pension of Members of Parliament Act, 1954 states as under: -

Salaries and Daily Allowances: - A member shall be entitled to receive (a salary at the rate of (One lakh Rupees) per mensem) during the whole of his term of office (and subject to any rules made under this Act) an allowance at the rate of two thousand rupees for each day during any period of residence on duty."

9. We have perused the present matter in light of the above observations made by the Hon'ble Apex Court and established legal provisions. In this case, the applicability of the candidate needs to be examined for the post of Chairperson of NCPDR, who is already sitting M.P., getting pecuniary benefits from the Government funds.

10. In view of the above, it is observed that the concept of "office of profit" includes two essential elements: firstly, the existence of an office, and secondly, the receipt of remuneration associated with that office. In the present case, the sitting Member of Parliament (M.P.) is receiving pecuniary benefits from government funds, thereby attracting the principle of office of profit. Accordingly, the sitting M.P. may be considered within the purview of the office of profit for the purpose of determining eligibility for appointment to the post of Chairperson, National Commission for Protection of Child Rights (NCPDR).

11. It is pertinent to mention that the Legislative Department vide OM dated 01.04.2025 (F.No.17(1)/2025-Leg.III) has requested us to provide our comments/opinion on the subject matter enabling them to prepare and submit a comprehensive/consolidated reply to the Lok Sabha Secretariat on the behalf of the Ministry of Law & Justice. As such, if approved, we may forward our comments to the Legislative Department for further necessary action.

May kindly see,

28/04/2025 02:37 pm

PRATEEK KUMAR TIWARI
ASSISTANT LEGAL ADVISOR

Note # 11

28/04/2025 02:55 pm

NIRAJ KUMAR
JOINT SECRETARY & LEGAL ADVISER

Note # 12

28/04/2025 04:16 pm

ANJU RATHI RANA
LAW SECRETARY

Note # 13


28/04/2025 04:27 pm

NIRAJ KUMAR
JOINT SECRETARY & LEGAL ADVISER

Note # 14

28/04/2025 04:37 pm

PRATEEK KUMAR TIWARI
ASSISTANT LEGAL ADVISOR

 Digitally Signed

Leg-III (Legislative Department)

विधि कार्य विभाग
Deptt. of Legal Affairs

प्रे. सं./ 146585 स. (वी)
Dy. No. 769528/25/28 Adv. (B) 769300
दिनांक/Date 28/4/25

Note # 8

25/04/2025 12:56 pm

Advice A AND B Section
SUPERINTENDENT LEGAL

Note # 9

25/04/2025 01:40 pm

NIRAJ KUMAR
JOINT SECRETARY & LEGAL ADVISER

Note # 10

विधि और न्याय मंत्रालय / Ministry of Law & Justice
विधि कार्य विभाग / Department of Legal Affairs
File No. LAFEAS-CB-II029/1/2025-CB-II
Computer No. 146585

The Lok Sabha Secretariat, Committee Branch (Joint Committee on Office of Profit), vide O.M. dated 28 March 2025 has sought our advice on whether the appointment of a sitting MP as Chairperson of the National Commission for Protection of Child Rights (NCPCR) would constitute holding an office of profit, thereby attracting disqualification under Article 102(1)(a) of the Constitution of India.

2. It is understood that the scope of Article 102(1) is restricted to those cases where a member of Parliament holds an office of profit not exempted by Parliament by law as required by Article 102(1)(a) of the Constitution of India. It further seeks to examine the propriety of the action of the Parliament in retrospectively exempting "office(s) of profit" by giving retrospective effect to the law enacted by it under Article 102(1)(a). Article 102 (1)(a) of the Constitution of India provides that:

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of India or the Government of a State, and such office must not be excluded from the operation of this sub-clause by a law made by Parliament.

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5. Besides, as per section 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, the office of the Chairman of the NCPCR is not exempted under the PPD Act, 1959, and the Chairperson receives government remuneration. Therefore, to decide the issue, it is imperative to examine the nature of government control and the functions of the National Commission for Protection of Child Rights (NCPCR).

