

**JOINT COMMITTEE ON OFFICES
OF PROFIT**

FIRST REPORT

(EIGHTH LOK SABHA)



*Presented to Lok Sabha on 28th November, 1985
Laid in Rajya Sabha on 28th November, 1985*

**LOK SABHA SECRETARIAT
NEW DELHI**

November, 1985/Agrahayana, 1907 (Saka)

Price : Rs. 2.10

CORRIGENDA TO THE FIRST REPORT OF THE
JOINT COMMITTEE ON OFFICES OF PROFIT
(EIGHTH LOK SABHA)

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**JOINT COMMITTEE ON OFFICES OF PROFIT
(EIGHTH LOK SABHA)**

**COMPOSITION OF THE JOINT COMMITTEE
CHAIRMAN**

Kumari Kamla Kumari

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Appayya Dora Hanumanthu
6. Shri Mahendra Singh
7. Shri Sriballav Panigrahi
8. Shri P. M. Sayeed
9. Shri S. B. Sidnal
10. Shri Balram Singh Yadav

Rajya Sabha

11. Shrimati Monika Das
12. Shri Sohan Lal Dhusiya
13. Shri B. Krishna Mohan
14. Shri Puttapaga Radhakrishna
15. * *

SECRETARIAT

Shri M. K. Mathur—*Joint Secretary*

Shri R. S. Mani—*Senior Legislative Committee Officer*

**Vacant vice Shri Amarprosad Chakraborty, M.P. died.

REPORT OF THE JOINT COMMITTEE

I

INTRODUCTION

I, the Chairman of the Joint Committee on Offices of Profit, having been authorised by the Committee to present the Report on their behalf, present this First Report of the Committee.

1.2 The motion for constitution of the Joint Committee on Offices of Profit (Eighth Lok Sabha) was moved in Lok Sabha by Shri H. R. Bhardwaj, Minister of State in the Ministry of Law and Justice on the 2nd April, 1985 (Appendix I).

1.3 The Rajya Sabha concurred in the said motion on the 6th May, 1985 (Appendix II). The message from Rajya Sabha communicating the names of members of Rajya Sabha elected to the Joint Committee was reported to Lok Sabha on the 13th May, 1985 (Appendix III).

1.4 The names of members of Lok Sabha elected to the Joint Committee were published in the Lok Sabha Bulletin—Part II, dated the 30th April, 1985 and the names of Members of Rajya Sabha elected to the Joint Committee were published in the Rajya Sabha Bulletin—Part II dated the 10th May, 1985.

1.5 According to the motion adopted by Lok Sabha, the main function of the Joint Committee is to examine the composition and character of Committees, Corporations, Boards etc. constituted from time to time, membership of which should disqualify a person for being chosen as, and for being, a member of either House of Parliament under article 102 of the Constitution and to recommend in relation to the Committees, Corporations, Boards, etc. examined, as to which offices should disqualify for membership of the Houses of Parliament.

1.6 The Committee held three sittings on the 10th June and 3rd and 4th July, 1985. Minutes of these sittings form part of the Report and are at Appendix IV.

1.7 At the first sitting of the Committee held on the 10th June, 1985, the Committee approved Office Memoranda to be addressed to the Ministries|Departments of the Government of India and a letter to State Governments|Union Territory Administrations requesting them to furnish information regarding the Committees|

Corporations|Boards etc. constituted by them. The Committee also approved a proforma showing particulars and other information regarding Committees|Corporations|Boards etc. to be received from the Ministries|Departments of the Central Government and the State Governments|Union Territory Administrations for being placed before the Committee for their consideration.

1.8 At their second and third sittings held on the 3rd and 4th July, 1985, the Committee considered 12 memoranda regarding the composition, character, functions etc. of certain Committees|Boards|Bodies|Corporations constituted by the Central and State Governments and the Union Territory Administration and the emoluments and allowances payable to their members and non-official Directors.

1.9 Detailed information about the Committees|Boards|Corporations etc. given in the aforesaid Memoranda was furnished by the respective Ministries/Departments of the Central and State Governments and by the Union Territory Administration on requests made by Lok Sabha Secretariat.

1.10 The Committee considered and adopted this Report on the 29th October, 1985.

1.11 The findings and observations|recommendations of the Committee in respect of the matters considered by them are given in the succeeding paragraphs.

COMMITTEES/BOARDS ETC. CONSTITUTED BY THE
CENTRAL AND STATE GOVERNMENTS AND UNION
TERRITORY ADMINISTRATION.

*State Advisory Committee for Territorial Army in Haryana
(Ministry of Defence)*

2.1 The Committee note that the non-official members of the State Advisory Committee for Territorial Army in Haryana are entitled to TA and DA at Government rates which is less than the 'compensatory allowance', as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Besides, the functions of the Committee are mainly to advise the Government of India on matters relating to the development of the Territorial Army in Haryana and as such the functions of the Committee are advisory in nature. Taking all aspects into consideration, the Committee are of the view that the membership of the said Committee ought to be exempted from disqualification. While coming to this conclusion, the Committee have relied on the recommendation of the Joint Committee on Offices of Profit (Seventh Lok Sabha) contained in their Second Report wherein the Committee had recommended exemption of non-official members of the Joint State Advisory Committee for Territorial Army in the States of Assam, Tripura, Manipur and Meghalaya and the Union Territories of Mizoram and Arunachal Pradesh from disqualification on identical grounds.

*State Advisory Committee for the Territorial Army in Karnataka
and the Union Territory of Goa, Daman and Diu (Ministry of
Defence)*

2.2 The Committee note that the non-official members of the State Advisory Committee for the Territorial Army in Karnataka and the Union Territory of Goa, Daman, and Diu are entitled to TA and DA at Government rates which is less than the 'compensatory allowance'. Besides, the functions of the Committee are mainly to advise the Government of India on matters relating to the development of the Territorial Army in the above places and as such the functions of the Committee are advisory in nature. On the analogy of the case of State Advisory Committee for Territorial Army in

Haryana (Para 2.1 above), the Committee recommend that membership of the State Advisory Committee for Karnataka and Goa, Daman and Diu *ought also be exempted* from disqualification.

Board of Directors, Mysore Electrical Industries Limited (Karnataka)

2.3 The Committee note that the non-official Directors of the Mysore Electrical Industries Limited (Karnataka) are paid a sitting fee of Rs. 100/- for attending each meeting of the Board which does not come within the ambit of the 'compensatory allowance'. Further, the Board exercises executive and financial powers required for the administration of the Company. Hence, the Committee feel that the non-official Directors of the Board *ought not to be exempted* from disqualification.

Board of Directors, Karnataka Vidyut Karkhane Ltd. (Karnataka)

2.4 The Committee note that besides payment of TA and incidental charges at the rate of Rs. 30/- per journey, halting allowance at Rs. 100/- per day or part thereof, conveyance allowance at Rs. 30 per day of the meeting, the non-official Directors of the Karnataka Vidyut Karkhane Ltd. are also paid a sitting fee of Rs. 100/- for every day of the meeting. Payments thus made to the non-official Directors exceed the 'compensatory allowance'. Moreover, the Board of Directors exercises executive and financial powers in as much as they lay down the general policy of the Karkhane and take decisions on matters involving financial implications, besides exercising financial powers under the Companies Act, 1956. Taking all aspects into consideration, the Committee feel that the non-official Directors of the Karnataka Vidyut Karkhane Ltd., *ought not to be exempted* from disqualification.

