

# JOINT COMMITTEE ON OFFICES OF PROFIT

## FIRST REPORT (TENTH LOK SABHA)



*Presented to Lok Sabha on* 19 DEC 1991  
*Laid in Rajya Sabha on* 19 DEC 1991

LÓK SABHA SECRETARIAT  
NEW DELHI

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# C O N T E N T S

	PAGE
COMPOSITION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT	(iii)
INTRODUCTION	(v)
 CHAPTER I. Nomination of Members of Parliament to State/Central Bodies.....	 1
CHAPTER II. Incurring of disqualification by non-official Members on State/Central Bodies .....	6

## A P P E N D I C E S

I. Motion in Lok Sabha for the constitution of the Joint Committee on Offices of Profit.....	9
II. Motion in Rajya Sabha .....	10
III. Message from Rajya Sabha.....	11-
IV. Minutes of the sitting of the Joint Committee .....	12

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

**COMPOSITION OF THE COMMITTEE**

**Shri Chiranji Lal Sharma — *Chairman***

**MEMBERS**

***Lok Sabha***

2. Prof. Susanta Chakraborty
3. Shri Harisinh Pratapsinh Chavda
4. Shri Dau Dayal Joshi
5. Shri C.K. Kuppuswamy
6. Shri D.K. Naikar
7. Shri Ram Chandra Rath
8. Shri Roshan Lal
9. Shri Thota Subba Rao
10. Shri Mukul Wasnik

***Rajya Sabha***

11. Shri E. Balanandan
12. Shrimati Kailashpati
13. Shri Som Pal
14. Shri Santosh Kumar Sahu
15. Shri Subramanian Swamy

**SECRETARIAT**

- |                         |                             |
|-------------------------|-----------------------------|
| 1. Shri S.C. Gupta      | — <i>Joint Secretary</i>    |
| 2. Shri R.K. Chatterjee | — <i>Deputy Secretary</i>   |
| 3. D.L. Kapur           | — <i>Assistant Director</i> |

# REPORT OF THE JOINT COMMITTEE

## INTRODUCTION

1. 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.

2. The motion for constitution of the Joint Committee on Offices of Profit (Tenth Lok Sabha) was moved in Lok Sabha by Shri K. Vijaya Bhaskara Reddy, Minister of Law, Justice and Company Affairs on 26th July, 1991 (*Appendix I*).

3. The Rajya Sabha concurred in the said motion on the 10th September, 1991 (*Appendix II*). The message from Rajya Sabha communicating the name of members of Rajya Sabha elected to the Joint Committee was reported to Lok Sabha on the 17th September, 1991 (*Appendix III*).

4. The names of members of Lok Sabha elected to the Joint Committee were published in the Lok Sabha Bulletin Part II dated 2 August, 1991 and the names of Members of Rajya Sabha elected to the Joint Committee were published in the Rajya Sabha Bulletin Part II dated 16th September, 1991.

5. The Joint Committee on Offices of Profit (*9th Lok Sabha*) which was constituted on a motion moved in Lok Sabha on 23 March, 1990 and concurred in by Rajya Sabha on 14 May, 1990 could not present any Report owing to sudden dissolution of Lok Sabha on 13 March, 1991. The Committee held 9 sittings on 28th June, 11th July, 26th July, 24th September, 22nd October, 4th December, 19th December, 1990, 22nd January and 14th February, 1991.

6. At the first sitting of the Committee held on the 28th June, 1990, 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. The Committee also decided that a note delineating the position regarding the definition of the term 'Office of Profit' in USA, UK and Canada might be prepared for their consideration.

7. At their 2nd and 3rd sittings held on 11th and 26th July, 1990, the Committee considered the note prepared by the Secretariat regarding position in USA, UK and Canada with reference to the term 'Office of Profit'. The Committee also considered a background note regarding connotation 'Office of Profit' and other connected matters in terms of provisions contained in Article 102 and Article 191 of the Indian Constitution.

8. At their 4th, 5th and 6th sittings held on 24th September, 22nd October and 4th December, 1990, the Committee considered 9 Memoranda regarding the composition, character, functions etc. of certain Committees/Boards/Bodies/Corporations/Parishads constituted by the Central and State Governments and the Union Territory Administration and emoluments and allowances payable to their members and non-official Directors.

9. At their 7th and 8th sittings held on 19th December, 1990, 22nd January, 1991, the Committee took the evidence of Sarvashri K.K. Venugopal, R.K. Garg, senior advocates, Supreme Court, respectively with regard to the exact connotation of the Term 'Office of Profit' in the light of the provisions laid down in the Constitution.

10. At the 9th sitting held on 14 February, 1991 the Committee examined composition, character, functions etc. of 3 Bodies constituted by the Central Government and the emoluments, allowances payable to Members, non-official Directors, Chairmen etc. with a view to consider whether holders of offices of these bodies would incur disqualifications under the provisions of the Constitution.

11. The matters covered by the Report were considered by the Committee on Offices of Profit (9th Lok Sabha) At their sittings held on 28 June, 24 September, 22 October, 4 December, 1990, 22 January and 14 February, 1991. The Minutes of these sittings form part of the Report and are at Appendix IV.

12. The Committee considered and adopted the Report at their sitting held on 28 October, 1991. The minutes of the sitting of the Committee are at Appendix IV.

13. The Committee wish to express their thanks to the Ministries/ Departments of the Central and State Governments for furnishing the information desired by the Committee.

NEW DELHI;  
28 October, 1991  
6 Kartika, 1913 (S)

CHIRANJI LAL SHARMA,  
Chairman,  
Joint Committee on Offices of Profit.

## NOMINATION OF MEMBERS OF PARLIAMENT TO STATE/CENTRAL BODIES

### *Nomination of Shri Viren J. Shah, M.P. (RS) as member of National Institute for training in Industrial Engineering, Bombay*

1.1 The Committee considered the request of the Ministry of Human Resource Development (Department of Education) who had sought the approval of the Chairman, Rajya Sabha for nomination of Shri Viren J. Shah, Member of Rajya Sabha as member of National Institute for Training in Industrial Engineering, Bombay.

