

**COMMITTEE ON ETHICS
(FIFTEENTH LOK SABHA)**

1

FIRST REPORT

[Presented to the Speaker, Lok Sabha on 21 February, 2011]

[Laid on the Table on 24 February, 2011]



**LOK SABHA SECRETARIAT
NEW DELHI**
February, 2011/Phalguna, 1932 (Saka)

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PERSONNEL OF THE COMMITTEE ON ETHICS*
(2010-2011)

1. Shri Manikrao Hodlya Gavit

Chairman

MEMBERS

2. Shri T. R. Baalu
3. Shri Vijay Bahuguna
4. Shri Jayant Chaudhary
5. Shri Gurudas Dasgupta
6. Dr. Murli Manohar Joshi
7. Shri Suresh Kalmadi
8. Shri Asaduddin Owaisi
9. Shri Prem Das Rai
10. Shri Rayapati Sambasiva Rao
11. Shri Mahabali Singh
12. Shri Rajnath Singh
13. Shri Rewati Raman Singh
14. Shrimati Supriya Sule
15. Shri Gopinath Munde**

SECRETARIAT

1. Shri V. K. Sharma – Additional Secretary
2. Shri Ravindra Garimella – Director
3. Dr. Rajiv Mani – Deputy Secretary
4. Shri Bala Guru G. – Legislative Officer

* Constituted on 7 October, 2009 *vide* Bulletin Part –II para No. 611

** nominated *vice* Smt. Sushma Swaraj *vide* Bulletin Part- II para No.991 dated 12.1.2010.

FIRST REPORT OF COMMITTEE ON ETHICS
(FIFTEENTH LOK SABHA)

I. Introduction

I, the Chairman of the Committee on Ethics, having been authorized by the Committee to submit, the report on their behalf, present this their first report to the Speaker, Lok Sabha regarding incorporation in the Rules of Procedure and Conduct of Business in Lok Sabha the rules regarding constitution of a Committee on Ethics, its functions and procedure to be followed by the Committee for making ethics complaints.

2. The Committee at their sitting held on 3 November, 2009 noted that rules regarding constitution of Committee on Ethics, its functions etc., are yet to be incorporated in the Rules of Procedure and Conduct of Business in Lok Sabha. After due consideration of the position obtaining in the matter, the Committee directed the Secretariat to prepare for their consideration a memorandum regarding rules relating to constitution of Committee on Ethics, its functions and procedure for making ethics complaints for incorporation in the Rules of Procedure and Conduct of Business in Lok Sabha.

3. At their sitting held on 7 January, 2010 the Committee considered Memorandum regarding incorporation in the Rules of Procedure and Conduct of Business in Lok Sabha, of proposed rules regarding constitution of Committee on Ethics, its functions, procedure to be followed by the Committee and procedure for ethics complaints. After some deliberations the Committee directed the Secretariat to further revise the draft rules in the light of the deliberations by the Committee.

4. At their sitting held on 4 February, 2010 the Committee considered the revised draft rules circulated by the Secretariat as per a fresh memorandum. The Committee after some deliberations directed that further information may be called from other Commonwealth Countries regarding functioning of Committee on Ethics and Code of Conduct for members, before finalizing the draft Rules.

5. The Committee at their sitting held on 21 December, 2010 perused the analysis - of the replies received from the Foreign Parliaments about the Standing orders/rules relating to constitution and functioning of Committee on Ethics. The Committee noted that out of 18 foreign Parliaments to whom queries were addressed replies were received from 13 Parliaments. Committee noted that 6 Legislatures have Code of Conduct for its members. The Committee further noted that neither the term 'misconduct' had been defined by any Legislature nor has it been laid down as to what constitutes 'unethical conduct' by members.

The Committee accordingly directed that the Secretariat may again circulate the draft rules as per a fresh memorandum so as to finalize in the first instance only the rules providing for constitution of Committee on Ethics, functions of Committee etc., for incorporation in the Rules of Procedure and Conduct of Business in Lok Sabha.

6. The Committee at their sitting held on 28 January, 2011 after some deliberations approved the draft rules. The Committee directed the Secretariat to prepare draft report in the matter for consideration of the Committee at their next sitting.