Screening Committee for Bombay Suburban District, Bombay

2.5 The Committee have been informed that the non-official members of the Screening Committee for Bombay Suburban District are not paid any TA/DA. Besides, the functions of the Committee are only to review unauthorised constructions/encroachments and to recommend cases for regularisation. As the final decisions in this regard rest with the State Government, the Committee feel that the functions of the Screening Committee are advisory in nature. Hence, the Committee are of the view that the non-official members of the said Screening Committee *ought to be exempted* from disqualification.

Screening Committee for Ulhasnagar Township, Thane (Maharashtra)

2.6 The Committee note that the non-official members (including MLAs, etc.) of the Screening Committee for Ulhasnagar Township, Thane are entitled to TA and DA as per Maharashtra Government rules (Maximum rates of DA is Rs. 51 per day) which is less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee are only to review unauthorised constructions/encroachments on open Government plots and to recommend cases for regularisation. As the final decisions in this regard rest with the State Government, the functions of the Committee are advisory in nature. As in the case of non-official members of the Screening Committee for Bombay Suburban District, Bombay (Para 2.5), the Committee feel that the non-official members of the Screening Committee for Ulhasnagar Township *ought also be exempted* from disqualification.

Minimum Wages Advisory Board, Maharashtra

2.7 The Committee note that the non-official members of the Minimum Wages Advisory Board are entitled to TA and DA under Government rules which are less than the 'compensatory allowance'. The functions of the Board are to advise the Government generally in the matter of fixing minimum rates of wages under the Act and thus their functions are mainly advisory in nature. As such, the Committee are of the view that the non-official members of the Board *ought to be exempted* from disqualification.

This recommendation of the Committee is in conformity with the earlier recommendation of the Joint Committee on Offices of Profit (Seventh Lok Sabha) in the similar case of the Advisory Board for minimum rate of wages for Union Territory of Dadra and Nagar Haveli (*vide* Sixth Report, para 2.17).

Committee for implementation of 20-point Economic Programme at the district level, Orissa.

2.8 The Committee note that the non-official members (including MPs and MLAs) of the Committee for implementation of 20-Point Economic Programme at district level, Orissa are entitled to TA and DA as per Government rules, which are less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee are to review the progress of the implementation of the 20-point Economic Programme and other development programmes at the district level and offer their advice to the Government thereon so as

to ensure that the benefits of the Programme in fact flow to the poorer and weaker sections of the Community effectively and in time. Thus the functions of the Committee are purely advisory in nature. Taking all aspects into consideration, the Committee recommend that the non-official members of the Committee for implementation of 20-point Economic Programme at the District Level, Orissa, ought to be exempted from disqualification.

Committee for implementation of 20-point Economic Programme at the State Level, Orissa

2.9 The Committee note that the non-official members (including MPs and MLAs) of the Committee for implementation of 20-point Economic Programme at the State Level, Orissa are entitled to TA and DA as per Government rules which are less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee are to review the progress of implementation of the 20-point Economic Programme and other development programmes and to advise the State Government on measures designed to promote fulfilment of the objectives of the programme. The functions of the Committee are thus advisory in nature. As in the case of the Committee for implementation of 20-point Economic Programme at the District Level, the Committee feel that the non-official members of the Committee for implementation of 20-point Economic Programme at the State Level, Orissa ought also be exempted from disqualification.

Book Selection Committee for Libraries, Pondicherry

2.10 At their sitting held on 30th May, 1983, the Joint Committee on Offices of Profit (Seventh Lok Sabha), had deferred consideration of Memorandum No. 131 (Seventh Lok Sabha) regarding Book Selection Committees for Libraries in Pondicherry pending receipt of further information on the following points from the Government of Pondicherry:—

Whether the recommendations of the Book Selection Committees are binding on the Libraries or these are merely advisory.

The Government of Pondicherry, in their reply dated 15th March, 1984, stated that the recommendations of the Book Selection Committees are binding on the Libraries. Subject to availability of funds, Books, Periodicals are acquired only from the lists recom-

mended by the Committees. The Committees have no other activities.

The Committee thus note that although theoretically speaking, the members of the Book Selection Committee for Libraries, Pondicherry would be in a position to wield influence by way of patronage as the recommendations of the Committees are binding on the Libraries and Books/Periodicals are to be acquired only from the lists recommended by the Committees subject to availability of funds, yet the Committee feel that practically the nature and extent of the influence would be insignificant in a small Union Territory like Pondicherry. Further, no remuneration is payable to the non-official members of the Book Selection Committees. After taking all aspects into consideration, the Committee are of the view that the non-official members of the Book Selection Committee for Libraries in Pondicherry, ought to be exempt from disqualification as they do not hold an office of profit within the meaning of Article 102(1)(a) of the Constitution.

Standing Tripartite State Apex Body, Pondicherry

2.11 At their sitting held on 30th May, 1983, the Joint Committee on Offices of Profit (Seventh Lok Sabha) had deferred consideration of Memorandum No. 134(7LS) regarding the Standing Tripartite State Apex Body, Pondicherry pending receipt of further information on the following points from the Government of Pondicherry:—

- (i) Whether the recommendations made by the Apex Body for resolving labour and management problems are final; and
- (ii) Whether the Apex Body is in a position to wield influence or the recommendations made by it are merely advisory in nature and not binding on the Government/Management.

The Government of Pondicherry, in their reply dated 15th March, 1984, stated as follows:—

“The recommendations made by the Apex Body for resolving labour and management problems are not final.

The recommendations made by the Apex Body are only recommendatory and advisory in nature and did not have any legal sanction.”

The Committee note that the functions of the Standing Tripartite State Apex Body, Pondicherry are advisory in character, as they are only to review and resolve the major labour and management problems. Also, no remuneration is payable to the non-official members of the aforesaid Body. In view of above, the Committee feel that the non-official members of the aforesaid Committee *ought to be exempt* from disqualification.

Committee for the Selection of Master Craftsman for State Award, Pondicherry

2.12 At their sitting held on 30th May, 1983, the Joint Committee on Offices of Profit (Seventh Lok Sabha), while examining the functions of the Committee for the selection of Master Craftsman for State Award, Pondicherry, had desired that further information on the following points in respect of the said Committee might be called for from the Government of Pondicherry for their consideration:—

- (i) Whether any rules/guidelines have been laid down for the committee for selection of the Master Craftsman?
- (ii) What are the criteria laid down for the selection i.e. what is the basic procedure followed by the Committee for making final selection?
- (iii) Whether the recommendations made by the Selection Committee are final or merely advisory?
- (iv) Whether the functions and powers of the Committee are executive in nature or the committee is in a position to wield influence while making selection or the functions are merely advisory and not binding on Government?"
- (v) What are the benefits which the selected Craftsman get?

The Government of Pondicherry in their reply dated 15th March, 1984 stated as follows:—

"The following guidelines are adopted for selection of State Awardees:

- (a) Sub-standard models should be first eliminated.
- (b) Among the items presented for the State award, classification should be made.
- (c) The items which come for entry should be displayed in camera.

- (d) Dubious entries will be identified by the Assistant Director, All India Handicrafts Board, Pondicherry.
- (e) The name and address of the craftsman should be indicated below each model.
- (f) The craft pieces should depict traditional culture.
- (g) Award should be given only for living Master Craftsman.

There are no set guidelines or prescribed norms except a few as stated above. As such, outstanding artisans are requested through a system of publicity to contribute their pieces of excellence for this State-conferred honour.