1.2 The Committee learnt that the non-official members of the National Institute for training in Industrial Engineering were entitled to draw TA/DA as per Government of India Rules which was covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Institute being to organise and supervise the apprenticeship training for graduate engineers, diploma holders and 10+2 vocational students, were purely advisory in nature.

1.3 The Committee are therefore, of the view that the nomination of Shri Viren J. Shah, M.P. or any other Member as a non-official member of the said training institute in no way comes within the purview of Office of Profit and should be exempted from disqualification.

### *Nomination of Shri Ram Dhan, M.P. as Chairman National Commission for Scheduled Castes and Scheduled Tribes*

1.4 The Committee received a reference from Shri Ram Dhan, M.P. regarding his nomination as Chairman, National Commission for Scheduled Castes and Scheduled Tribes and noted that he was not drawing any salary attached to the post. Shri Ram Dhan was entitled to only TA and DA on the same terms as was admissible to Government servant of the highest grade which was covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Government had also granted him the status of Union Cabinet Minister.

1.5 The main functions of the National Commission were to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution and to participate and advise on the planning process of socio-economic development of the Scheduled Castes and the Scheduled Tribes. The Committee noted that the functions of the Commission were executive and

judicial in nature and although going strictly by the criteria laid down in the past, the Chairmanship of the Commission could be regarded as attracting disqualification but they felt that from a practical viewpoint there should be flexibility in the approach of the Committee in such cases. For proper and speedy implementation of the socio-economic development programmes of Government it was essential to associate Members of Parliament with the working of the such agencies. It was emphasised that Members of Parliament being the representatives of the people could play a very useful and constructive role in this respect.

**1.6 The Committee recommend that the Chairman (Shri Ram Dhan, M.P.) of the National Commission for Scheduled Castes and Scheduled Tribes should be exempted from disqualification for being chosen as, or for being a Member of Parliament provided that he does not draw any remuneration other than compensatory allowance as defined in the Parliament (Prevention of Disqualification) Act, 1959.**

*Nomination of Major (Retd.) D.D. Khanuria, M.P. (Lok Sabha) as Director of Himachal Pradesh Ex-Servicemen Corporation, Simla*

**1.7 The Committee considered the request of the Government of Himachal Pradesh, who had sought approval of the Speaker, Lok Sabha for nomination of Major (Retd.) D.D. Khanuria, M.P. (Lok Sabha) as Director of Himachal Pradesh Ex-Servicemen Corporation, Simla.**

**1.8 At their sitting held on 24 September, 1990 the Joint Committee on Offices of Profit (Ninth Lok Sabha) while examining the particulars of Himachal Pradesh Ex-servicemen Corporation (Memorandum No. 2) had desired that further information on the following points might be called for from the State Government of Himachal Pradesh :**

- (i) Specific functions of the non-official Director of Himachal Pradesh Ex-servicemen Corporation.
- (ii) Detailed rates of TA/DA and other facilities to be provided to the Director.
- (iii) Whether Maj. (Retd.) D.D. Khanuria will be paid any honorarium. If so, details thereof.
- (iv) The number of ex-servicemen or their organisation to whom the loans have been granted so far and the details thereof.

**1.9 The State Government of Himachal Pradesh in their reply dated 23 November, 1990 have stated as follows:**

- (i) Mentioned in the Act which is already sent. However, in brief, Director occupies place of a member on the Board of Directors vested with powers of general superintendence, directions and management of affairs and business of Corporation. Specific function of the Director is to attend the quarterly meeting of Board of Directors.

- (ii) Daily allowance for attending the meeting is Rs. 50/- with entitlement of taxi charges for journey to and fro @ Rs. 2.50 PKM if hired.
- (iii) No please.
- (iv) Loan arranged for 433 trucks amounting to Rs. 8,70,81,097/- for 356 commercial vehicles amounting to Rs. 4,25,35,951/- and for 908 other projects amounting to Rs. 1,45,17,419/-.

1.10 The functions of the Himachal Pradesh Ex-servicemen Corporation were to plan, promote and undertake the implementation of the programmes and also to provide financial assistance to Ex-servicemen. The Corporation was vested with powers of general superintendence, direction, management of affairs and control of other business. The Committee noted that the functions of the Corporation were more or less executive and financial in nature. Although, going strictly by the criteria laid down by the Committee in the past, the directorship of the said Corporation could be regarded as attracting disqualification, yet after some deliberation they felt that for proper and speedy implementation of socio-economic development and welfare programmes for ex-servicemen, it was essential to associate Members of Parliament with the working of such Corporations/Agencies. It was felt that Members of Parliament could play a vital role in this respect and they should not be deprived of their membership of such bodies purely on technical considerations.

1.11 The Committee, therefore, recommend that non-official Directors (including Major (Retd.) D.D. Khanuria, (M.P.) should be exempted from disqualification for being chosen as or for being a Member of Parliament.

*Nomination of Shri Viren J. Shah M.P. (RS) as Chairman, Board of Apprenticeship Training, Western Region, Bombay*

1.12 The Committee considered the request of the Ministry of Human Resource Development (Department of Education) who had sought the approval of the Chairman, Rajya Sabha for nomination of Shri Viren J. Shah, M.P., Rajya Sabha as Chairman of Board of Apprenticeship Training, Western Region, Bombay.

1.13 The Committee noted in this connection that the non-official members of the Board of Apprenticeship Training Western Region, Bombay were entitled to draw TA/DA as per the Government of India Rules which was covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Board being the supervision of Apprenticeship training for graduate engineers, diploma holders and 10+2 vocational students were purely advisory in nature.

1.14 The Committee are therefore, of the view that the nomination of Shri Viren J. Shah, M.P. or any other member as Chairman of the said

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Board in no way comes within the purview of 'office of profit' and should be exempted from disqualification.