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7. In the present matter, the National Commission for Protection of Child Rights (NCPCR) is a statutory body. The appointment of the Chairperson isn't exempt from the list of the PPD Act, 1959. In this

connection, the Gazette notification published on 31st July 2006 by the Ministry of Women and Child Development, herein section (7) of the G.S.R states that: -

"(7) Salaries & Allowances: - (1) Save as otherwise provided in section 6, the Chairperson shall be paid a salary equivalent to the salary of the Cabinet Secretary to the Government of India, and every other Member shall be paid salary equivalent to that of a Secretary to the Government of India."

8. Attention is also invited to section 3 of the Salary Allowances and Pension of Members of Parliament Act, 1954 states as under: -

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9. We have perused the present matter in light of the above observations made by the Hon'ble Apex Court and established legal provisions. In this case, the applicability of the candidate needs to be examined for the post of Chairperson of NCPDR, who is already sitting M.P., getting pecuniary benefits from the Government funds.

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11. It is pertinent to mention that the Legislative Department vide OM dated 01.04.2025 (F.No.17(1)/2025-Leg.III) has requested us to provide our comments/opinion on the subject matter enabling them to prepare and submit a comprehensive/consolidated reply to the Lok Sabha Secretariat on the behalf of the Ministry of Law & Justice. As such, if approved, we may forward our comments to the Legislative Department for further necessary action.

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ASSISTANT LEGAL ADVISOR

 Digitally Signed

Leg-III (Legislative Department)

विधि कार्य विभाग
Deptt. of Legal Affairs

प्रे. सं./ 146585 स. (वी)
Dy. No. 769528/45/28 Adv. (B) 769300
दिनांक/Date 28/4/25

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) ACT, 1959

ACT NO. 10 OF 1959

[4th April, 1959.]

An Act to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being, members of Parliament.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Parliament (Prevention of Disqualification) Act, 1959.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “compensatory allowance” means any sum of money payable to the holder of an office by way of daily allowance (such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under ¹[the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954)], any conveyance allowance, house-rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office;

(b) “statutory body” means any corporation, committee, commission, council, board or other body of persons, whether incorporated or not, established by or under any law for the time being in force;

(c) “non-statutory body” means any body of persons other than a statutory body.

3. Certain offices of profit not to disqualify.—It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament, namely,—

(a) any office held by a Minister, Minister of State or Deputy Minister for the Union or for any State, whether *ex officio* or by name;

²[(aa) the office of a Leader of the Opposition in Parliament;]

³[(ab) the office of Deputy Chairman, Planning Commission;]

⁴[(ac) the office of ⁵[each leader and each deputy leader] of a recognised party and a recognised group in either House of Parliament;]

⁶[(ad) the office of the Chairperson of the National Advisory Council constituted by the Government of India in the Cabinet Secretariat *vide* Order No. 631/2/1/2004-Cab., dated the 31st May, 2004;]

(b) the office of Chief Whip, Deputy Chief Whip or Whip in Parliament or of a Parliamentary Secretary;

1. Subs. by Act 54 of 1993, s. 2, for the words “the Salaries and Allowances of Members of Parliament Act, 1954” (w.e.f. 27-8-1993).

2. Ins. by Act 33 of 1977, s. 12 (w.e.f. 1-11-1977).

3. Ins. by Act 54 of 1993, s. 3 (w.e.f. 19-7-1993).

4. Ins. by Act 5 of 1999, s. 5 (w.e.f. 5-2-1999).

5. Subs. by Act 18 of 2000, s. 5, for “each leader” (w.e.f. 7-6-2000).

6. Ins. by Act 31 of 2006, s. 2 (w.e.f. 18-8-2006).

¹[(ba) the office of chairperson of—

(i) the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992 (19 of 1992);

²[(ii) the National Commission for the Scheduled Castes constituted under clause (1) of article 338 of the Constitution;

(iia) the National Commission for the Scheduled Tribes constituted under clause (1) of article 338A of the Constitution;]

(iii) the National Commission for women constituted under section 3 of the National Commission for Women Act, 1990 (20 of 1990);]

