

JOINT COMMITTEE ON OFFICES OF PROFIT

(TWELFTH LOK SABHA)

FIRST REPORT



Presented to Lok Sabha on 10.12.1998

Laid in Rajya Sabha on 10.12.1998

**LOK SABHA SECRETARIAT
NEW DELHI**

December, 1998/Agrahayana, 1920 (S)

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**CORRIGENDA TO THE FIRST REPORT OF JOINT COMMITTEE ON
OFFICES OF PROFIT (TWELFTH LOK SABHA)
PRESENTED ON 10 DECEMBER, 1998.**

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

COMPOSITION OF THE COMMITTEE

Shri Shailendra Kumar—Chairman

MEMBERS

Lok Sabha

2. Shri Abdul Ghafoor
3. Shri Virendra Kumar
4. Shri Rajendrasinh Rana
5. Shri M. Baga Reddy
6. Shri Magunta Sreenivasulu Reddy
7. Dr. Bikram Sarkar
8. Dr. Sanjay Singh
9. Shri P.C. Thomas
10. Shri Mahboob Zahedi

Rajya Sabha

11. Shri E. Balanandan
12. Shri Kapil Sibal
13. Shri Rajashekhar Murthy
14. Shri Onkar Singh Lakhawat
15. Shri Satishchandra Sitaram Pradhan

SECRETARIAT

1. Shri G.C. Malhotra	—	<i>Additional Secretary</i>
2. Shri Ram Autar Ram	—	<i>Director</i>
3. Shri B.D. Swan	—	<i>Under Secretary</i>

REPORT OF THE JOINT COMMITTEE

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.

2. The motion for constitution of the Joint Committee on Offices of Profit (Twelfth Lok Sabha) was moved in Lok Sabha by Shri M. Thambi Durai, Minister of Law, Justice and Company Affairs on 3 June, 1998. (Appendix—I)

3. The Rajya Sabha concurred in the said motion on the 7th July, 1998 (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 21 July, 1998. (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 15 July, 1998 and the names of members of Rajya Sabha communicating the names of members of Rajya Sabha elected to the Joint Committee were published in the Rajya Sabha Bulletin Part II dated 20 July, 1998.

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.

6. The Committee held two sittings on 3 September and 7 October, 1998, Minutes of these sittings form part of the Report and are at Appendix IV.

7. The Committee considered 7 Memoranda regarding the composition, character, functions etc. of Committees/Boards/Bodies/Corporations constituted by the State Governments and the emoluments and allowances payable to their members and non-official Directors.

8. Detailed information about the Committees/Boards etc. given in the aforesaid Memoranda was furnished by the State Governments on requests made by Lok Sabha Secretariat.

9. The Committee considered and adopted this Report on 9.12.1998.

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

NEW DELHI;
December, 1998

Agrahayana, 1920 (Saka)

SHAILENDRA KUMAR

Chairman,

*Joint Committee on Offices
of Profit.*

CHAPTER I

NOMINATION OF MEMBERS OF PARLIAMENT TO STATE BODIES

Nomination of Shri Maheshwar Singh, Member, Lok Sabha as non-official member to Kullu Dussehra Committee, Himachal Pradesh.

1.1 The Committee considered the request received from the State Government of Himachal Pradesh seeking approval of Hon'ble Speaker, Lok Sabha for nomination of Shri Maheshwar Singh, Member, Lok Sabha as non-official member to Kullu Dussehra Committee, Himachal Pradesh.

1.2 The Committee note from the information furnished by the Government of Himachal Pradesh that the non-official members of Kullu Dussehra Committee shall be paid TA/DA as per rules of the State Government. The payment of TA/DA is covered by the 'Compensatory Allowance' as defined in Section 2(A) of the Parliament (Prevention of Disqualification) Act, 1959.

1.3 The Committee also note that the main function of the Committee is to suggest ways and means to celebrate the Dusshera Festival, Kullu. Thus, the Committee find that the function of the Committee is advisory in nature.

1.4 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act. The Committee recommend to exempt non-official members (including Members of Parliament, if nominated) of the said Committee from disqualification for being chosen as, or for being, Members of Parliament.

Nomination of Smt. Chandresh Kumari, Member, Rajya Sabha as a non-official member of Committee to commemorate one thousand years of historical city of 'Chamba', Himachal Pradesh.