The recommendations are treated as final. Among the several objects put on display, the Selection Committee by process of individual assessment and collective exchange of thoughts and views arrive at a consensus in locating the distinguished contributions for that part of the year.

The functions and powers of the Committee are executive in nature and the recommendations of the Committee are final.

The selected Craftsman are honoured by giving a cash award of Rs. 1,000/- each plus a scroll; Angavasthram and Tamrapatra. Such selected master craftsman are gainfully employed to the advantage of the Craft Development by engaging them in training suitable number of minimasters over a time-bound programme. The craftsman thus selected will also eventually qualify for pensionary benefits by the office of the Development Commissioner (Handicrafts) when they are in indigent circumstances.

The above stated developmental activity mainly aims at projecting the long denied beneficiary measures to the craftsman of this area so that they also join the national stream of action in creating abundant artefacts by afflux of time".

After a careful consideration of the reply received from the Government of Pondicherry, the Committee have formed an opinion that the ultimate aim of the Committee for the selection of Master Craftsmen for State Award, Pondicherry is to give recognition and honour to deserving master craftsmen and artisans. There is not much

scope for members of the Committee to wield any influence or patronage. Moreover, no remuneration is payable to non-official members of the Committee. The Committee, therefore, are of the view that membership of Committee for the selection of Master Craftsman for State Award, Pondicherry *ought to be exempt* from disqualification.

NEW DELHI;
October 29, 1985
Kartika 7, 1907 (S)

KUMARI KAMLA KUMARI,
Chairman,
Joint Committee on Offices
of Profit.

APPENDIX I

(Vide para 1.2 of the Report)

Motion in Lok Sabha for the Constitution of the Joint Committee on Offices of Profit

“That a Joint Committee of the Houses to be called the Joint Committee on Offices of Profit be constituted consisting of fifteen members, ten from this House and five from the Rajya Sabha, who shall be elected from amongst the members of each House in accordance with the system of proportional representation by means of the single transferable vote:

That the functions of the Joint Committee shall be—

- (i) to examine the composition and character of all existing “committees” [other than those examined by the Joint Committee to which the Parliament (Prevention of Disqualification, Bill, 1957 was referred] and all “committees” that may hereafter be constituted, membership of which may disqualify a person for being chosen as, and for being, a member of either House of Parliament under article 102 of the Constitution;
- (ii) to recommend in relation to the “committees” examined by it what offices should disqualify and what offices should not disqualify;
- (iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959, and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise;

That the Joint Committee shall, from time to time, report to both Houses of Parliament in respect of all or any of the aforesaid matters;

That the members of the Joint Committee shall hold office for the duration of the present Lok Sabha;

That in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of members of the Committee;

That in other respects, the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

That this House recommends to the Rajya Sabha that the Rajya Sabha do join in the said Joint Committee and to communicate to this House the name of members to be appointed by the Rajya Sabha to the Joint Committee."

APPENDIX II

(Vide para 1.3 of the Report)

Motion in Rajya Sabha on the 6th May, 1985

“That this House concurs in the recommendation of the Lok Sabha that a Joint Committee of the Houses to be called the Joint Committee on Offices of Profit be constituted for the purposes set out in the motion adopted by the Lok Sabha at its sitting held on the 2nd April, 1985, and resolves that this House do join in the said Joint Committee and proceed to elect, in accordance with the system of proportional representation by means of the single transferable vote, five members from among the members of the House to serve on the said Joint Committee”.

APPENDIX III

(Vide para 1.3 of the Report)

*Message from Rajya Sabha which was reported to Lok Sabha
on the 13th May, 1985*

SECRETARY-GENERAL: Sir, I have to report the following message received from the Secretary-General of Rajya Sabha:—

‘I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on Monday, the 6th May, 1985, adopted the following motion in regard to the Joint Committee on Offices of Profit:—

“That this House concurs in the recommendation of the Lok Sabha that a Joint Committee of the Houses to be called the Joint Committee on Offices of Profit be constituted for the purpose set out in the motion adopted by the Lok Sabha at its sitting held on the 2nd April, 1985, and resolves that this House do join in the said Joint Committee and proceed to elect, in accordance with the system of proportional representation by means of the single transferable vote, five members from among the members of the House to serve on the said Joint Committee”.

2. I am further to inform the Lok Sabha that in pursuance of the above motion, the following members of the Rajya Sabha have been duly elected to the said Committee:—

1. Shri Amarprosad Chakraborty
 2. Shrimati Monika Das
 3. Shri Sohan Lal Dhusiya
 4. Shri B. Krishna Mohan
 5. Shri Puttapaga Radhakrishna’
-

APPENDIX IV

(Vide para 1.5 of the Report)

MINUTES OF THE FIRST SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (EIGHTH LOK SABHA)

I

FIRST SITTING

The Committee met on Monday, the 10th June, 1985 from 11.30 to 12.45 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Sriballav Panigrahi
4. Shri P. M. Sayeed
5. Shri S. B. Sidnal
6. Shri Balram Singh Yadav

Rajya Sabha

7. Shri Amarprosad Chakraborty
8. Shri Sohan Lal Dhusiya
9. Shri B. Krishna Mohan
10. Shri Puttapaga Radhakrishna

SECRETARIAT

1. Shri S. Balasubramanian—*Chief Legislative Committee Officer*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Chairman welcomed the members of the Committee and explained to them broadly the scope and functions of the Committee. A copy of the speech delivered by the Chairman is given at Annexure I.

3. The Committee then considered and approved the drafts in respect of the following:—

- (i) Office Memorandum seeking detailed information relating to the Committees/Corporations/Boards, etc., constituted by various Ministries/Departments of the Central Government (Annexure II).
- (ii) Letter seeking detailed information relating to the Committees/Corporations/Boards, etc., constituted by State Governments/Union Territory Administrations (Annexure III).

The Committee desired that the enclosure to the aforesaid communications, seeking detailed information relating to Committees/Corporations/Boards etc., might also include the following item:—

“(vi) Qualifications for membership/Chairmanship.”

4. The Committee also approved the draft Proforma of the Memorandum for placing the particulars before the Joint Committee regarding Committees/Corporations/Boards etc., on receipt from the Ministries/Departments of the Central Government and State Governments/Union Territory Administrations (Annexure IV).

5. The Committee then held a general discussion on their terms of reference as contained in the motion adopted by Lok Sabha on the 2nd April, 1985 and concurred in by Rajya Sabha on the 6th May, 1985 for the constiution of the Joint Committee.

6. On a suggestion made by some members regarding the desirability of evolving uniform principles in regard to disqualification on grounds of holding an office of profit at the Centre and in the States under Article 102(1) and 191(1) of the Constitution respectively, the Committee desired that the following earlier reports of the Committee wherein the said matter had been discussed at length, be circulated to all members of the Committee for their information and perusal:—

- (i) Ninth Report of the Joint Committee on Offices of Profit (Seventh Lok Sabha) regarding Evolving of Uniform Principles in regard to disqualification for holding office of Profit under Articles 102(1) and 191(1) of the Constitution.

[Presented to Lok Sabha and laid on the Table of Rajya Sabha on 27th April, 1984]

- (ii) Tenth Report of the Joint Committee on Offices of Profit (Seventh Lok Sabha) regarding the Draft Parliament (Prevention of Disqualification) Amendment Bill, 1983.

[Presented to Lok Sabha and laid on the Table of Rajya Sabha on 7th May, 1984].