(c) the office of a member of any force raised or maintained under the National Cadet Corps Act, 1948 (31 of 1948), the Territorial Army Act, 1948 (56 of 1948), or the Reserve and Auxiliary Air Forces Act, 1952 (62 of 1952);

(d) the office of a member of a Home Guard constituted under any law for the time being in force in any State;

(e) the office of sheriff in the city of Bombay, Calcutta or Madras;

(f) the office of chairman or member of the syndicate, senate, executive committee, council or court of a university or any other body connected with a university;

(g) the office of a member of any delegation or mission sent outside India by the Government for any special purpose;

(h) the office of chairman or member of a committee (whether consisting of one or more members), set up temporarily for the purpose of advising the Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry into, or collecting statistics in respect of, any such matter, if the holder of such office is not entitled to any remuneration other than compensatory allowance;

³[(i) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (h), if the holder of such office is not entitled to any remuneration other than compensatory allowance, but excluding (i) the office of chairman of any statutory or non-statutory body specified in Part I of the Schedule ⁴[(ii) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule and (iii) the office of deputy chairman of the non-statutory body specified in Part III of the Schedule;]

(j) the office of village revenue officer, whether called a *lambardar*, *malguzar*, *patel deshमुख* or by any other name, whose duty is to collect land revenue and who is remunerated by a share of, or commission on, the amount of land revenue collected by him, but who does not discharge any police functions.

⁵[(k) the office of Chairman, Deputy Chairman, Secretary or Member (by whatever name called) in any statutory or non-statutory body specified in the Table;

1. Ins. by Act 54 of 1993, s. 3 (w.e.f. 27-8-1993).

2. Subs. by Act 28 of 2013, s. 2, for sub-clause (ii) (w.e.f. 20-9-2013).

3. Subs. by Act 54 of 1993, s. 3, for clause (i) (w.e.f. 19-7-1993).

4. Subs. by Act 20 of 1992, s. 2, for “and (ii) the office of chairman or secretary or any statutory or non-statutory body specified in Part II of the Schedule;” (w.e.f. 17-5-1992).

5. Ins. by Act 31 of 2006, s. 2 (w.e.f. 18-8-2006).

(l) the office of Chairperson or trustee (by whatever name called) of any Trust, whether public or private, not being a body specified in the Schedule;

(m) the office of Chairman, President, Vice-President or Principal Secretary or Secretary of the Governing Body of any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law relating to registration of societies, not being a body specified in the Schedule.]

¹[*Explanation 1*].—For the purposes of this section, the office of ²[chairman, Deputy Chairman or secretary] shall include every office of that description by whatever name called.

³[*Explanation 2*.—In clause (aa), the expression “Leader of the Opposition” shall have the meaning assigned to it in the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977 (33 of 1977).]

⁴[*Explanation 3*.—In clause (ac), the expressions “recognised party” and “recognised group” shall have the meanings assigned to them in the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 (5 of 1999).]

4. Temporary suspension of disqualification in certain cases.—If a person being a member of Parliament who immediately before the commencement of this Act held an office of profit declared by any law repealed by this Act not to disqualify the holder thereof for being such member, becomes so disqualified by reason of any of the provisions contained in this Act, such office shall not, if held by such person for any period not extending beyond a period of six months from the commencement of this Act disqualify him for being a member of Parliament.

5. Repeals.—The Parliament (Prevention of Disqualification) Act, 1950 (19 of 1950), the Parliament Prevention of Disqualification Act, 1951 (68 of 1951), the Prevention of Disqualification Act, 1953 (1 of 1954), and any provision in any other enactment which is inconsistent with this Act are hereby repealed.

1. *Explanation* re-numbered as *Explanation 1* thereof by Act 33 of 1977, s. 12 (w.e.f. 1-11-1977).

2. Subs. by Act 54 of 1993, s. 3, for “chairman or secretary” (w.e.f. 27-8-1993).

3. *Explanation 2* ins. by Act 31 of 1977, s. 12 (w.e.f. 1-11-1977).