*Whether holding the post of a teacher in Gyanoadaya Hindi Higher Secondary School Ahmedabad constitutes an office of profit under the Government—Query from Shri Ratilal K. Verma, M.P.,*

1.15 The Committee considered the request of Shri Ratilal K. Verma, M.P. enquiring whether holding the post of a teacher in Gyanoadaya Hindi Higher Secondary School Ahmedabad (Gujarat) constituted an office of profit under the Government. After some discussion the Committee perused the following judgement of the Election Tribunal, Nagpur, in the case of Krishnappa V. Narayan Singh and others where it has been held as under:

"A person serving as a teacher in a grant-in-aid school does not hold an 'office of profit' under the Government merely because the school receives grants from the Government for payment of a portion of the dearness allowance and the pay of the teachers.

The most important test for determining whether an office is held under the Government is whether the power of appointment and dismissal vests in the Government."

[1953 RLR Vol. III p. 294]

1.16 The matter was referred to the State Government of Gujarat where Shri Ratilal K. Verma, M.P. had been working as a Hindi teacher after his election as a Member of Parliament and drawing salary both from the school and Parliament. The State Government had clarified the following points:—

- (i) 100% salary grant is paid as per the norms prescribed by Government;
- (ii) Under the provisions made in the Gujarat Secondary Education Act and Rules, the power of appointment, dismissal and removal of an employee is vested in the Managing Body of the institution; and
- (iii) Under the Gujarat Secondary Education Regulations, 1974 an employee is permitted to take part in politics and become a member of any party. But there is no provision under the rules for drawing salary at two posts at a time.

1.17 In this connection, the Committee also learnt that Joint Committee on Offices of Profit (Eighth Lok Sabha—Seventh Report) had examined similar case of Professor (Smt.) Chandra Bhanu Devi, M.P. and recommended as follows:

"Prof. (Smt.) Chandra Bhanu Devi, M.P. in her capacity as the lecturer of a non-government College was not holding an 'office of profit' under the Government as according to the principal of the

College, the Vice-Chancellor was the competent authority to appoint and dismiss a lecturer and the Government has nothing to do with it."

1.18 The Committee also took note of an earlier case of employment of Shri M.L. Sondhi, as a teacher in the Indian School of International Studies which was a private body and so the Committee at that time [Fourth Lok Sabha—First Report] had recommended that Shri Sondhi did not hold an 'office of profit' under the Government and he did not, therefore, incur any disqualification by continuing simultaneously as a member of Parliament and drawing the usual salary and allowances as an M.P. in addition to his salary as a teacher.

1.19 In view of above, the Committee recommend that Shri Ratilal K.Verma, M.P. in his capacity as a Hindi teacher of non-government school had not been holding an 'office of profit under the Government' as according to the State Government of Gujarat, the Managing Body of the concerned institution was the competent authority to appoint and remove a teacher and the Government had nothing to do with it.

1.20 The Committee, however, observe that under Article 103 of the Constitution, it was provided that "if any question arise as to whether a Member of either House of Parliament has become subject to any of the disqualifications mentioned in Clause (1) of Article 102, the question are to be referred to the decision of President and his decision shall be final and that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion" and consequently, the opinion of the Election Commission was effective and crucial in such matters.

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## II

### INCURRING OF DISQUALIFICATION BY NON-OFFICIAL MEMBERS ON STATE/CENTRAL BODIES

#### *Environment Protection Council, Maharashtra*

2.1 The Committee noted that the non-official members of the Environment Protection Council were entitled to TA/DA at State Government rates 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 Council were only advisory in nature.

2.2 Taking all aspects into consideration the Committee recommend that the non-official members of the Environment Protection Council, Maharashtra should be exempted from disqualification.

#### *Special Committee for Western Coast of Konkan Region, Maharashtra*

2.3 The Committee noted that the functions of the Special Committee for Western Coast of Konkan Region, Maharashtra were by and large advisory in nature. Also no remuneration was paid to the non-official members of the above body.

2.4 The Committee are therefore, of the view that the non-official members of the aforesaid Special Committee did not incur any disqualification.

#### *State Environmental Appraisal Committee for Scrutiny of applications for giving environmental clearance for establishment of Projects/Units etc., Maharashtra.*

2.5 The Committee noted that the non-official members of the State Environmental Appraisal Committee were entitled to TA/DA as per rules of the State Government. The payment admissible to non-official Members was thus less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Appraisal Committee were only to scrutinise the proposals of various types of polluting industries for giving environmental clearance before they were set up for expended. As such, the functions were purely advisory in nature.

2.6 The Committee are of the view that the non-official members of the State Environmental Appraisal Committee should be exempted from disqualification.

*Technical Advisory Committee on Statistics of Prices and Cost of living  
(Ministry of Planning)*

2.7 The Committee noted that the payment admissible to non-official members of the Technical Advisory Committee on Statistics of Prices and Cost of Living was according to the normal rules and was covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were also mainly advisory in nature.

2.8 The Committee feel that the non-official members of the above Advisory Committee might be exempted from disqualification.

*Training Advisory Committee for Indian Statistical Service (Ministry of Planning)*

2.9 The Committee noted that the non-official members of the Training Advisory Committee for Indian Statistical Service were entitled to draw TA/DA as admissible under the Rules, which was covered by the 'compensatory allowance'. The functions of the Committee were to review and reappraisal of the existing schemes and syllabus for the training of direct recruits and to evaluate the facilities for training. As such, the functions were purely advisory in nature.

2.10 The Committee are of the view that the non-official members of the Training Advisory Committee should be exempted from disqualification.

*National Committee on the use of Plastics in Agriculture (NCPA), Ministry of Petroleum and Chemicals*

2.11 The Committee noted that non-official members of the National Committee on the use of Plastics in Agriculture were paid TA/DA as per Government of India Rules which were covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Its main functions were to promote rapid use of plastics in Agriculture by preparing suitable plans and adopting suitable policy measures. The functions were thus, advisory in character.

2.12 The Committee recommend that non-official members of National Committee on the use of Plastics in Agriculture should be exempted from disqualification for being chosen as, or for being members of Parliament.

*Scientific Advisory Committee for the Petrochemicals (SAC), Ministry of Petroleum and Chemicals*

2.13 The Committee noted that non-official members of the Scientific Advisory Committee for the Petrochemicals were not paid any remuneration excepting TA/DA as per Government Rules which was

covered by 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main function of the Committee was to advise the Government on policies and programmes relating to the technology, research and use of petrochemicals. Thus the functions of the Committee were advisory in nature.