7. The Chairman announced that the following documents had been supplied to each member at the sitting:

- (i) The Parliament (Prevention of Disqualification) Act, 1959.
- (ii) An Introductory Guide to Joint Committee on Offices of Profit.

8. *The Committee then adjourned to meet again on Wednesday, the 3rd July, 1985 at 15.00 hours and on Thursday, the 4th July, 1985 at 11.00 hours.*

ANNEXURE I

(Vide para 2 of the Minutes dated 10.6.1985)

Address by the Chairman, Joint Committee on Offices of Profit (Eighth Lok Sabha) to the Members of the Committee at its First Sitting held on Monday the 10th June, 1985.

Friends,

It gives me great pleasure to welcome you all to this first sitting of the Joint Committee on Offices of Profit of the Eighth Lok Sabha. Before I proceed to deal with the functions of this Committee, I should like to explain to you the 'concept of office of profit' and the background for constituting this Joint Committee.

Concept of Office of Profit

2. First of all, I may like to mention that the concept of disqualifying a holder of office of profit under the Government for being chosen as, and for being, a member of Legislature originated from the need in democratic Governments to limit the control and influence of the Executive over the Legislature by means of an undue proportion of office holders being members of the Legislature.

3. In all democracies, including the United Kingdom and U.S.A., holders of office under the Government as a rule, are disqualified for being members of Legislatures. In India, this principle is embodied in Articles 102(1) (a) and 191(1) (a) of the Constitution in regard to the Members of Parliament and the State Legislatures respectively. Article 102(1) (a) of the Constitution reads as under:—

“102(1) A person shall be disqualified for being a member of either House of Parliament—

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

* * * * *

What constitutes 'holding an office of profit under Government'?

4. The expression “holds any office of profit under the Government” occurring in Articles 102(1) (a) and 191(1) (a) has nowhere

been defined precisely. Its scope has, therefore to be gathered from the pronouncements on the subject made from time to time by the Courts, Election Tribunals, etc.

5. For the purpose of determining whether an office constitutes an office of profit under Government, it has to be seen whether Government have the power to appoint a person to that office and remove him from that office.

Background

6. On the 21st August, 1954, Mr. Speaker Mavalankar, in consultation with the Chairman of Rajya Sabha, appointed a Committee on offices of profit under the Chairmanship of Pandit Thakurdas Bhargava to study various matters connected with disqualification of members and to make recommendations in order to enable Government to consider the lines along which a comprehensive legislation should be brought before the House.

7. The Committee, in their Report, recommended *inter alia* that a comprehensive Bill having schedules enumerating in detail the different offices which did not incur disqualification, offices for which exemption had to be granted and offices which would disqualify members should be brought forward by Government and a standing Parliamentary Committee might be constituted to undertake the work of continuous scrutiny of offices of profit.

8. In the words of the Bhargava Committee ordinarily Members of Parliament should be encouraged to serve on such Committees which are of an advisory character and represent the local or popular point of view in a manner which will effectively influence the officials' point of view. Members of Parliament by virtue of their membership are in a position to say and represent certain matters with some authority and confidence, and their views are likely to go a long way influencing the view point of officials. But it is at the same time felt that consistent with the above view expressed, Members of Parliament should not be permitted to serve on committees, commissions etc. which jeopardise their independence or which will place them in a position of power or influence or in a position where they receive some patronage from Government or are themselves in a position to distribute patronage".

The Parliament (Prevention of Disqualification) Act, 1959

9. In pursuance of the recommendations made by the Bhargava Committee, the Parliament (Prevention of Disqualification) Bill was

introduced in Lok Sabha on the 5th December, 1957. It was referred to a Joint Committee of the Houses and passed. This Act declares the offices of profit under the Government which do not disqualify the holders thereof for being chosen as, or for being, Members of Parliament. The Act also enumerates the offices specified in the schedule to the Act which are not exempt from disqualification even if the holder of such an office is not entitled to any remuneration other than 'compensatory allowance' as defined in section 2(a) of the said Act. Under Section 2(a) of the said 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), 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.

Origin of the Joint Committee on Offices of Profit:

10. When the Parliament (Prevention of Disqualification) Bill, 1957, as reported by the Joint Committee came up before the House the then Minister of Law (Shri A. K. Sen) on 2nd December, 1958, on 3rd August, 1959 for the constitution of the Joint Committee on Offices of Profit. In fulfilment of the assurance, a motion was brought on 3rd August, 1959 for the constitution of the Joint Committee on Offices of Profit.

11. Thus a Parliamentary Joint Committee on Offices of Profit was first constituted in August, 1959 for the duration of the remaining period of Second Lok Sabha. It was constituted again for the duration of the Third, Fourth, Fifth and Seventh Lok Sabha respectively. This Committee unlike other Parliamentary Committees, is constituted for the duration of the full term of Lok Sabha.

Functions of the Committee

12. The functions of the Committee are specified in the motion moved by Government for the constitution of the Committee and adopted by Lok Sabha and concurred in by Rajya Sabha. These are:

- “(i) to examine the composition and character of all existing 'committees' other than those examined by the Joint Committee to which the Parliament (Prevention of Disqualification) Bill, 1957 was referred and all 'committees',

that may hereafter be constituted membership of which may disqualify a person for being chosen as, and for being a member of either House of Parliament under article 102 of the Constitution;

- (ii) to recommend in relation to the 'committees' examined by it what offices should disqualify and what offices should not disqualify;
- (iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959, and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise."

13. The Joint Committee examine the detailed particulars regarding the composition and character, etc., of the 'committees' constituted by the Ministries/Departments of the Central Government as well as by the State Governments. The Joint Committee do not examine the composition and character of 'committees' which consist wholly of officials or which are constituted for *ad hoc* purposes. Further, during the Third Lok Sabha the Joint Committee decided that the composition and character etc. of the bodies registered under the Societies Registration Act need not generally be examined unless any particular case merited consideration .

During 1981—84 the Joint Committee examined the composition and functions of 238 Bodies. In the case of 130 bodies the Committee opined that membership/Chairmanship thereof did not constitute an office of profit. In the remaining 108 cases, the Committee decided that their membership/Chairmanship of the Committee/Body will constitute an office of profit and should not be exempted.

Implementation of recommendations

14. Before I conclude, I would also like to mention that with a view to implement the recommendations made by the Joint Committee on Offices of Profit from time to time in their various Reports, the Government had brought forward a draft Parliament (Prevention of Disqualification) Amendment Bill, 1983 to amend the Parliament (Prevention of Disqualification) Act, 1959, on 19th May, 1983 seeking to implement the recommendations of the Joint Committee contained in forty Reports presented upto 11th August, 1982. The Committee considered and presented their Tenth Report (Seventh Lok Sabha), on the aforesaid Bill on 7th May, 1984. I hope

Government will introduce the amending Bill in Parliament very soon.

15. I once again welcome you and trust that you will extend your whole-hearted co-operation and assistance in ensuring the smooth and efficient working of this Joint Committee.

Thanking you.

ANNEXURE II

(*vide* para 3 of the Minutes)

LOK SABHA SECRETARIAT

**Parliament House Annexe,
New Delhi-110001**

No. 21|2|2|85|CII

From

**Sri S. Balasubramanian,
Chief Legislative Committee Officer.**

To

**The Chief Secretaries to all the State
Governments and Union Territories.**

**SUBJECT : Joint Committee on Offices of Profit (Eighth
Lok Sabha)**

Sir,

I am directed to state that the Joint Committee on Offices of Profit for the Eighth Lok Sabha has since been constituted.