4. *Explanation 3* ins. by Act 5 of 1999, s. 5 (w.e.f. 7-1-1999).

THE SCHEDULE

[See section 3(i)]

PART I

BODIES UNDER THE CENTRAL GOVERNMENT

Air-India International Corporation established under section 3 of the Air Corporations Act, 1953 (27 of 1953).

Air Transport Council constituted under section 30 of the Air Corporations Act, 1953 (27 of 1953).

Board of Directors of the Export Risks Insurance Corporation ¹* * * Limited.

Board of Directors of the Heavy Electricals ¹* * * Limited.

Board of Directors of the Hindustan Cables ¹* * * Limited.

Board of Directors of the Hindustan Insecticides ¹* * * Limited.

Board of Directors of the Hindustan Machine Tools ¹* * * Limited.

Board of Directors of the Hindustan Shipyard Limited.

Board of Directors of the ²[Hindustan Chemicals and Fertilizers Limited].

Board of Directors of the National Coal Development Corporation (Private) Limited.

Board of Directors of the National ³[Industrial] Development Corporation ¹* * * Limited.

Board of Directors of the National Instruments ¹* * * Limited.

Board of Directors of the National Small Industries Corporation ¹* * * Limited.

Board of Directors of the Neyveli Lignite Corporation (Private) Limited.

Board of Directors of the Sindri Fertilizers and Chemicals ¹* * * Limited.

Board of Directors of the State Trading Corporation of India ¹* * * Limited.

Central Warehousing Corporation established under section 17 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Coal Board established under section 4 of the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952).

Coal Mines Labour Housing Board constituted under section 6 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947).

Commissioners for the Port of Calcutta.

Committee for the allotment of land in the township of Gandhidham.

Company Law Advisory Commission constituted under section 410 of the Companies Act, 1956 (1 of 1956).

1. The brackets and word "(Private)" omitted by Act 58 of 1960, s. 3 and Sch. II (w.e.f. 26-12-1960).

2. Subs. by s. 3 and Sch. II, *ibid.*, for "Nangal Fertilizers and Chemicals (Private) Limited," (w.e.f. 26-12-1960).

3. Ins. by s. 3 and Sch. II, *ibid.* (w.e.f. 26-12-1960).

Cotton Textiles Fund Committee constituted under the Textile Funds Ordinance, 1944 (34 of 1944).

Dock Labour Board, Bombay, established under the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Dock Labour Board, Calcutta, established under the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Dock Labour Board, Madras, established under the Madras Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Forward Markets Commission established under section 3 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Indian Air Lines Corporation established under section 3 of the Air Corporations Act, 1953 (27 of 1953).

Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948).

Licensing Committee constituted under rule 10 of the Registration and Licensing of Industrial Undertakings Rules, 1952, made under the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Mining Boards constituted under section 12 of the Mines Act, 1952 (35 of 1952).

National Co-operative Development and Warehousing Board established under section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Rehabilitation Finance Administration constituted under section 3 of the Rehabilitation Finance Administration Act, 1948 (12 of 1948).

Tariff Commission established under section 3 of the Tariff Commission Act, 1951 (50 of 1951).

Trustees of the Port of Bombay.

Trustees of the Port of Madras.

Trustees or Commissioners of any major Port as defined in the Indian Ports Act, 1908 (15 of 1908), other than the Port of Calcutta, Bombay or Madras.

BODIES UNDER STATE GOVERNMENTS

Andhra Pradesh

Agricultural Improvement Fund Committee constituted under section 3 of the Hyderabad Agricultural Improvement Act, 1952.

Co-operative Agricultural and Marketing Development Fund Committee.

Livestock Purchasing Committee.

Assam

Adhi Conciliation Boards constituted under section 2A of the Assam Adhiars Protection and Regulation Act, 1948.

Assam Evacuee Property Management Committee constituted under section 12 of the Assam Evacuee Property Act, 1951.

Assam Text Book Committee.

Bihar

Mining Board for Coal Mines.

Text Book and Education Literature Committee.

Bombay

Allocation Committee (Allopathic) under the Employees' State Insurance Scheme.