**2.14 The Committee are of the view that the non-official members of the Scientific Advisory Committee for the Petrochemicals should be exempted from disqualification.**

*Technical Advisory Committee on Training of Statistical Personnel  
(Department of Statistics) Ministry of Planning*

**2.15 The Committee noted that the non-official members of the Technical Advisory Committee on Training of Statistical Personnel (Department of Statistics) Ministry of Planning were entitled to TA/DA at the rate of first grade officers of the Government of India which were covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Committee were to identify and review the training activities in the field of Statistics and to suggest measures to minimise the gaps between formal statistical education and the job requirement in the public sector. The functions of the Committee were purely advisory in nature.**

**2.16 The Committee recommend that the non-official members of Technical Advisory Committee on Training of Statistical Personnel should be exempted from disqualification for being chosen as, or for being members of Parliament.**

NEW DELHI;

28 October, 1991

6 Kartika, 1913 (S)

**CHIRANJI LAL SHARMA,**  
*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 names 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 10TH SEPTEMBER, 1991.**

**“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 26th July, 1991 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.”**

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### **APPENDIX III**

**(Vide para 1.3 of the Report)**

#### **MESSAGE FROM RAJYA SABHA WHICH WAS REPORTED TO LOK SABHA ON THE 17TH SEPTEMBER, 1991.**

**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 Tuesday, the 10th September, 1991 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 purposes set out in the motion adopted by the Lok Sabha at its sitting held on the 26th July, 1991, 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 E. Balanandan
2. Shrimati Kailashpati
3. Shri Som Pal
4. Shri Santosh Kumar Sahu
5. Shri Subramanian Swamy



## APPENDIX IV

(Vide Para 1.11 of the Report)

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

The Committee met on Thursday, the 28th June, 1990  
from 16.10 to 17.10 hrs.

#### PRESENT

Shri Mandhata Singh — *Chairman*

#### MEMBERS

##### *Lok Sabha*

2. Dr. K.P. Bopche
3. Shri Sanat Kumar Mandal
4. Shri Ajoy Mukhopadhyay
5. Shri Har Gobind Singh

##### *Rajya Sabha*

6. Shri Anand Prakash Gautam
7. Shri Talari Manohar

#### SECRETARIAT

1. Shri K.C. Rastogi — *Joint Secretary*
2. Shri Swarn Singh — *Under Secretary*

2. At the outset, the Chairman introduced himself to the members and thereafter, the Members of the Committee introduced themselves.

3. The Chairman then welcomed the members of the Committee and explained to them broadly the origion, scope and functions of the Committee. (Annexure—I)

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4. The Committee approved the following drafts:—

- (i) Office Memorandum regarding the Committees/Corporations/Boards/Parishads etc. constituted by the Ministries and Departments of the Central Government. (Annexure—II)

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•• Omitted portions of the minutes are not covered by this Report.

(ii) Letter regarding the Committees/Corporations/Boards/Parishads etc. constituted by the State Governments/Union Territory Administrations. (Annexure—III)

7. The Committee also approved the draft proforma of the Memoranda for placing before the Committee information regarding Committee/Corporations/Boards/Parishads etc. to be received from the Ministries and Departments of the Central Government/State Governments/Union Territory Administrations. (Annexure—IV)

8. The Committee then adjourned to meet again on Wednesday, the 11th July, 1990 at 1600 hours.

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## **ANNEXURE I**

**(Vide Para 3 of Minutes dated 28.6.1990)**

### **ADDRESS BY THE CHAIRMAN, JOINT COMMITTEE ON OFFICES OF PROFIT (NINTH LOK SABHA) TO THE MEMBERS OF THE COMMITTEE AT ITS FIRST SITTING TO BE HELD ON 28.6.1990**

**Friends,**

It gives me great pleasure to welcome you all to this first sitting of the Joint Committee on Offices of Profit of the Ninth 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. The concept of disqualifying a holder of office of profit under the Government for being chosen as, and for being, a member 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(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 India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder:—**

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#### ***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 jeo-pardise 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 on 2nd December, 1958 the then Minister of Law (Shri A.K. Sen) gave an assurance to the House for constituting a 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. Since then the Committee has been constituted from time to time after each general election for the duration of the term of the House except during the term of Sixth Lok Sabha when no such Committee was constituted. It will thus be seen that unlike other Parliamentary Committees, the term of this Committee is co-terminus with the 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 as 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 1985-89 the Joint Committee examined the composition and functions of 248 bodies and presented 9 Reports. In the case of 130 bodies, the Committee opined that membership/chairmanship thereof did not constitute an office of profit. In the remaining 118 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 like to mention that Government had brought forward on 19th May, 1983 a draft Parliament (Prevention of Disqualification) Amendment Bill, 1983 to amend the Parliament (Prevention of Disqualification) Act, 1959, 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. The Bill, however, lapsed on the dissolution of the House.

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18. 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 the Joint Committee.

Thanking You.

## ANNEXURE II

(Vide para 6 of Minutes)

**MOST IMMEDIATE**

### LOK SABHA SECRETARIAT

Parliament House Annexe,  
New Delhi-110001.

No. 21/2/1/90/CII

2nd July, 1990

11th Asadha, 1912 (S)

### OFFICE MEMORANDUM

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

The undersigned is directed to state that the Joint Committee on Offices of Profit for the Ninth 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 Committees/Boards, Corporations, Parishads etc. constituted by Government for which they are responsible:

- (i) the existing Committees/Boards/Corporations/Parishads 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/Parishads etc. constituted by Government where material changes have occurred since their examination by the Committee, in matters like their constitution, functions, remuneration payable to Members of Parliament (including payment of TA/DA etc.) and
- (iii) the Committees/Boards/Corporations/Parishads etc. which may hereafter be constituted/established by Government.