1.5 The Committee considered the request of the State Government of Himachal Pradesh seeking approval of the Hon'ble Speaker, Lok

Sabha for nomination of Smt. Chandresh Kumari, Member, Rajya Sabha as non-official member of Committee to commemorate one thousand years of historical city of 'Chamba', Himachal Pradesh.

1.6 The Committee note from the information furnished by the State Government of Himachal Pradesh that the non-official members of the Committee are paid TA/DA as admissible under the Rules of the State Government as amended from time to time. The payment of TA/DA is covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

1.7 The Committee also note that the function of the Committee is to organise a Intake Chapter, Seminar, Symposium, Cultural Programmes, music, dance, drama and exhibitions for commemoration of one thousand years of city of 'Chamba'. As such, the function of the Committee is advisory in nature.

1.8 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act. The Committee recommend to exempt non-official members (including Members of the Parliament, if nominated) of the said Committee from disqualification for being chosen as, or for being, Members of Parliament.

CHAPTER II

INCURRING OF DISQUALIFICATION BY NON-OFFICIAL MEMBERS OF STATE BODIES

Rehabilitation Committee for Anjunem Irrigation Project, Goa

2.1 The Committee note from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of the Rehabilitation Committee for Anjunem Irrigation Project are entitled to draw TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.2 The Committee also note that the main functions of the Rehabilitation Committee for Anjunem Irrigation Project, Goa are to help and advise in planning and executing Rehabilitation Scheme for the Project affected persons and such the functions are advisory in nature.

2.3 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a Member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament, if nominated) of Rehabilitation Committee for Anjunem Irrigation Project, Goa from disqualification for being chosen as, or for being, Members of Parliament.

Command Area Development Board for Salaulli Irrigation Project, Goa

2.4 The Committee note from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of Command Area Development Board of Salaulli Irrigation Project are entitled to get only TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.5 The Committee further note that the main function of the Board is to advise and record recommendations in all the matters pertaining to Command Area Development Board of Salaulli Irrigation Project in Goa. The Committee find that the function of the Board is advisory in nature.

2.6 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a Member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament, if nominated) of Command Area Development Board of Salauli Irrigation Project from disqualification for being chosen as, or for being, Members of Parliament.

Command Area Development Board for Tillari Irrigation Project, Goa

2.7 The Committee note from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of Command Area Development Board for Tillari Irrigation Project are paid TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.8 The Committee also note that the main functions of the Board are to co-ordinate, monitor and advise on all matters pertaining to Command Area Development Board of Tillari Irrigation Project in Goa. The Committee find that the functions of the Board are advisory in nature.

2.9 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a Member of Parliament, subject to the condition that amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2 (a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament, if nominated) of Command Area Development Board of Tillari Irrigation Project from disqualification for being chosen as, or for being, Members of Parliament.

Command Area Development Board for Anjunem Irrigation Project, Goa

2.10 The Committee note from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of Command Area Development Board of Anjunem Irrigation Project, Goa are entitled to get only TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.11 The Committee further note that the main function of the Board is to advise the Government in all matters pertaining to Command Area Development Board of Anjunem Irrigation Project in Goa. As such, the function of the Command Area Development Board of Anjunem Irrigation Project, Goa is advisory in nature.

2.12 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a Member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament, if nominated) of Command Area Development Board of Anjunem Irrigation Project from disqualification for being chosen as, or for being, Members of Parliament.

Rehabilitation Committee for Mandovi Irrigation Project, Goa

2.13 The Committee note from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of the Rehabilitation Committee for Mandovi Irrigation Project, Goa are entitled to get only TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.14 The Committee also note that the main functions of the Rehabilitation Committee for Mandovi Irrigation Project, Goa are to deal with the matter of Rehabilitation of the people affected by the Mandovi Irrigation Project. As such, the functions of the Committee are advisory in nature.

2.15 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a Member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament, if nominated) of the Rehabilitation Committee for Mandovi Irrigation Project from disqualification for being chosen as, or for being, Members of Parliament.

NEW DELHI;
December, 1998

Agrahayana, 1920 (Saka)

SHAILENDRA KUMAR
Chairman,
Joint Committee on Offices of Profit.

APPENDIX I

(Vide para 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 the members to be appointed by the Rajya Sabha to the Joint Committee."