2. The functions of the Committee are as follows:—

- (i) to examine the composition and character of all existing "committees" [other than those examined by the Joint Committee to which the Parliament (Prevention of Disqualification) Bill, 1957 was referred] and all 'committees' that may hereafter be constituted, membership of which may disqualify a person for being chosen as, and for being, a member of either House of Parliament under article 102 of the Constitution;
- (ii) to recommend in relation to the "committee" examined by it what offices should disqualify and what offices should not disqualify; and

- (iii) to scrutinise from time to time the schedule to the Parliament (Prevention of Disqualification) Act, 1959, and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise.

3. I am, therefore, directed to request you kindly to furnish information on the points listed in the enclosure in respect of the following categories of Committee/Boards/Corporations etc.

- (i) the existing Committees|Boards|Corporations etc. constituted by the State Government/Union Territory which have not so far been examined by the Joint Committee on Offices of Profit;
- (ii) the existing Committees|Boards|Corporations etc. constituted by the State Government/Union Territory which, although have already been examined by the Joint Committee on Offices of Profit but whose constitution (including payment of T.A.|D.A. etc. to the members) has undergone material change since their examination by the Committee in the past; and
- (iii) the Committee/Boards/Corporations etc. which may hereafter be constituted/established by the State Government/Union Territory.

4. Information in respect of the Committees/Boards/Corporations, etc., which are composed wholly of officials or which have been constituted for a temporary period or which have ceased to exist, may not be supplied.

5. Copies of the Acts, rules, resolutions, orders or notifications setting forth the functions, composition, remuneration or allowances etc. paid to members of the Committees|Boards|Corporations etc. may also be supplied along with the information furnished by the State Government|Union Territory on the lines indicated in para 3 above.

6. The receipt of this letter may please be acknowledged.

Yours faithfully,
S. BALASUBRAMANIAN,
 Chief Legislative Committee
 Officer.

ENCLOSURE

(*vide* para 3 of the letter)

- (i) Name of the Committee/Board/Corporation etc.
- (ii) Act, Rule or Order under which the Committee|Board|Corporation etc. was constituted (copies to be enclosed).
- (iii) The term of office of the members of the Committee|Board|Corporation etc.
- (iv) The remuneration payable to the members of the Committee|Board|Corporation etc. including pay, travelling allowance, daily allowance, house-rent allowance, compensatory allowance and sitting fee etc. (Actual rates of payment may be specified).
- (v) Composition of the Committee|Board|Corporation etc. (number of officials and non-officials and whether Chairman and Secretary are officials of non-officials).
- (vi) Mode of appointment|removal of members.
- (vii) Qualifications for membership|Chairmanship.
- (viii) Functions of the Committee/Board/Corporation etc. (Detailed functions stating *inter alia* whether they perform executive, legislative or judicial functions and whether they have financial powers/may be given).
- (ix) Capital structure, shareholding, annual turnout of the Company etc. in case the body is a public undertaking.

ANNEXURE III

(vide para 3 of the Minutes)

LOK SABHA SECRETARIAT

Parliament House Annexe,
New Delhi-110001.

No. 21|2|1|85|CII

Dated:

OFFICE MEMORANDUM

SUBJECT: Joint Committee on Offices of Profit (Eighth Lok Sabha).

The undersigned is directed to state that the Joint Committee on Offices of Profit for the Eighth Lok Sabha has since been constituted.

2. The functions of the Committee are as follows:—

- (i) to examine the composition and character of all existing 'committees' [other than those examined by the Joint Committee to which the Parliament (Prevention of Disqualification) Bill, 1957 was referred] and all 'committees' that may hereafter be constituted, membership of which may disqualify a person for being chosen as, and for being, a member of either House of Parliament under Article 102 of the Constitution;
- (ii) to recommend in relation to the 'committees' examined by it what offices should disqualify and what offices should not disqualify; and
- (iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise.

3. All the Ministries and Departments of the Government of India are requested to please furnish information on the points listed in the enclosure in respect of the following categories of Com-

mittees/Boards/Corporations, etc. constituted by Government for which they are responsible:

- (i) the existing Committees|Boards|Corporations etc. constituted by Government which have not so far been examined by the Joint Committee on Offices of Profit;
- (ii) the existing Committees|Boards|Corporations etc. constituted by Government which, although have already been examined by the Joint Committee on Offices of Profit, but whose constitution (including payment of TA/DA etc. to the members, has undergone material change since their examination by the Committee in the past); and
- (iii) the Committees|Boards|Corporations, etc. which may hereafter be constituted/established by Government.

4. Information in respect of the Committee/Board/Corporations; etc. which are composed wholly of officials or which have been constituted for a temporary period or which have ceased to exist, may not be supplied.

5. Copies of the Acts, rules, resolutions, orders or notifications setting forth the functions, compositions, remuneration or allowances etc. paid to the members of the Committee/Boards/Corporations, etc. may also be supplied along with the information furnished by the Ministries and Departments on the lines addicated in para 3 above.

6. The receipt of this Office Memorandum may please be acknowledged.

S. BALASUBRAMANIAN

*Chief Legislative Committee
Officer.*

To

All the Ministries and Departments
of the Government of India, New Delhi.

ENCLOSURE

(Vide para 3 of the Office Memorandum)

- (i) Name of the Committee/Board/Corporation etc.

- (ii) Act, Rule or Order under which the Committee|Board| Corporation etc. was constituted (copies to be enclosed).
- (iii) The term of office of the members of the Committee| Board|Corporation etc.
- (iv) The remuneration payable to the members of the Committee|Board|Corporation etc. including pay, travelling allowance, daily allowance, house-rent allowance, compensatory allowance and sitting fee etc. (Actual rates of payment may be specified).
- (v) Composition of the Committee/Board/Corporation etc. (number of officials and non-officials and whether Chairman and Secretary are officials or non-officials).
- (vi) Mode of appointment/removal of members.
- (vii) Qualifications for membership|chairmanship.
- (viii) Functions of the Committee|Board|Corporation etc. (Detailed functions stating *inter-alia* whether they perform executive, legislative or judicial functions and whether they have financial powers may be given).
- (ix) Capital structure, shareholding, annual turnout of the Company etc. in case the body is a public undertaking.

ANNEXURE IV

CONFIDENTIAL

(vide par 4 of the Minutes)

LOK SABHA SECRETARIAT

(Committee Branch-II)

Joint Committee on Offices of Profit (Eighth Lok Sabha)

MEMORANDUM NO.

1. Name of the Committee,
Board, Council, etc.
2. Name of Act,
Resolutions, Rules,
etc. under which
constituted.
3. Term of office of
members.
4. Salary, Travelling, daily
allowances, etc.
5. Composition
6. Mode of appointment
7. Qualifications for membership/chairmanship
8. Functions and Powers.
9. Capital structure etc.

(in case the body is a public undertaking)

10. CLASSIFICATION OF COMMITTEE:

(1) (a) Whether it is a purely Advisory Committee.

(b) whether it is an Advisory Committee wielding influence or power by way of patronage?

(ii) Whether it is a non-Advisory Committee which—

(a) carries executive, legislative or judicial powers; or

(b) confers powers of disbursement of funds, allotment of lands, issue of licences, etc.; or

(c) gives powers of appointment, grant of scholarships, etc.?