Allocation Committee (Ayurvedic) under the Employees' State Insurance Scheme.

Board to conduct over-all supervision of the business and affairs of the *Narsinggiriji* Mills, Sholapur.

Bombay Housing Board constituted under section 3 of the Bombay Housing Board Act, 1948.

Bombay State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Bombay State Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

Medical Service Committee under the Employees' State Insurance Scheme.

Pharmaceutical Committee under the Employees' State Insurance Scheme.

Regional Transport Authority for Ahmedabad, Aurangabad, Bombay, Nagpur, Poona, Rajkot and Thana constituted under section 44 of the Motor Vehicles Act, 1939 (4 of 1939).

Saurashtra Housing Board constituted under section 3 of the Saurashtra Housing Board Act, 1954.

State Transport Authority constituted under section 44 of the Motor Vehicles Act, 1939 (4 of 1939).

Vidarbha Housing Board constituted under section 3 of the Madhya Pradesh Housing Act, 1950.

Kerala

Board of Examiners appointed under rule 8 of the Travancore-Cochin Boiler Attendants Rules, 1954.

Panel of Assessors constituted under rule 63 of the Travancore-Cochin Boiler Attendants Rules, 1954.

Panel of Assessors constituted under the Travancore-Cochin Economiser Rules, 1956.

Madhya Pradesh

Madhya Pradesh Housing Board constituted under section 3 of the Madhya Pradesh Housing Board Act, 1950.

Mahakoshal Housing Board.

¹[*Tamil Nadu*]

Committee to select Books for Study for S.S.L.C. Examination.

Landing and Shipping Fees Committees for Minor Ports.

Local Committee constituted under regulation 10A of the Employees' State Insurance (General) Regulations, 1950.

Madras Board of Transport.

²[Tamil Nadu State Electricity Board] constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Madras State Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

Port Conservancy Boards.

Port Trust Boards of Minor Ports.

State Board of Communications.

Text Books Committee.

³[*Karnataka*]

Board of Management, Mysore Iron and Steel Works, Bhadravathi.

Board of Management of Industrial Concerns.

Orissa

Appeal Committee under the Board of Secondary Education.

Orissa Board of Communications and Transport.

Regional Transport Authority constituted under section 44 of the Motor Vehicles Act, 1939 (4 of 1939).

State Transport Authority constituted under section 44 of the Motor Vehicles Act, 1939 (4 of 1939).

Punjab

Punjab State National Workers (Relief and Rehabilitation) Board.

Rajasthan

City Improvement Trust, Kota constituted under the City of Kota Improvement Act, 1946.

Excise Appellate Board, Ajmer.

Rajasthan State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Urban Improvement Board, Jaipur.

1. Subs. by the Madras State (Alteration of Name) (Adaptation of Laws on Union Subject) Order, 1970, for "Madras" (w.e.f. 14-1-1969).

2. Subs. by the Madras State (Alteration of Name) (Adaptation of Laws on Union Subject) Order, 1970, for "Madras State Electricity Board" (w.e.f. 14-1-1969).

3. Subs. by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1974, s. 3 and Sch., for "Mysore" (w.e.f. 1-11-1973).

Uttar Pradesh

Government Cement Factory Board.

Local Committees for Agra, Kanpur, Lucknow and Saharanpur appointed under section 25 of the Employers' State Insurance Act, 1948 (34 of 1948).

Sub-Committee to select books for Educational Expansion Department.

U.P. Sugar and Power Alcohol and Labour Housing Board constituted under section 10 of the U.P. Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act, 1950.

West Bengal

Licensing Board constituted under the regulations made under rule 45 of the Indian Electricity Rules, 1956.

West Bengal Housing Board constituted under the West Bengal Development Corporation Act, 1954.

BODIES IN UNION TERRITORIES

Delhi Development Authority constituted under section 3 of the Delhi Development Act, 1957 (61 of 1957).

Delhi Electricity Power Control Board constituted under section 5 of the Bombay Electricity (Special Powers) Act, 1946, as applied to Delhi.