APPENDIX II

(Vide para 3 of the Report)

Motion in Rajya Sabha on the 7th July, 1998

“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 3rd June, 1998, 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 3 of the Report)

Message from Rajya Sabha which was reported to Lok Sabha on 21 August, 1998

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 7th July, 1998 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 3rd June, 1998, 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. Shri Kapil Sibal
3. Shri Rajashekhar Murthy
4. Shri Onkar Singh Lakhawat
5. Shri Satishchandra Sitaram Pradhan

APPENDIX IV

(*Vide* para 6 of the Report)

CONFIDENTIAL

I

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

The Committee met on Thursday, 3 September, 1998 from 1500 to 1600 hours in Committee Room No. 62, First Floor, Parliament House, New Delhi.

PRESENT

Shri Shailendra Kumar — *Chairman*

MEMBERS

Lok Sabha

2. Shri Abdul Ghafoor
3. Shri Virendra Kumar
4. Shri Rajendrasinh Rana
5. Shri M. Baga Reddy
6. Shri Mahboob Zahedi

Rajya Sabha

7. Shri E. Balanandan
8. Shri M. Rajashekhar Murthy

SECRETARIAT

1. Shri Ram Autar Ram	—	<i>Director</i>
2. Shri B.D. Swan	—	<i>Under Secretary</i>

2. At the outset, the Chairman welcomed the members of the Committee and explained to them broadly the origin, scope and functions of the Committee. (*Annexure*)

3. Thereafter, he sought suggestions from the members on the matters falling within the jurisdiction of the Committee. Some members suggested that the booklet containing the detailed guidelines regarding the office of profit might be circulated to the State Governments so that they might act

upon the guidelines contained therein to avoid a situation of disqualification from membership of Parliament. They were informed that copies of the Booklet have already been circulated by the Lok Sabha Secretariat to the Chief Secretaries/Administrators of the State Governments and the Union Territories.

4. Some members also suggested that State Governments/Union Territories might be asked to apprise the Lok Sabha Secretariat of the existing Committees/Boards/Corporations/Parishads etc. constituted by them composed of wholly or partly of non-official members excluding those which had already been examined by the Committee. They were informed that the action had already been initiated by the Lok Sabha Secretariat and the replies are being received. After examination thereof it would be placed before the Committee in the form of Memoranda after approval of the Chairman.

5. The Committee decided to hold their next sitting on Wednesday, 14 October, 1998 at 1100 hours to consider few Memoranda left in balance by the earlier Committee.

The Committee then adjourned.

- (ii) to recommend in relation to the 'Committee' 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.

8. Thus, the 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 Committee also examine various queries received from Hon'ble Members of Parliament pertaining to "Office of Profit" and express its opinion in appropriate cases. The Committee, however, 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 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.

9. During the term of Eleventh Lok Sabha, the Joint Committee examined the composition and functions of 36 bodies. In the case of 25 bodies, the committee opined that membership/Chairmanship thereof did not constitute an office of profit and these should be exempted from disqualification. In the remaining 11 cases, the Committee decided that their membership/Chairmanship of the Committee/Body would constitute an office of profit and should not be exempted.

10. Before I conclude, I would also like to mention that due to dissolution of Eleventh Lok Sabha on 4.12.1997, a statement indicating some unfinished work of the Committee has been made available to us (Annexure). The unfinished work may also be taken up by us in subsequent sittings.

11. Hon'ble Members, I look forward to you for your earnest cooperation and active participation in the proceedings of the Committee and for your valuable suggestions to make our collective efforts more effective and more purposive.

Thank you.

UNFINISHED WORK OF THE COMMITTEE**I. Report of Joint Committee on Offices of Profit (Eleventh Lok Sabha)**

Third Report of Joint Committee on Offices of Profit (Eleventh Lok Sabha) was presented to Hon'ble Speaker on 3rd December, 1997. Due to dissolution of Eleventh Lok Sabha, the Report could not be presented to Lok Sabha. It is to be presented to the House by the new Committee.