4. Information in respect of the Committees/Boards/Corporations/Parishads, 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 the members of the Committees/Boards/Corporations/Parishads etc. may also be supplied along with the information furnished by the Ministries and Departments on the lines indicated in para 3 above.

6. The requisite information may please be furnished to this Secretariat latest by 31st July, 1990.

7. The receipt of this office memorandum may please be acknowledged./

(SWARN SINGH)  
UNDER SECRETARY.

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/Parishad etc.**
- (ii) Act, Rule or Order under which the Committee/Board/Corporation/Parishad etc. was constituted (copies to be enclosed).**
- (iii) The term of Office of the members of the Committee/Board/Corporation/Parishad etc.**
- (iv) The remuneration payable to the members of the Committee/Board/Corporation/Parishad 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/Parishad 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/Parishad 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 6 of the Minutes)

**MOST IMMEDIATE**

**LOK SABHA SECRETARIAT**

Parliament House Annexe,  
New Delhi-110001.

No. 21/2/2/90/CII

2 July, 1990

11th Asadha, 1912 (S)

From

Shri Swarn Singh,  
Under Secretary.

To

The Chief Secretaries to all the State Governments and Union Territory Administrations.

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

Sir,

I am directed to state that the Joint Committee on Offices of Profit for the Ninth 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. 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 Committees/Boards/Corporations/Parishads etc.

- (i) the existing Committees/Boards/Corporations/Parishads 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/Parishads etc. constituted by the State Government/Union Territory where material changes have occurred since their examination by the Committee, in matters like their constitution, functions, remuneration payable to Members of Parliament (including payment of TA/DA etc.) and
- (iii) the Committees/Boards/Corporations/Parishads etc. which may hereafter be constituted/established by the State Government/Union Territory.

4. Information in respect of the Committees/Boards/Corporations/Parishads, 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 the members of the Committees/Boards/Corporations/Parishads 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 requisite information may please be furnished to this Secretariat latest by 31st July, 1990.

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

Yours faithfully,

(SWARN SINGH)  
UNDER SECRETARY.

## **ENCLOSURE**

**(Vide para 3 of the Letter**

- (i) Name of the Committee/Board/Corporation/Parishad etc.**
  - (ii) Act, Rule or Order under which the Committee/Board/Corporation/Parishad etc. was constituted (copies to be enclosed).**
  - (iii) The term of Office of the members of the Committee/Board/Corporation/Parishad etc.-**
  - (iv) The remuneration payable to the members of the Committee/Board/Corporation/Parishad 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/Parishad 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/Parishad etc. (Detailed functions of 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.**
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## **ANNEXURE IV**

*(Vide para 7 of the Minutes)*

**CONFIDENTIAL**

### **LOK SABHA SECRETARIAT**

**(Committee Branch-II)**

#### **JOINT COMMITTEE ON OFFICES OF PROFIT (NINTH 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
  - (i) (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.

# MINUTES OF THE FOURTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (NINTH LOK SABHA)

The Committee met on Monday, the 24th September, 1990 from 1600 to 1700 hours.

## PRESENT

Shri Mandhata Singh — *Chairman*

## MEMBERS

### *Lok Sabha*

2. Dr. K.P. Bopche
3. Shri Jorawar Ram
4. Shri Sanat Kumar Mandal
5. Dr. Kirodi Lal Meena
6. Shri Ajoy Mukhopadhyay
7. Dr. V. Rajeshwaran

### *Rajya Sabha*

8. Sardar Jagjit Singh Aurora
9. Shri Anand Prakash Gautam
10. Shri Talari Manohar
11. Shri Makhan Lal Fotedar

## SECRETARIAT

Shri S.C. Gupta — *Joint Secretary*

2. The Committee took up for consideration Memoranda Nos. 1 to 6 regarding the following Committees/Bodies etc. constituted by the Central and State Governments.

1. *National Institute for training in Industrial Engineering, Bombay—Proposal to appoint Shri Viren J. Shah. M.P. (RS) as member thereof—(Memorandum No. 1).*

3. The Committee considered the proposal regarding appointment of Shri Viren J. Shah, M.P. (RS) as member of the National Institute for training in Industrial Engineering, Bombay.

4. The Committee noted in this connection that the non-official members of the National Institute for training in Industrial Engineering were entitled to draw TA/DA as per Government of India Rules which was covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Institute being to organise and supervise the apprenticeship training for

graduate engineers, diploma holders and 10+2 vocational students, were purely advisory in nature. The Committee were, therefore, of the view that the nomination of Shri Viren J. Shah, M.P. or any other Member—as a non-official member of the said training institute in no way comes within the purview of Office of Profit and should be exempted from disqualification. The Rajya Sabha Secretariat from whom reference was received, might be informed accordingly.

**2. Himachal Pradesh Ex-Servicemen Corporation—Proposal to appoint Maj. (Retd.) D.D. Khanuria, M.P. as Director thereof (Memorandum No. 2)**

5. The State Government of Himachal Pradesh proposed to nominate Maj. (Retd.) D.D. Khanuria, M.P. as Director of the Himachal Pradesh Ex-Servicemen Corporation and requested permission of the Hon'ble Speaker in the matter. The Committee considered the information furnished by the State Government and noted that the non-official Director of the Himachal Pradesh Ex-Servicemen Corporation were paid TA/DA as admissible to Members of Parliament which was covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the said Corporation were, however, to plan, promote and undertake the implementation of the programmes and also to provide financial assistance to ex-servicemen or their organisations engaged in the welfare of ex-servicemen in the State. As such the Corporation exercised both executive and financial powers and the Members thereof could incur disqualification.

The Committee, therefore, desired to call for further information from the State Government in regard to the average amount and number of persons to whom loans etc. were granted and the specific functions of non-official directors. The Committee deferred further consideration of the Memorandum till receipt of complete information from the State Government.

**3. Environment Protection Council, Maharashtra (Memorandum No. 3)**

6. The Committee noted that the non-official members of the Environment Protection Council were entitled to TA/DA at State Government rates 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 Council were only advisory in nature. Taking all aspects into consideration the Committee recommended that the non-official members of the Environment Protection Council, Maharashtra should be exempted from disqualification.