Delhi State Electricity Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

PART II

BODIES UNDER THE CENTRAL GOVERNMENT

Advisory Committee for the Air-India International Corporation appointed under section 41 of the Air Corporations Act, 1953 (27 of 1953).

Advisory Committee for the Indian Airlines Corporation appointed under section 41 of the Air Corporations Act, 1953 (27 of 1953).

Central Silk Board constituted under section 4 of the Central Silk Board Act, 1948 (61 of 1948).

Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942).

Coir Board constituted under section 4 of the Coir Industry Act, 1953 (45 of 1953).

Development Council for Acids and Fertilizers established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Alkalis and Allied Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Indian Central Coconut Committee constituted under section 4 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Drugs, Dyes and Intermediates established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Food Processing Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Heavy Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Internal Combustion Engines and Power Driven Pumps established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Light Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Machine Tools established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Non-ferrous Metals including alloys established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Oil-based and Plastic Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Sugar Industry established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Textiles made of artificial Silk including artificial Silk Yarn established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Textiles made of Wool, including woollen yarn, hosiery, carpets and druggets established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Durgah Committee, Ajmer, constituted under section 4 of the Durgah Khawaja Saheb Act, 1955 (36 of 1955).

Indian Central Arecanut Committee.

Indian Central Coconut Committee constituted under section 4 of the Indian Coconut Committee Act, 1944 (10 of 1944) (now dissolved).

Indian Central Cotton Committee constituted under section 4 of the Indian Cotton Cess Act, 1923 (14 of 1923) (now dissolved).

Indian Central Jute Committee.

Indian Central Oilseeds Committee constituted under section 44 of the Indian Oilseeds Committee Act, 1946 (9 of 1946).

Indian Central Sugarcane Committee.

Indian Central Tobacco Committee.

Indian Lac Cess Committee constituted under section 4 of the Indian Lac Cess Act, 1930 (24 of 1930).

Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947).

Tea Board constituted under section 4 of the Tea Act, 1953 (29 of 1953).

BODIES UNDER STATE GOVERNMENTS

Andhra Pradesh

Market Committee constituted under section 4 of the Hyderabad Agricultural Market Act No. II of 1339F.

Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act, 1933.

Bihar

Bihar State Board of Religious Trusts.

Bihar Subai Majlis Awqaf.

Bodh Gaya Temple Advisory Committee constituted under section 15 of the Bodh Gaya Temple Act, 1949.

Body Gaya Temple Management Committee constituted under section 3 of the Bodh Gaya Temple Act, 1949.

Kerala

Administration Committee for Coir Purchase Scheme.

Malabar Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act, 1933.

Tapioca Market Expansion Board.

¹[*Tamil Nadu*]

Area Committee for Hindu Religious and Charitable Endowments constituted under section 12 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1951.

Tamil Nadu State Wakf Board constituted under section 9 of the Wakf Act, 1954 (29 of 1954).

Punjab

State Marketing Board constituted under section 3 of the Patiala Agricultural Produce Markets Act, 2004.

2* * * *

³[TABLE

[See section 3(k)]

<i>S. No.</i>	<i>Name of body</i>
(1)	(2)
1.	The Tripura Khadi and Village Industries Board, a body constituted under the Tripura Khadi and Village Industries Act, 1966.
2.	The Uttar Pradesh Development Council.
3.	The Irrigation and Flood Control Commission, Uttar Pradesh.
4.	The Indian Statistical Institute, Calcutta.
5.	The West Bengal Handicrafts Development Corporation Limited.
6.	The West Bengal Small Industries Development Corporation Limited.

1. Subs. by the Madras State (Alteration of Name) (Adaptation of Laws on Union Subject) Order, 1970, for "Madras" (w.e.f. 14-1-1969).