II. List of Memoranda prepared and could not be considered by Joint Committee on Offices of Profit (Eleventh Lok Sabha)

1. Investigation Committee for the purpose of electrocution cases as well as cases resulting in death of human beings connected with generation, transmission and supply of energy, Goa.
2. Goa Board of Secondary and Higher Secondary Education, Goa.
3. Flood Control Board, Goa.
4. Rehabilitation Committee for Anjunem Irrigation Project, Goa.
5. Command Area Development Board for Salauli Irrigation Project, Goa.
6. Command Area Development Board for Tillari Irrigation Project, Goa.
7. Command Area Development Board for Anjunem Irrigation Project, Goa.
8. State Level Committee for Areas affected due to mining activities of Agriculture Department, Goa.
9. Rehabilitation Committee for Mandovi Irrigation Project, Goa.

**MINUTES OF THE SECOND SITTING OF THE JOINT COMMITTEE
ON OFFICES OF PROFIT (TWELFTH LOK SABHA)**

The Committee sat on Wednesday, 7 October, 1998 from 1100 to 1200 hours in Chairman's Room No. 145, Third Floor, Parliament House, New Delhi.

PRESENT

Shri Shailendra Kumar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Abdul Ghafoor
3. Shri Virendra Kumar
4. Shri M. Baga Reddy
5. Shri Magunta Sreenivasulu Reddy

Rajya Sabha

6. Shri M. Rajashekhar Murthy
7. Shri Satishchandra Sitaram Pradhan

SECRETARIAT

Shri Ram Autar Ram — *Director*

2. At the outset, the Committee took up for consideration the following memoranda:—

- (i) *Memo No. 1: Investigation Committee for the purpose of electrocution cases as well as cases resulting in death of human beings connected with generation, transmission and supply of energy, Goa.*
- (ii) *Memo No. 2: Goa Board of Secondary and Higher Secondary Education, Goa.*
- (iii) *Memo No. 3: Flood Control Board, Goa.*

(iv) *Memo No. 8: State Level Committee for Areas affected due to mining activities of Agriculture Department, Goa.*

3. While considering these memoranda, the Committee decided to undertake a study tour to Goa on 2 and 3 November, 1998 to discuss with the concerned authorities the functions and powers of the above said Committees/Boards so as to examine whether these involve office of profit or not. The study tour could not materialise due to administrative reasons.

**Rehabilitation Committee for Anjunem Irrigation Project, Goa
(Memo. No. 4)**

4. Thereafter, the Committee took up for consideration Memorandum No. 4 and noted from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of the Rehabilitation Committee for Anjunem Irrigation Project are entitled to draw TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

5. The Committee also noted that the main functions of the Rehabilitation Committee for Anjunem Irrigation Project, Goa are to help and advise in planning and executing Rehabilitation Scheme for the Project affected persons and as such the functions are advisory in nature.

6. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament, if nominated) of Rehabilitation Committee for Anjunem Irrigation Project, Goa from disqualification for being chosen as, or for being Members of Parliament.

**Command Area Development Board for Salauli Irrigation Project, Goa
(Memo. No. 5)**

7. The Committee then considered Memorandum No. 5 and noted from the information furnished by the State Government of Goa that the non-official members (including members of Parliament, if nominated) of Command Area Development Board of Salauli Irrigation Project are entitled to get only TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

8. The Committee further noted that the main function of the Board is to advise and record recommendations in all the matters pertaining to Command Area Development Board of Salauni Irrigation Project in Goa and as such the functions are advisory in nature.

9. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament, if nominated) of Command Area Development Board of Salauni Irrigation Project from disqualification for being chosen as, or for being, Members of Parliament.

**Command Area Development Board for Tillari Irrigation Project, Goa
(Memo. No. 6)**

10. The Committee, thereafter, considered Memorandum No. 6 and noted from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of Command Area Development Board for Tillari Irrigation Project are paid TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

11. The Committee also noted that the main functions of the Board are to co-ordinate, monitor and advise on all matters pertaining to Command Area Development Board of Tillari Irrigation Project in Goa. The Committee found that the functions of the Board are advisory in nature.

12. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members (including members of Parliament, if nominated) of Command Area Development Board of Tillari Irrigation Project from disqualification for being chosen as, or for being, Members of Parliament.

**Command Area Development Board for Anjunem Irrigation Project, Goa
(Memo. No. 7)**

13. The Committee considered Memorandum No. 7 and noted from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of Command Area Development Board of Anjunem Irrigation Project, Goa

are entitled to get only TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

14. The Committee further noted that the main function of the Board is to advise the Government in all matters pertaining to Command Area Development Board of Anjunem Irrigation Project in Goa. As such, the function of the Command Area Development Board of Anjunem Irrigation Project, Goa is advisory in nature.

15. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament, if nominated) of Command Area Development Board of Anjunem Irrigation Project from disqualification for being chosen as, or for being, Members of Parliament.

Rehabilitation Committee for Mandovi Irrigation Project, Goa
(Memo. No. 9)

16. The Committee, thereafter, considered Memorandum No. 9 and noted from the information furnished by the State Government of Goa that the non-official members (including members of Parliament, if nominated) of the Rehabilitation Committee for Mandovi Irrigation Project, Goa are entitled to get only TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

17. The Committee also noted that the main function of the Rehabilitation Committee for Mandovi Irrigation Project, Goa is to deal with the matter of Rehabilitation of the people affected by the Mandovi Irrigation Project. As such, the function of the Committee is advisory in nature.

18. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament, if nominated) of the Rehabilitation Committee for Mandovi Irrigation Project from disqualification for being chosen as, or for being, Members of Parliament.

**Kullu Dussehra Committee, Himachal Pradesh—Proposal to Nominate
Shri Maheshwar Singh, Member, Lok Sabha, as a member thereof
(Memo. No. 10)**

19. The Committee, thereafter, considered Memorandum No. 10 and noted from the information furnished by the State Govt. of Himachal Pradesh that the members of Kullu Dussehra Committee shall be paid TA/DA as per rules of the State Government. The payment of TA/DA is covered by the 'Compensatory Allowance' defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

20. The Committee further noted that the main function of the Committee is to suggest ways and means to celebrate the Dussehra Festival, Kullu. The Committee found that the function of the Committee is advisory in nature.

21. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members of the said Committee from disqualification for being chosen as, or for being, Members of Parliament.

**Committee to commemorate one thousand years of historical city of
'Chamba', Himachal Pradesh—Proposal to nominate Smt. Chandresh
Kumari, Member, Rajya Sabha, as a member thereof
(Memorandum No. 11)**

22. The Committee then considered Memorandum No. 11 and noted from the information furnished by the State Govt. of Himachal Pradesh that the non-official members of the Committee are paid TA/DA as admissible under the Rules of the State Government as amended from time to time. The payment of TA/DA is covered by the 'Compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

23. The Committee also noted that the function of the Committee is to organise Intake Chapter, Seminars, Symposium, Cultural Programmes, music, dance, drama and exhibitions for commemoration of the thousand years of city of 'Chamba'. *As such, the function of the Committee is advisory in nature.*

24. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said

Act, the Committee recommended to exempt non-official members (including Members of Parliament, if nominated) of the said Committee from disqualification for being chosen as, or for being, Members of Parliament.

The Committee then adjourned.

III

**MINUTES OF THE THIRD SITTING OF THE JOINT COMMITTEE
ON OFFICES OF PROFIT**
(TWELFTH LOK SABHA)

The Committee sat on Wednesday, 9 December, 1998 from 1500 to 1600 hours in Committee Room No. 62, First Floor, Parliament House, New Delhi.

PRESENT

Shri Shailendra Kumar—Chairman

MEMBERS

Lok Sabha

2. Shri Virendra Kumar
3. Shri Magunta Sreenivasulu Reddy
4. Dr. Bikram Sarkar
5. Dr. Sanjay Singh
6. Shri Mahboob Zahedi

Rajya Sabha

7. Shri E. Balanandan
8. Shri Kapil Sibal
9. Shri Onkar Singh Lakhawat

SECRETARIAT

Shri Ram Autar Ram—Director

Shri B.D. Swan —Under Secretary

REPRESENTATIVES OF THE MINISTRY OF EXTERNAL AFFAIRS

1. Shri K. Raghunath —*Foreign Secretary*
2. Shri Francis Vaz —*Joint Secretary (CPV)*
3. Shri Debabrata Saha —*Joint Secretary (Coordination)*

2. At the outset, the Committee considered Memorandum No. 12 regarding the request of Dr. Yoginder K. Alagh, M.P. (Rajya Sabha) for

permission to rejoin the Sardar Patel Institute of Economics and Social Research, Ahmedabad as a Professor of Economics and to continue his research work and doctoral guidance simultaneously with his duties as a member of Rajya Sabha.