7. The Committee at its sitting held on 15 February, 2011 adopted the draft Report and authorized the Chairman to present the Report to Speaker, Lok Sabha.

II. Observations

8. The Committee, having taken note of the developments since the Committee on Ethics was first constituted in Lok Sabha, observe as follows:-

(i) The first ever Ethics Committee in Lok Sabha which was constituted on 16 May, 2000 by the Speaker (Thirteenth Lok Sabha) had the following terms of reference:

"(a) to oversee the moral and ethical conduct of members;

(b) to examine every complaint relating to unethical conduct of a member in Lok Sabha or connected with his parliamentary conduct referred to it and make such recommendations as it may deem fit.

(c) to frame rules specifying acts which constitute unethical conduct.

The Committee may also *suo motu* take up for examination and investigation matters relating to ethics, including matters relating to unethical conduct of a member in Lok Sabha or connected with his parliamentary conduct wherever felt necessary and make such recommendations as it may deem fit."

(ii) The Committee on Ethics (Thirteenth Lok Sabha) in their First Report, which was laid on the Table of the House on 22 November, 2001 and adopted by the House on 16 May, 2002 *inter alia* recommended that members should abide by general ethical principles which were laid down in the Report. The Committee also

recommended broad parameters *vis-a-vis* procedure for making ethics complaints as well as norms with regard to financial disclosures and declaration of interests by members.

- (iii) The Committee on Ethics (Fourteenth Lok Sabha) was also governed by the same terms of reference as laid down at the time of constitution of the Committee during the Thirteenth Lok Sabha.

The matter regarding incorporation in the Rules of Procedure and Conduct of Business in Lok Sabha, the rules regarding constitution of a Committee on Ethics, its functions and procedure to be followed by the Committee and procedure for making ethics complaints, was referred to the Committee on Ethics (Fourteenth Lok Sabha) by the Speaker, (Fourteenth Lok Sabha) for consideration and report. The First Report of the Committee on Ethics in the matter was presented to the Speaker, Lok Sabha on 24 August, 2006 and was laid on the Table of the House on 25 August, 2006.

The Committee, in their First Report recommended that in the Rules of Procedure and Conduct of Business in Lok Sabha, a new Chapter *viz.* Chapter XXA containing provisions regarding 'Procedure for ethics complaints' (Rules 233A, 233B) may be added after Chapter XX of the Rules. The Committee further recommended incorporation

in Chapter XXVI of the Rules regarding “Parliamentary Committees” the rules regarding Committee on Ethics (Rules 316A-316E). The Rules recommended by the Committee could not, however, be placed before the Rules Committee (Fourteenth Lok Sabha), before the dissolution of the 14th Lok Sabha.

9. The Committee are of the considered view that before going into the detailed discussion on what constitutes ‘an unethical conduct’, ‘misconduct’ etc., and before preparing a ‘code of conduct’ for Members of Parliament, it would be pertinent to first get incorporated the Rules regarding constitution of the Committee on Ethics, its functions etc., into the Rules of Procedure and Conduct of Business in Lok Sabha. This would set right the prevailing anomaly of referring to Ethics Committee as an *ad-hoc* Committee merely for want of necessary provisions regarding Committee on ethics in Rules of Procedure and Conduct of Business in Lok Sabha.

10. The Committee have accordingly finalized rules regarding constitution of a Committee on Ethics, its functions and procedure to be followed by the Committee and procedure for making ethics complaints.

III. Recommendations

11. The Committee recommend that in the Rules of Procedure and Conduct of Business in Lok Sabha the following new Chapter viz Chapter

XXA containing provision regarding ‘Procedure for ethics complaints,’ may be added after Chapter XX of the Rules;

“CHAPTER XXA

Rule 233A. Procedure for ethics complaints

- (1) Any person or member may make a complaint relating to unethical conduct of a member in Lok Sabha or connected with his parliamentary conduct.
- (2) A complaint shall be addressed to the Speaker, who may forward it to the Chairman, Committee on Ethics for examination, investigation and report.
- (3) The complainant must declare his identity and submit supporting evidence, documentary or otherwise to substantiate his allegations.
- (4) It shall be incumbent upon the complainant to ensure that the complaint is not false, frivolous or vexatious and is made in good faith. An affidavit to this effect shall accompany the complaint:

Provided that in case the complaint is made by a member, an affidavit shall not be required.
- (5) The identity of the complainant would be kept secret, if a request to that effect made by the complainant, is accepted by the Speaker, for sufficient reasons.
- (6) A complaint based merely on unsubstantiated media reports shall not be entertained.
- (7) The Committee on Ethics may also *suo motu* take up for investigation matters related to unethical conduct of members, wherever felt necessary.