4. *Special Committee for Western Coast of Konkan Region, Maharashtra, (Memorandum No. 4)*

7. The Committee noted that the functions of the Special Committee for Western Coast of Konkan Region, Maharashtra were by and large advisory in nature. Also no remuneration was paid to the non-official members of the above body. The Committee, were, therefore, of the view that the non-official members of the aforesaid Special Committee did not incur any disqualification.

5. *State Environmental Appraisal Committee for scrutiny of applications for giving environmental clearance for establishment of Projects/Units etc. Maharashtra (Memorandum No. 5).*

8. The Committee noted that the non-official members of the State Environmental Appraisal Committee were entitled to TA/DA as per rules of the State Government. The payment admissible to non-official Members was thus less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Appraisal Committee were only to scrutinise the proposals of various types of polluting industries for giving environmental clearance before they were set up for expanded. As such, the functions were purely advisory in nature. Hence the Committee were of the view that the non-official members of the State Environmental Appraisal Committee should be exempted from disqualification.

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The Committee authorised the Chairman to fix the date and time for holding their next sitting of the Committee after Diwali.

*The Committee then adjourned*



# MINUTES OF THE FIFTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (NINTH LOK SABHA)

The Committee met on Monday, the 22nd October, 1990 from 1600 to 1700 hours.

## PRESENT

1. Shri Mandhata Singh — *Chairman*

## MEMBERS

### *Lok Sabha*

2. Shri Sanat Kumar Mandal

3. Shri Ajoy Mukhopadhyay

4. Shri Har Gobind Singh

### *Rajya Sabha*

5. Shri Anand Prakash Gautam

6. Shri Talari Manohar

7. Shri Makhan Lal Fotedar

8. Shri Santosh Kumar Sahu

## SECRETARIAT

1. Shri S.C. Gupta — *Joint Secretary*

2. Shri K.K. Sharma — *Director*

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7. The Committee then took up for consideration Memorandum Nos. 7 and 8 regarding the following Committees constituted by the Central Government.

*Technical Advisory Committee on Statistics of Prices and Cost of Living (Ministry of Planning) — (Memorandum No. 7).*

8. The Committee noted that the payment admissible to non-official members of the Technical Advisory Committee on Statistics of Prices and Cost of Living was according to the normal rules and was covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were also mainly advisory in nature. As such, the Committee felt that the non-official members of the above Advisory Committee might be exempted from disqualification.

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

*Training Advisory Committee for Indian Statistical Service, (Ministry of planning) — (Memorandum No. 8)*

9. The Committee noted that the non-official members of the Training Advisory Committee for Indian Statistical Service were entitled to draw TA/DA as admissible under the Rules, which was covered by the 'compensatory allowance'. The functions of the Committee were to review and reappraisal of the existing schemes and syllabus for the training of direct recruits and to evaluate the facilities for training. As such, the functions were purely advisory in nature. Hence, the Committee were of the view that the non-official members of the Training Advisory Committee should be exempted from disqualification.

The Committee then authorised the Chairman to fix the date and time for holding the next sitting before the commencement of the Winter Session of Lok Sabha.

*The Committee then adjourned.*

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MINUTES OF THE SIXTH SITTING OF THE JOINT  
COMMITTEE ON OFFICES OF PROFIT (NINTH LOK SABHA)

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The Committee met on Tuesday, the 4th December, 1990 from 1530 to 1700 hours.

PRESENT

1. Shri Mandhata Singh— *Chairman*

MEMBERS

*Lok Sabha*

2. Shri C.D. Gamit  
3. Shri Ajoy Mukhopadhyay  
4. Shri Har Gobind Singh

*Rajya Sabha*

5. Sardar Jagjit Singh Aurora  
6. Shri Anand Prakash Gautam  
7. Shri Talari Manohar  
8. Shri Makhan Lal Fotedar  
9. Shri Santosh Kumar Sahu

SECRETARIAT

1. Shri S.C. Gupta—*Joint Secretary.*  
2. Shri D.L. Kapur—*Assistant Director.*

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*Nomination of Shri Ram Dhan, M.P. as Chairman, National Commission for Scheduled Castes and Scheduled Tribes—(Memorandum No. 9)*

4. The Committee then took up for consideration Memorandum No. 9 regarding nomination of Shri Ram Dhan, M.P. as Chairman, National Commission for Scheduled Castes and Scheduled Tribes. The Committee noted that the Chairman of the Commission is entitled to a salary of Rs. 8000/- per month. However, Shri Ram Dhan, M.P. was not drawing any salary attached to the post, and was entitled to only TA and DA on the same terms as was admissible to Govt. Servant of the highest grade which was covered by the compensatory allowance as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main

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

functions of the National Commission were to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution and to participate and advise on the planning process of socio-economic development of the Scheduled Castes and the Scheduled Tribes. The Committee noted that the functions of the Commission were executive and judicial in nature and although going strictly by the criteria laid down in the past, the Chairmanship of the Commission could be regarded as attracting disqualification but they felt that from a practical viewpoint there should be flexibility in the approach of the Committee in such cases. For proper and speedy implementation of the socio-economic development programmes of Govt., it was essential to associate Members of Parliament with the working of the such agencies. It was emphasised that Members of Parliament being the representatives of the people could play a very useful and constructive role in this respect. Hence the Chairman (Shri Ram Dhan, M.P.) of the National Commission for Scheduled Castes and Scheduled Tribes should be exempted from disqualification for being chosen as, or for being a Member of Parliament provided that he does not draw any remuneration other than compensatory allowance as defined in the Parliament (Prevention of Disqualification) Act, 1959.

*The Committee then adjourned.*

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

The Committee met on Wednesday, the 22nd January, 1991  
from 1500 to 1700 hours.