2. Ins. by Act 20 of 1962 and omitted by Act 54 of 1993, s. 4 (w.e.f. 19-7-1993).

3. Ins. by Act 31 of 2006, s. 3 (w.e.f. 18-8-2006).

(1)	(2)
7.	The West Bengal Industrial Development Corporation Limited.
8.	The Sriniketan Santiniketan Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
9.	The Haldia Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
10.	The West Bengal Minorities Development and Finance Corporation, a body constituted under the West Bengal Minorities Development and Finance Corporation Act, 1995.
11.	The Hooghly River Bridge Commissioners, constituted under the Hooghly River Bridge Act, 1969 (West Bengal Act No. 36 of 1969).
12.	The Board of Wakf, West Bengal, a body constituted under the Wakf Act, 1995 (43 of 1995).
13.	The State Fisheries Development Corporation Limited, West Bengal.
14.	The West Bengal State Haj Committee, constituted under the Haj Committee Act, 2002 (35 of 2002).
15.	The Asansol Durgapur Development Authority, West Bengal, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
16.	The West Bengal Pharmaceutical and Phytochemical Development Corporation Limited.
17.	The West Bengal Handloom and Powerloom Development Corporation Limited.
18.	The West Bengal Khadi and Village Industry Board.
19.	The Society for Self-employment for Urban Youth, a society registered under the West Bengal Societies Registration Act, 1961 (West Bengal Act No. 26 of 1961).
20.	The Tirumala Tirupathi Devasthanams Board.
21.	The Agricultural and Processed Food Products Export Development Authority, an authority constituted under section 4 of the Agricultural and Processed Food Products Export Development Authority Act, 1985 (2 of 1986).
22.	The National Agricultural Co-operative Marketing Federation of India Limited (NAFED).
23.	The Indian Farmer Fertilizers Co-operative Limited (IFFCO).
24.	The Krishak Bharati Co-operative Limited (KRIBHCO).
25.	The National Co-operative Consumers Federation of India Limited (NCCF).
26.	The Auroville Foundation established under sub-section (1) of section 10 of the Auroville Foundation Act, 1988 (54 of 1988).
27.	The National Commission of Enterprises in the Unorganised Sector.
28.	The Planning Board (Asiatic Society) established under sub-section (1) of section 8 of the Asiatic Society Act, 1984 (5 of 1984).
29.	The Delhi Rural Development Board.
30.	The Maulana Azad Education Foundation,

(1)	(2)
31.	The Indira Gandhi National Centre for the Arts.
32.	The Dr. Ambedkar Foundation.
33.	The Bihar State Board of Religious Trust, a body constituted under the Bihar Hindu Religious Trust Act, 1950 (Bihar Act No. 1 of 1951).
34.	The Research and Information System for the Non-Aligned and Other Developing Countries.
35.	The Indian Institute of Psychometry.
36.	The Uttar Pradesh Film Development Council.
37.	The Uttar Pradesh Provincial Co-operative Federation.
38.	The Uttar Pradesh Co-operative Federation Limited.
39.	The National Co-operative Union of India.
40.	The Uttar Pradesh Krishi and Gram Vikas Bank.
41.	The Uttar Pradesh Co-operative Bank Limited.
42.	The Indian Council for Cultural Relations.
43.	The Board of Control — A.N. Sinha Institute of Social Studies, Patna.
44.	All India Council for Sports.
45.	The Howrah Improvement Trust.
46.	The Dalit Sena, 12, Janpath, New Delhi.
47.	The Social Justice Trust, 12, Janpath, New Delhi.
48.	The Bahujan Foundation (Charitable Trust), Lucknow, Uttar Pradesh.
49.	The Bahujan Prerna Charitable Trust, Delhi.
50.	The Central Wakf Council, established under section 9 of the Wakf Act, 1995 (43 of 1995).
51.	The Nehru Memorial Museum and Library (NMML).
52.	The Jalianwala Bagh Memorial Trust.
53.	The Haj Committee of India constituted under section 3 of the Haj Committee Act, 2002 (35 of 2002).
54.	The Mallickghat Phoolbazar Parichalan Committee.
55.	The West Bengal Fisheries Corporation Limited.]

APPENDICE - I

MINUTES OF THE FOURTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (EIGHTEENTH LOK SABHA) HELD ON 24th JULY, 2025.