- (8) The Committee on Ethics shall not take up any matter which is *sub-judice* and the decision of the Committee as to whether such matter is or is not *sub judice* shall for the purposes of these rules be treated as final.

233B. Power of Speaker to refer a question of ethical and other misconduct to Committee

Notwithstanding anything contained in these rules, the Speaker may refer any question involving unethical conduct of a member in Lok Sabha or connected with his parliamentary conduct to the Committee on Ethics for examination, investigation and report."

12. The Committee further recommend that in the Chapter XXVI of the Rules of Procedure and Conduct of Business in Lok Sabha containing rules regarding Parliamentary Committees, the following Rules may be *added* after rule 316:—

**"CHAPTER XXVI
COMMITTEE ON ETHICS**

Constitution

316A. At the commencement of the House or from time to time, as the case may be, the Speaker shall nominate a Committee on Ethics consisting of not more than 15 members.

Functions

316B. (1) The Committee shall:-

- (a) oversee the moral and ethical conduct of members;

(b) examine every complaint relating to unethical conduct of a member in Lok Sabha or connected with his parliamentary conduct referred to it and make such recommendations as it may deem fit.

(c) Frame rules specifying acts which constitute unethical conduct.

(2) The Committee may also *suo motu* take up for examination and investigation matters relating to ethics, including matters relating to unethical conduct of a member in Lok Sabha or connected with his parliamentary conduct wherever felt necessary and make such recommendations as it may deem fit.

Procedure

316C. (1) On a matter being referred to the Committee or on a matter being taken up by the Committee *suo motu*, the Committee shall conduct preliminary inquiry:

Provided that if the Committee takes up a matter *suo motu*, the Chairman shall intimate the Speaker accordingly.

(2) If the matter has been referred to the Committee by the Speaker and the Committee, after a preliminary inquiry, is of the opinion that there is no *prima facie* case, it may recommend that the matter may be dropped.

(3) If the matter has been taken up by the Committee *suo motu* and the Committee after preliminary inquiry is of the opinion that there is no *prima facie* case, it may decide to drop the matter and the Chairman shall intimate the Speaker accordingly.

(4) If the Committee is of the opinion that there is a *prima facie* case, the Committee shall take up the matter for further examination.

(5) The Committee may lay down procedure, from time to time for examination of matters referred to it.

Report

316D. (1) The recommendations of the Committee shall be presented in the form of a report.

(2) If the matter has been referred to the Committee by the Speaker, the report shall be presented to the Speaker who may direct that the report be laid on the Table.

(3) If the matter has been taken up *suo motu* by the Committee, the report shall be presented to the House.

(4) The report of the Committee may also state the procedure to be followed by the House in giving effect to the recommendations made by the Committee.

Consideration of report by House

316E. (1) After the report has been presented, the Chairman or any member of the Committee or any other member may move that the report be taken into consideration whereupon the Speaker may put the question to the House.

(2) Before putting the question to the House, the Speaker may permit a debate on the motion, not exceeding half an hour in duration, and such debate shall not refer to the details of the report further than is necessary to make out a case for the consideration of the report by the House.

(3) After the motion made under sub-rule (1) is agreed to, the Chairman or any member of the Committee or any other member, as the case may be, may move that the House agrees, or disagrees or agrees with amendments, with the recommendations contained in the report.

Priority for consideration of report by House

316F. A motion that the report of the Committee be taken into consideration shall be put down in the List of Business after disposal of questions."

NEW DELHI;

15 February, 2011

(MANIKRAO HODLYA GAVIT)

Chairman,
Committee on Ethics.