(iii) Whether it is an office of an occasional or contractual nature?

11. Recommendation.

II

SECOND SITTING

The Committee met on Wednesday, the 3rd July, 1985 from 15.00 to 16.00 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Sriballav Panigrahi
6. Shri P. M. Sayeed
7. Shri S. B. Sidnal
8. Shri Balram Singh Yadav

Rajya Sabha

9. Shri Amarprosad Chakraborty
10. Shrimati Monika Das
11. Shri Sohan Lal Dhusiya
12. Shri Puttapaga Radhakrishna

SECRETARIAT

1. Shri N. N. Mehra—*Joint Secretary*
2. Shri S. Balasubramanian—*Chief Legislative Committee Officer*
3. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. At the outset the Members desired to know whether any action had been taken in regard to the point which they had raised at the earlier meeting on the question of evolving of uniform principles in regard to disqualification on ground of holding of an 'office of profit' at the Centre and in the States under article 102(1) and 191(1) of the Constitution, respectively.

3. Some Members were of the view that for ensuring effective implementation of various developmental programmes undertaken by the Government through its various agencies, it was becoming necessary to associate Members of Parliament more and more with such agencies and in that context the Committee would have to consider the question of reviewing the present criteria in regard to what constituted holding an office of profit under Government.

4. In that connection the Committee were informed that the Joint Committee on Offices had been following the undernoted criteria to test the Committees, Commissions, etc. for deciding the question as to what office should disqualify and what 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, 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 licences, etc., or gives powers of appointment, grant of scholarships etc.;

(iii) 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 was in affirmative then the holders of offices in question would be entitled to disqualification.

Moreover, the Bhargava Committee in their Report of the Committee on Offices of Profit, had expressed *inter alia* that Members of Parliament should not be permitted to go on committees, commissions etc. which jeopardise their independence or which would place them in a position of power or influence or in a position where they received some patronage from Government or were themselves in

a position to distribute patronage. The Committee then agreed to follow the criteria laid down by the previous Committee (Seventh Lok Sabha).

5. The Committee were also informed that the Ninth Report (Seventh Lok Sabha) which had dealt with matter mentioned in paragraph 2 above at length had already been circulated to the Members and the Ministry of Law and Justice had been reminded on 18th June, 1985 to indicate the action taken on the recommendations contained in the said Report at an early date so that the matter could be placed before the Committee. The Committee were further informed that on receipt of the reply from the Ministry of Law and Justice, the matter would be placed before them.

6. The Committee were also informed that the Office Memoranda to the Ministries of the Government of India and letters to the Chief Secretaries of State Governments and Union Territory Administrations requesting them to furnish information regarding the Committees Corporations etc. constituted by them, had been issued on the 11th June, 1985, after including the following new item as decided at the earlier sitting:—

“(vi) Qualifications for membership/Chairmanship”.

7. On the suggestion of a member, the Committee desired that after receipt of particulars from the Ministries, State Governments etc.; the particulars might be placed before the Joint Committee in the form of memoranda after adding the particulars of salary, if any, in Col. 4 of the approved proforma besides particulars of T.A., D.A. etc.;

8. The Committee then took up for consideration Memoranda No. 1 to 8 relating to the following Committees/Boards etc. constituted by the Central and the State Governments.

State Advisory Committee for Territorial Army in Haryana (Ministry of Defence) (Memorandum No. 1)

9. The Committee noted that the non-official members of the State Advisory Committee for Territorial Army in Haryana were entitled to TA and DA at Government rates which was less than the 'compensatory allowance'. Besides, the functions of the Committee were mainly to advise the Government of India on matters relating to the development of the Territorial Army in Haryana and as such the functions of the Committee were mainly advisory in

nature. Taking all aspects into consideration the Committee recommended that the membership of the said Committee *ought to be exempt* from disqualification.

In that connection the Committee also noted that the Joint Committee on Offices of Profit (Seventh Lok Sabha) in their Second Report had observed that the non-official members of the Joint State Advisory Committee for Territorial Army in the States of Assam, Tripura, Manipur and Meghalaya and the Union Territories of Mizoram and Arunachal Pradesh were entitled to TA and DA which was less than the 'compensatory allowance'; besides, the functions of the Committee were mainly advisory in nature. Hence the Committee had recommended that the membership of these Committees ought to be exempt from disqualification.

State Advisory Committee for the Territorial Army in Karnataka and the Union Territory of Goa, Daman and Diu (Ministry of Defence) (Memorandum No. 2).

10. The Committee noted that the non-official members of the State Advisory Committee for the Territorial Army in Karnataka and the Union Territory of Goa, Daman and Diu were entitled to TA and DA at Government rates which was less than the 'compensatory allowance'. Besides, the functions of the Committee were mainly to advise the Government of India on matters relating to the development of the Territorial Army in the above places and as such the functions of the Committee were mainly advisory in nature. Taking all aspects into consideration the Committee recommended membership of the said Committee *ought to be exempt* from disqualification.

In that connection the Committee also noted that the Joint Committee on Offices of Profit (Seventh Lok Sabha) in their Second Report had observed that the non-official members of the Joint State Advisory Committee for Territorial Army in the States of Assam, Tripura, Manipur and Meghalaya and the Union Territories of Mizoram and Arunachal Pradesh, were entitled to TA and DA which was less than the 'compensatory allowance'; besides, the functions of the Committee were mainly advisory in nature. Hence the Committee had recommended that the membership of these Committees ought to be exempt from disqualification.

Board of Directors, Mysore Electrical Industries Limited (Karnataka) (Memorandum No. 3)

11. The Committee noted that the non-official Directors of the Mysore Electrical Industries Limited (Karnataka) were paid a sitting

fee of Rs. 100/- for attending each meeting of the Board. Thus the Payment made to them did not come within the ambit of the 'compensatory allowance'. Also, the Board exercised executive and financial powers. Taking all aspects into consideration the Committee felt that the non-official Directors of the Board *ought not to be exempt* from disqualification.

*Board of Directors, Karnataka Vidhyut Karkhane Ltd. (Karnataka)
(Memorandum No. 4)*

12. The Committee noted that besides payment of TA and incidental charges at Rs. 30 per journey, halting allowance at Rs. 100 per day or part thereof, conveyance allowance at Rs. 30 per day of the meeting, the non-official Directors of the Karnataka Vidhyut Karkhane Ltd. were also paid a sitting fee of Rs. 100 for every day of the meeting. Payments thus made to the non-official Directors exceeded the 'compensatory allowance'. Moreover, the Board exercised executive and financial powers. Taking all aspects into consideration the Committee felt that the non-official Directors of the Karnataka Vidhyut Karkhane Ltd., *ought not to be exempt* from disqualification.

Screening Committee for Bombay Suburban District, Bombay (Memorandum No. 5)

13. The Committee noted that the non-official members of the Screening Committee for Bombay Suburban District were not paid any TA/DA. Besides the functions of the Committee were only to review unauthorised constructions/encroachments and to recommend cases for regularisation. As the final decisions in that regard rest with the State Government, it was felt that the functions of the Committee were by and large advisory in nature. Taking all aspects into consideration, the Committee recommended that the non-official members of the said Screening Committee *ought to be exempt* from disqualification.