The Committee sat on Thursday, 24th July, 2025 from 1500 hrs. to 1540 hrs. in Committee Room No. '3', 'A' Block, First Floor, Parliament House Annexe Extension, New Delhi.

PRESENT

Shri Eatala Rajender - Chairperson

MEMBERS LOK SABHA

1. Shri Benny Behanan
2. Shri Ajay Bhatt
3. Prof. Varsha Eknath Gaikwad
4. Shri Janardan Mishra
5. Shri Jagadish Shettar
6. Dr. Kalanidhi Veeraswamy
7. Shri Lalji Verma

RAJYA SABHA

8. Shrimati Sulata Deo
9. Ms. Kavita Patidar
10. Shri Deepak Prakash

REPRESENTATIVES

MINISTRY OF LAW AND JUSTICE (Legislative Department and Department of Legal Affairs)

S. No.	Name	Designation
1.	Dr. Rajiv Mani	Secretary
2.	Shri Japan Babu	- Joint Secretary & Legal Adviser

SECRETARIAT

1.	Shri Srinivasulu Gunda	- Joint Secretary
2.	Smt. Manjinder Pubbi	- Deputy Secretary
3.	Dr. Kundan Kumar	- Under Secretary

2. At the outset, the Hon'ble Chairperson of the Joint Committee on Offices of Profit welcomed the Members of the Committee to the sitting of the Committee and apprised them about the agenda of the sitting *i.e. consideration and adoption of the Memorandum No.3 – regarding the eligibility of a sitting MP to be considered for the post of Chairperson, National Commission for Protection of Child Rights (NCPCR).*

4. Thereafter, the representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) were ushered in. The Chairperson welcomed the representatives and informed them that they have been called for the sitting with respect to Memorandum No. 3.

5. Based on the opinion furnished by the Ministry of Law and Justice, the Committee unanimously recommended that the Members of Parliament, if nominated as Chairperson of the NCPCR, may incur disqualification in terms of sub-clause (a) of clause (1) of article 102 of the Constitution. The representatives of the Ministry too concurred with the views of the Committee. The Committee then unanimously adopted Memorandum No.3.

A copy of the verbatim proceedings of the sitting has been kept on record.

The Committee then adjourned.

APPENDICE - II

MINUTES OF THE FIFTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (EIGHTEENTH LOK SABHA) HELD ON 6 AUGUST, 2025.

The Committee sat on Wednesday, 6 August, 2025 from 1500 hrs. to 1540 hrs. in the Office of Chairperson, Room No.210, 'B' Block, 2nd Floor, Parliament House Annexe Extension, New Delhi.

PRESENT

Shri Eatala Rajender - Chairperson

MEMBERS LOK SABHA

2. Shri Benny Behanan
3. Shri Ajay Bhatt
4. Prof. Varsha Eknath Gaikwad
5. Shri Jagadish Shettar
6. Shri Lalji Verma

RAJYA SABHA

7. Shrimati Sulata Deo
8. Shri Ghanshyam Tiwari

SECRETARIAT

1. Shri V. K. Shailon - Director
2. Smt. Manjinder Pubbi - Deputy Secretary
3. Dr. Kundan Kumar - Under Secretary

2. At the outset, the Hon'ble Chairperson read out a condolence message for the sudden demise of Late Shri Srinivasulu Gunda who acted as the Joint Secretary of Joint Committee on Offices of Profit.

3. Then, the Hon'ble Chairperson Joint Committee on Offices of Profit welcomed the Members of the Committee to the sitting of the Committee and apprised them about the agenda of the sitting i.e. consideration and adoption of the draft Report regarding the eligibility of a sitting MP to be considered for the post of Chairperson, National Commission for Protection of Child Rights (NCPCR). The Committee unanimously adopted the draft Report without any modification. The Committee authorized the Chairperson to finalise the Report, as per the factual verification from the Ministry/Department concerned and present the same to both the Houses of Parliament during ongoing Monsoon Session.

4. The Committee, afterwards, discussed about the laws governing the aspects of office of profit in the States and has decided to seek views/information from the State Governments related to prevention of disqualification under office of profit.

The Committee then adjourned.