## PRESENT

1. Shri Mandhata Singh— *Chairman*

## MEMBERS

### *Lok Sabha*

2. Dr. K.P. Bopche
3. Shri Sanat Kumar Mandal
4. Shri Ajoy Mukhopadhyay
5. Dr. V. Rajeshwaran
6. Shri Har Gobind Singh

### *Rajya Sabha*

7. Sardar Jagjit Singh Aurora
8. Shri Anand Prakash Gautam
9. Shri Talari Manohar
10. Shri Makhan Lal Fotcdar
11. Shri Santosh Kumar Sahu

## SECRETARIAT

1. Shri S.C. Gupta— *Joint Secretary.*
2. Shri K.K. Sharma— *Director.*
3. Shri D.L. Kapur— *Assistant Director.*

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11. The Committee then took up for consideration Memoranda Nos. 10 to 12 regarding the following Committees/Bodies etc. constituted by the Central and State Governments:—

- (i) *Proposed nomination of Major (Retd.) D.D. Khanuria, M.P., (Lok Sabha) as Director of Himachal Pradesh Ex-servicemen Corporation. (Memorandum No. 10).*

12. At their sitting held on 24 September, 1990, the Joint Committee on Offices of Profit (Ninth Lok Sabha) while examining the particulars of Himachal Pradesh Ex-servicemen Corporation (Memorandum No. 2)

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

had desired that further information on the following points might be called for from the State Government of Himachal Pradesh:—

- (i) Specific functions of the non-official Director of Himachal Pradesh Ex-servicemen Corporation.
- (ii) Detailed rates of TA/DA and other facilities to be provided to the Director.
- (iii) Whether Maj. (Retd.) D.D. Khanuria will be paid any honorarium. If so, details thereof.
- (iv) The number of ex-servicemen or their organisation to whom the loans have been granted so far and the details thereof.

The State Government of Himachal Pradesh in their reply dated 23 November, 1990 have stated as follows:—

- (i) Mentioned in the Act which is already sent. However, in brief, Director occupies place of a Member on the Board of Directors vested with powers of general superintendence, directions and management of affairs and business of corporation. Specific function of Director is to attend the quarterly meeting of Board of Directors.
- (ii) Daily allowance for attending the meeting is Rs. 50/- with entitlement of taxi charges for journey to and fro @ Rs. 2.50 PKM if hired.
- (iii) No please.
- (iv) Loan arranged for 433 trucks amounting to Rs. 8,70,81,097/- for 356 commercial vehicles amounting to Rs. 4,25,35,951/- and for 908 other projects amounting to Rs. 1,45,17,419/-.

13. The functions of the Himachal Pradesh Ex-servicemen Corporation were to plan, promote and undertake the implementation of the programmes and also to provide financial assistance to Ex-servicemen. The Corporation was vested with powers of general superintendence, direction, management of affairs and control of other business. The Committee noted that the functions of the Corporation were more or less executive and financial in nature. Although, going strictly by the criteria laid down by the Committee in the past, the directorship of the said Corporation could be regarded as attracting disqualification, yet after some deliberation they felt that for proper and speedy implementation of socio-economic development and welfare programmes for ex-servicemen, it would be beneficial to associate Members of Parliament who had been ex-serviceman with the working of such Corporations/Agencies. It was felt that Members of Parliament could play a vital role in this respect and they should not be

deprived of their membership of such bodies purely on technical considerations. Hence the non-official Directors [including Major (Retd.) D.D. Khanuria, M.P.] *should be exempted* from disqualification for being chosen, as or for being a Member of Parliament.

- (2) *Proposed nomination of Shri Viren J. Shah, M.P. (Rajya Sabha) as a Chairman, Board of Apprenticeship Training, Western Region, Bombay. (Memorandum No. 11)*

14. The Committee considered the proposal regarding the appointment of Shri Viren J. Shah, M.P. (Rajya Sabha) as a Chairman, Board of Apprenticeship Training, Western Region, Bombay.

15. The Committee noted in this connection that the non-official members of the Board of Apprenticeship Training, Western Region, Bombay were entitled to draw TA/DA as per the Government of India Rules which was covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Board being the supervision of Apprenticeship training for graduate engineers, diploma holders and 10+2 vocational students were purely advisory in nature. The Committee were, therefore, of the view, that the nomination of Shri Viren J. Shah, M.P. as Chairman of the said Board does not fall within the purview of 'office of profit' and should be exempted from disqualification. The Rajya Sabha Secretariat from whom reference was received might be informed accordingly.

- (3) *Whether holding the post of a teacher in Gyanoadaya Hindi Higher Secondary School, Ahmedabad constitutes an office of profit under the Government—Query from Shri Ratilal K. Verma, M.P. (Memorandum No. 12)*

16. The Committee took up for consideration Memorandum No. 12 containing the request of Shri Ratilal K. Verma, M.P. enquiring whether holding the post of a teacher in Gyanoadaya Hindi Higher Secondary School, Ahmedabad (Gujarat) constituted an office of Profit under the Government. After some discussion the Committee perused the following judgement of the Election Tribunal, Nagpur, in the case of Krishnappa V. Narayan Singh and others where it has been held as under:—

"A person serving as a teacher in a grant-in-aid school does not hold an "office of profit under the Government" merely because the school receives grants from the Government for payment of a portion of the dearness allowance and the pay of the teachers.

The most important test for determining whether an office is held under the Government is whether the power of appointment and dismissal vests in the Government." [1953 ELR, Vol. VIII P. 294]

17. The Committee noted that the State Government of Gujarat where Shri Ratilal K. Verma, M.P. had been working as a Hindi teacher after his

election as a Member of Parliament and drawing salary both from the school and Parliament had clarified the following points:—

- (i) 100% salary grant is paid as per the norms prescribed by Government;
- (ii) Under the provisions made in the Gujarat Secondary Education Act and Rules, the power of appointment, dismissal and removal of an employee is vested in the Managing Body of the institution;
- (iii) Under the Gujarat Secondary Education Regulations, 1974 an employee is permitted to take part in politics and become a member of any party. But there is no provision under the rules for drawing salary at two posts at a time; and
- (iv) The details of pay and allowances which were paid to Shri Ratilal K. Verma, M.P. for the month of January, 1990 were as under:—

Pay	— Rs. 2,240.00
D.A.	— Rs. 762.00
H.R.A.	— Rs. 450.00
C.L.A.	— Rs. 100.00
Medical Allowance	— Rs. 30.00
<b>Total</b>	<b>Rs. 3,582.00</b>

18. In this connection, the Committee also learnt that Joint Committee on Offices of Profit (Eighth Lok Sabha—Seventh Report) had examined a similar case of Professor (Smt.) Chandra Bhanu Devi, M.P. and recommended as follows:

“Prof. (Smt.) Chandra Bhanu Devi, M.P. in her capacity as the lecturer of a non-Government College was not holding an ‘office of profit under the Government’ as according to the principal of the College, the Vice-Chancellor was the competent authority to appoint and dismiss a lecturer and the Government has nothing to do with it.”