*Screening Committee for Ulhasnagar Township, Thane (Maharashtra)
(Memorandum No. 6).*

The Committee noted that the non-official members (including MLAs, etc.) of the Screening Committee for Ulhasnagar Township, Thane were entitled to T.A. and D.A. as per rules (Maximum rate Rs. 51 per day) which was less than the 'compensatory allowance'

as defined in Section 2(a) of the Parliament (Prevention of disqualification) Act, 1959. The functions of the Committee were only to review unauthorised constructions/encroachments and to recommend cases for regularisation. As the final decisions in that regard rest with the State Government, it was felt that the functions of the Committee were by and large advisory in nature. Taking all aspects into consideration, the Committee recommended that the non-official members of the said Screening Committee *ought to be exempt* from disqualification.

Committee for implementation of 20 point Economic Programme at district level, Orissa (Memorandum No. 7)

15. The Committee noted that the non-official members (including MPs and MLAs) of the Committee for implementation of 20 point Economic Programme at the district level, Orissa were entitled to TA and DA as per Government rules, which was less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were to review the progress of the implementation of the 20 Point Economic Programme and other development Programmes at the district level and offer their advice to the Government thereon so as to ensure that the benefits of the Programme in fact flowed to the poorer and weaker sections of the Community effectively and in time. Thus the functions of the Committee were purely advisory in nature. Taking all aspects into consideration, the Committee recommended that the non-official members of the Committee for implementation of 20 point Economic Programme at the District Level Orissa, *ought to be exempt* from disqualification.

Committee for implementation of 20 Point Economic Programme at the State Level, Orissa (Memorandum No. 8)

16. The Committee noted that the non-official members (including MPs and MLAs. of the Committee for implementation of 20-point Economic Programme at the State Level, Orissa were entitled to TA and DA as per Government rules which was less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were to review the progress of implementation of the 20-point Economic Programme and other development programmes and to advise the State Government on measures designed to promote fulfilment of the objectives of the programme. The functions of the

Committee were thus advisory in nature. Taking all aspects into consideration the Committee recommended that the non-official members of the Committee for implementation of 20-point Economic Programme at the State Level, Orissa ought to be exempt from disqualification.

The Committee then adjourned to meet again at 11.00 hours on Thursday, the 4th July, 1965.

III
THIRD SITTING

The Committee met on Thursday, the 4th July, 1985 from 11.00 to 12.20 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Sriballav Panigrahi
6. Shri S. B. Sidnal

Rajya Sabha

7. Shri Amarprosad Chakraborty
8. Shrimati Monika Das
9. Shri Sohan Lal Dhusiya
10. Shri B. Krishna Mohan

SECRETARIAT

1. Shri N. N. Mehra—*Joint Secretary*
2. Shri S. Balasubramanian—*Chief Legislative Committee Officer*
3. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee took up for consideration 6 Memoranda (Nos. 9 to 14) relating to the following Boards/Committees etc. constituted by the State Governments and Union Territory Administration:—

- (i) *Karnataka Gazetteer Advisory Committee (Karnataka) (Memorandum No. 9)*

The Committee noted that the non-official members of the Karnataka Gazetteer Advisory Committee were paid TA and a sitting fee

of Rs. 40/- per meeting of the Committee. The functions of the Committee were to guide the Chief Editor in the revision of the District Gazetteer of the State and thus they were mainly advisory in nature.

2. The Committee discussed at length the payment made to the members being termed as "sitting fee" whereas in essence there was hardly any difference between the sitting fee and the daily allowance as mentioned in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959 which defined 'compensatory allowance' 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 was entitled under the Salary, Allowances and Pension of Members of Parliament Act, 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. A Member of Parliament is entitled to a daily allowance of Rs. 75/-.

3. The Committee were informed that in para 10.5 of their Tenth Report (Seventh Lok Sabha), the Joint Committee on Offices of Profit had, however, taken the view that an office to which any sitting fee, honorarium or salary was attached was to be treated as remuneration other than the 'compensatory allowance' and such offices ought not to be exempt from disqualification.

4. The Committee also took note of the fact that the 'sitting fee' had already been included in the definition of the term 'compensatory allowance' in the Mysore Legislature (Prevention of Disqualification) Act, 1956, in addition to daily allowance as applicable to Members of the State Legislature. Thus the position of 'Sitting fee' under the State Act differed from that of the Central Act, viz., Parliament (Prevention of Disqualification) Act, 1959, under which the term 'compensatory allowance' had mentioned *inter alia* daily allowance and *not* 'sitting fee'. The Committee desired that the State Government might be requested to clarify whether the "sitting fee" in the instant case meant only daily allowance and if so whether they would amend the rules to change the nomenclature of 'sitting fee' to 'daily allowance'. The Committee decided to reconsider the matter in regard to association of Members of Parliament with the Karnataka Gazetteer Advisory Committee further on receipt of information from the State Government.

(ii) *Haryana Board of School Education, (Haryana) (Memorandum No. 16)*

5. The Committee noted that the non-official members of the Haryana Board of School Education, were entitled to TA and DA as per Government rules which was covered by the 'compensatory allowance'. The Chairman, besides TA|DA, was entitled to an honorarium of Rs. 1000 p.m.; house rent allowance (actual or not exceeding Rs. 700 p.m.); staff car, PA and orderly etc. and these payments were not covered by the compensatory allowance. Besides the Board had *inter alia* the power to (i) regulate, supervise and control school education and demand and receive fee for examination; (ii) grant certificates and diplomas to persons who had passed examinations and institute and award scholarships, Medals and prizes; (iii) prescribe conditions for recognition of schools; and (iv) organise and provide lectures, demonstrations and educational exhibitions, seminars and symposiums etc. These powers were of an executive character and the Chairman and members of the Board might wield influence also.

However, some of the Members of the Committee felt that the matter of association of Members of Parliament with Boards of School Education in the various States required detailed examination in the light of the existing provision made in the Central Parliament (Prevention of Disqualification) Act, 1959 which exempted Chairman or member of the syndicate, senate, executive committee, council or court of a university or any other body connected with a university from holding an office of profit and the functions of the Syndicate and Senate of the University were analogous to the Board of School Education. The Committee deferred consideration of the memorandum to a later date to enable members to study the matter in greater details.

(iii) *Minimum Wages Advisory Board, Maharashtra (Memorandum No. 11)*

6. The Committee noted that the non-official members of the Minimum Wages Advisory Board were entitled to TA and DA under Government rules which was less than the 'compensatory allowance'. The functions of the Board were mainly to advise the Government in the matter of fixing minimum rates of wages under the Act and thus the functions were mainly advisory in nature. After taking all aspects into consideration the Committee recommended that the non-official members of the Board *ought to be exempt* from disqualification.

In that connection, the Committee also noted that the Joint Committee on Offices of Profit (Seventh Lok Sabha) had examined a similar Board, viz. Advisory Board for Minimum rate of wages for Union territory of Dadra and Nagar Haveli and recommended that the non-official members of the Board ought to be exempt from disqualification *vide* 6R(7LS), para 2.17.

(iv) *Book Selection Committees for Libraries, Pondicherry (Memorandum No. 12)*

7. At their sitting held on 30th May, 1983, the Joint Committee on Offices of Profit (Seventh Lok Sabha), had deferred consideration of Memorandum No. 131 (7LS) regarding Book Selection Committees for Libraries, Pondicherry pending receipt of further information on the following points from the Government of Pondicherry:—

“Whether the recommendations of the Book Selection Committees are binding on the Libraries or these are merely advisory”.

The Government of Pondicherry, in their reply dated 15th March, 1984, had stated that the recommendations of the Book Selection Committees were binding on the Libraries. Subject to availability of funds, Books/Periodicals were acquired only from the lists recommended by the Committees. The Committees had no other activities.