19. In view of above, the Committee recommended that Shri Ratilal K. Verma, M.P. in his capacity as a Hindi teacher of non-Government school had not been holding an ‘office of profit under the Government’ as according to the State Government of Gujarat the Managing Body of the concerned institution was the competent authority to appoint and remove a teacher and the Government has nothing to do with it.

20. The Committee, however, noted that under Article 103 of the Constitution, it was provided that ‘if any question arise as to whether a Member of either House of Parliament has become subject to any of the disqualifications mentioned in Clause (1) of Article 102, the question



should be referred to the decision of President and his decision shall be final and that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion, and consequently, the opinion of the Election Commission is effective and crucial in such matters.

21. The Committee authorised the Chairman to fix the date and time for holding their next sitting before the commencement of the Budget Session, 1991.

*The Committee then adjourned.*

# MINUTES OF THE NINTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (NINTH LOK SABHA)

The Committee met on Thursday, the 14 February, 1991 from 1600 to 1630 hours.

## PRESENT

Shri Mandhata Singh — *Chairman*

## MEMBERS

### *Lok Sabha*

2. Shri Sanat Kumar Mandal

3. Shri Ajoy Mukhopadhyay

4. Dr. V. Rajeshwaran

5. Shri Har Gobind Singh

### *Rajya Sabha*

6. Sardar Jagjit Singh Aurora

7. Shri Talari Manohar

8. Shri Makhan Lal Fotedar

## SECRETARIAT

1. Shri K.K. Sharma — *Director.*

2. Shri D.L. Kapur — *Assistant Director.*

2. At the outset, the Chairman read out the letter received from Shri Soli J. Sorabjee, Senior Advocate, Supreme Court who was scheduled to appear before the Committee for evidence. Shri Sorabjee has regretted that due to sudden fixation of a date in Gujarat High Court, Ahmedabad he was unable to attend the sitting of the Committee. He was, however, willing to come on any other subsequent date convenient to the Committee.

3. The Committee took up for consideration memoranda No. 13—15 regarding following Committees/Bodies received from Central Government:—

*National Committee on the Use of Plastics in Agriculture (NCPA), Ministry of Petroleum and Chemicals (Memorandum No. 13)*

4. The Committee noted that non-official members of the National Committee on the use of Plastics in Agriculture were paid TA/DA as per Government of India, Rules which were covered by the 'compensatory

allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Its main functions were to promote rapid use of plastics in Agriculture by preparing suitable plans and adopting suitable policy measures. The functions were thus, advisory in character. As such, the Committee recommended that non-official members of National Committee on the use of Plastics in Agriculture should be exempted from disqualification for being chosen as, or for being members of Parliament.

*Scientific Advisory Committee for the Petrochemicals (SAC) Ministry of Petroleum and Chemicals (Memorandum No. 14)*

5. The Committee noted that non-official members of the Scientific Advisory Committee for the Petrochemicals were not paid any remuneration excepting TA/DA as per Government Rules which was covered by 'Compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main function of the Committee was to advise the Government on policies and programmes relating to the technology, research and use of petrochemicals. Thus the functions of the Committee were advisory in nature. The Committee were therefore, of the view that the non-official members of the Scientific Advisory Committee for the Petrochemicals should be exempted from disqualification.

*Technical Advisory Committee on Training of Statistical Personnel (Department of Statistics) Ministry of Planning (Memorandum No. 15)*

6. The Committee noted that the non-official members of the Technical Advisory Committee on Training of Statistical Personnel (Department of Statistics) Ministry of Planning were entitled to TA/DA at the rate of first grade officers of the Government of India which were covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Committee were to identify and review the training activities in the field of statistics and to suggest measures to minimise the gaps between formal statistical education and the job requirements in the public sector. The functions of the Committee were purely advisory in nature. The Committee, therefore, recommended that its non-official members should be exempted from disqualification for being chosen as, or for being members of Parliament.

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The Committee authorised the Chairman to fix the date and time for the next sitting of the Committee.

*The Committee then adjourned.*

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

# MINUTES OF THE SECOND SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (TENTH LOK SABHA)

The Committee met on Monday, the 28th October, 1991 from 1500 to 1535 hours.

## PRESENT

1. Shri Chiranji Lal Sharma — *Chairman*

## MEMBERS

### *Lok Sabha*

2. Prof. Susanta Chakraborty
3. Shri Harisinh Pratapsinh Chavda
4. Shri Dau Dayal Joshi
5. Shri D.K. Naikar
6. Shri Ram Chandra Rath
7. Shri Roshan Lal
8. Shri Mukul Wasnik

### *Rajya Sabha*

9. Shrimati Kailashpati
10. Shri Som Pal
11. Shri Santosh Kumar Sahu
12. Shri Subramanian Swamy

## SECRETARIAT

Shri D.L. Kapur — *Assistant Director.*

2. At the outset, the Chairman informed the Members 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/Bodies etc. constituted by them, had been issued.

3. The Committee took up for consideration their draft first Report and adopted it without any modification.

4. The Committee decided that the Report might be presented to Lok Sabha on a date convenient to the Chairman during the ensuing Session of Parliament.

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

6. The Committee authorised the Chairman and in his absence, Shri D.K. Naikar, M.P. to present the Report to Lok Sabha on their behalf.

7. The Committee also authorised Shri Subramanian Swamy, M.P. or in his absence Shri Som Pal, M.P. to lay the Report on the Table of Rajya Sabha on the same day.

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The Committee then adjourned.

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

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