8. The Committee thus noted that although theoretically speaking the members of the Book Selection Committees for Libraries, Pondicherry would be in a position to wield influence by way of patronage as the recommendations of the Committees were binding on the Libraries and Books/Periodicals were to be acquired only from the lists recommended by the Committees subject to availability of funds, yet the Committee felt that practically the nature and extent of the influence would be insignificant in a small Union Territory like Pondicherry. Further, no remuneration was also payable to the non-official members of the Book Selection Committees. After taking all aspects into consideration the Committee were of the view that the non-official members of the Book Selection Committees for Lebraries, Pondhicherry *ought to be exempt* from disqualification, as they did not hold an office of profit within the meaning of Article 102(1)(a) of the Constitution.

The Committee, in this connection also decided to undertake on the spot study visit to Pondicherry sometime in September, 1985, subject to permission being accorded by the Speaker, Lok Sabha in that behalf, with a view to see the nature of Libraries

coming under the purview of those Committees and have informal discussions with the concerned officials of Pondicherry Administration.

(v) *Standing Tripartite State Apex Body, Pondicherry (Memorandum No. 13)*

9. At their sitting held on 30th May, 1983, the Joint Committee on Offices of Profit (Seventh Lok Sabha) had conferred consideration of Memorandum No. 134 (7LS) regarding the Standing Tripartite State Apex Body, Pondicherry pending receipt of further information on the following points from the Government of Pondicherry:—

- “(i) Whether the recommendations made by the Apex Body for resolving labour and management problems are final; and
- (ii) Whether the Apex Body is in a position to wield influence or the recommendations made by it are merely advisory in nature and not binding on the Government/Management.”

The Government of Pondicherry, in their reply dated 15th March, 1984, had stated as follows:—

“The recommendations made by the Apex Body for resolving labour and management problems are not final.

The recommendations made by the Apex Body are only recommendatory and advisory in nature and did not have any legal sanction”.

The Committee noted that the functions of the Standing Tripartite State Apex Body, Pondicherry, were by and large advisory in character, as they were only to review and resolve the major labour and management problems. Also, no remuneration was payable to the non-official members of the above Body. After taking all aspects into consideration the Committee felt that the non-official members of the aforesaid Committee ought to be exempt from disqualification.

(vi) *Committee for the selection of Master Craftsman for State Award, Pondicherry (Memorandum No. 14)*

10. At their sitting held on 30th May, 1983, the Joint Committee on Offices of Profit (Seventh Lok Sabha), while examining the functions of the Committee for the Selection of Master Craftsman for State Award, Pondicherry, had declared that further information on the following points in respect of the said Committee

might be called for from the Government of Pondicherry for their consideration:—

- “(i) Whether any rules/guidelines have been laid down for the Committee for selection of the Master Craftsman?
- (ii) What are the criteria laid down for the selection i.e. what is the basic procedure followed by the Committee for making final selection?
- (iii) Whether the recommendations made by the Selection Committee are final or merely advisory?
- (iv) Whether the functions and powers of the Committee are executive in nature or the Committee is in a position to wield influence while making selection or the functions are merely advisory and not binding on Government?
- (v) What are the benefits which the selected Craftsman get?”

The Government of Pondicherry in their reply dated 15th March, 1984, had stated as follows:—

“The following guidelines are adopted for selection of State Awardees:

- (a) Sub-standard models should be first eliminated.
- (b) Among the items presented for the State Award, classification should be made.
- (c) The items which come for entry should be displayed *in camera*.
- (d) Dubious entries will be identified by the Assistant Director, All India Handicrafts Board, Pondicherry.
- (e) The name and address of the craftsman should be indicated below each model.
- (f) The craft pieces should depict traditional culture.
- (g) Award should be given only for living Master Craftsman.

There are no set guidelines or prescribed norms except a few stated above. As such, outstanding artisans are requested through a system of publicity to contribute their pieces of excellence for this State-conferred honour.

The recommendations are treated as final. Among the several objects put on display the Selection Committee by process of individual assessment and collective exchange of thoughts and views arrive at a consensus in locating the distinguished contributions for that part of the year.

The functions and powers of the Committee are executive in nature and the recommendations of the Committee are final.

The selected Craftsman are honoured by giving a cash award of Rs. 1,000 each plus a scroll, Angavasthram and Tamrapatra. Such selected master craftsmen are gainfully employed to the advantage of the Craft Development by engaging them in training suitable number of minimasters over a time-bound programme. The craftsman thus selected will also eventually qualify for pensionary benefits by the office of the Development Commissioner (Handicrafts) when they are indigent circumstances.

The above stated developmental activity mainly aims at projecting the long denied beneficiary measures to the craftsmen of this area so that they also join the national cream of action in creating abundant artefacts by efflux of time".

After considering the replies received from the Government of Pondicherry and all other aspects, the Committee, after some discussion, decided that it was a case of giving recognition and honour to master craftsmen and artisans and there was not much scope for wielding any influence or patronage. The Committee therefore, were of the view that membership of Committee for the selection of Master Craftsman for State Award, Pondicherry ought to be exempt from disqualification.

The Committee then adjourned.

VIII
EIGHTH SITTING

The Committee met on Monday, the 28th October, 1985 from 15.30 to 15.50 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Mahendra Singh
6. Shri Sriballav Panigrabi
7. Shri P. M. Sayeed
8. Shri S. B. Sidnal
9. Shri Balram Singh Yadav

Rajya Sabha

10. Shrimati Monika Das
11. Shri Sohan Lal Dhusiya
12. Shri B. Krishna Mohan

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*.
2. Shri R. S. Mani—*Senior Legislative Committee Officer*.

2. At the outset, the Chairman made an obituary reference about the passing away of Shri Amarprosad Chakraborty, M.P., a member of the Committee belonging to Rajya Sabha. The Committee passed the following condolence resolution:

“The Committee place on record their profound sense of sorrow over the sudden demise of their most esteemed

colleague Shri Amarprosad Chakraborty, M.P., on 27th October, 1985 and send their heart felt condolences to the members of the bereaved family.”

Thereafter, the Members stood in silence for two minutes as a mark of respect to the deceased.

3. The Committee then adjourned without transacting any business to meet on *Tuesday, the 29th October, 1985 at 11.00 hours in Room No. 53, Parliament House, New Delhi.*

IX

NINTH SITTING

The Committee met on Tuesday, the 29th October, 1985 from 11.00 to 11.45 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Mahendra Singh
6. Shri Sriballav Panigrahi
7. Shri P. M. Sayeed
8. Shri S. B. Sidnal

Rajya Sabha

9. Shri B. Krishna Mohan

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary.*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

2. The Committee took up for consideration their draft first Report and adopted it with modifications as shown in the appendix.

3. The Committee decided that the first Report might be presented to Lok Sabha on a date convenient to the Chairman during the last week of November, 1985.

3. The Committee also decided that the Report might be laid on the Table of Rajya Sabha on the same day.

4. The Committee authorised the Chairman and, in her absence, Shri Sharad Dighe, M.P. to present the Report to Lok Sabha on their behalf.

The Committee also authorised Shrimati Monika Das, M.P. and in her absence, Shri Sohan Lal Dhusiya, M.P. to lay the Report on the Table of Rajya Sabha on the same day.

* * * *

The Committee then adjourned.

*Omitted portions of the Minutes are not covered by this Report.