3. The Committee also pursued following information received from the Ministry of Human Resource Development (Department of Education):—

- (i) Sardar Patel Institute of Economics and Social Research (SPIESR), Ahmedabad is an autonomous body which receives Plan/Non-Plan grant from the Indian Institute of Social Science Research, an autonomous body under the administrative purview of Ministry of Human Resource Development (Department of Education);
- (ii) In so far as the appointment of an Hon'ble Member of the Rajya Sabha as a Professor in the Institute is concerned, the terms and conditions for appointment are to be fixed by the Institute and its Rules and Bye-laws as an appointing authority and the Central Government will not be concerned with the matters they are not the appointing authority for Professor in the Institute;
- (iii) The status of Sardar Patel Institute of Economics and Social Research, Ahmedabad, is that of an autonomous body which does not receive any financial plan and non-plan assistance from the Government of India. It, however, receives financial assistance from ICSSR, an autonomous body mentioned by the Ministry of Human Resource Development (Department of Education);
- (iv) The Institution does not receive any grant-in-aid from Department of Education. The Institute is one of the 27 approved Research Institutes in the country for funding by the Indian Council of Social Science Research. The formula for funding the Social Science Research Institutions is on 50:50 basis between ICSSR and the State Government concerned. During 1995-96 and 1996-97 Sardar Patel Institute of Economics and Social Science Research received the following grants:—

	Plan (Rs. in lakhs)	Non-Plan
1995-96	4.60	23.45
1996-97	4.40	21.20

Under the funding formula corresponding amount is required to be provided by the State Government of Gujarat. However, neither the

ICSSR nor the Department of Education has this information readily available; and

(v) salary, remuneration, TA/DA, during the term of the post of Professor for research work and Doctoral guidance would constitute part of detailed terms & conditions for appointment of Professor.

4. In this connection, the Committee also noted that the Joint Committee on Offices of Profit in their 7th Report (8th Lok Sabha) had recommended that 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 lecturer and the Government has nothing to do with it by pursuing the following judgement of the Election Tribunal, Nagpur delivered in the case of Kirshnappa V. Narayan Singh and others:—

"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 teacher.

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."

5. The Committee also noted the another similar case, which the Joint Committee on officers of profit (Seventh Lok Sabha) had also considered and recommended in their Sixth Report as follows:—

"The Committee conclude that in his capacity as the Professor of the Punjab University, Shri V. N. Tiwari, M.P. is not holding 'an office of profit under the Government' as according to the Punjab University, the Senate of the Punjab University is the competent authority to appoint and remove a Professor and the power of appointment and removal does not rest with the Government. Moreover, the University rules permit a member of the Faculty to be elected etc. as a member of a legislative body."

6. The Committee further noted that Sardar Patel Institute of Economics and Social Research, Ahmedabad is an autonomous body and does not receive any financial (plan and non-plan) assistance from the Government of India.

7. The Committee also took note that so far as the appointment of the Hon'ble Member of Rajya Sabha as a Professor in this autonomous Institute of Economics and Social Research is concerned, terms and conditions are to be fixed by the Institute and its Rules and Bye-Laws as an appointing authority and the Central Government will not be concerned with the matters as they are not the appointing authority for Professor in the Institute.

8. In view of the above, the Committee recommended that Dr. Yoginder K. Alagh, M.P. in his capacity as a Professor of Economics in the Sardar Patel Institute of Economics and Social Research, Ahmedabad is not holding an 'office of profit under the Government' and hence does not incur disqualification for being a Member of Parliament.

9. Thereafter, the Committee considered and adopted their Draft First Report and authorised the Chairman and in his absence, Shri Mahboob Zahedi, M.P. to present on their behalf the Report to Lok Sabha. The Committee also authorised Shri E. Balanandan, M.P. and in his absence Shri Onkar Singh Lakhawat, M.P., both from Rajya Sabha to lay the Report on the Table of Rajya Sabha.

10. The Committee thereafter, took oral evidence of the representatives of Ministry of External Affairs regarding nomination of two Members of Parliament to Central Passport Advisory Committee.

11. The Chairman welcomed the representatives of the Ministry of External Affairs and drew their attention to the provisions of Direction 58 of the Directions by the Speaker.

12. Thereafter, the Foreign Secretary introduced himself and his colleagues to the Committee.

13. When asked to explain whether a Member of Parliament who would be associated as non-official member in Central Passport Advisory Committee set up under the administrative powers of Ministry of External affairs would have executive powers, the Secretary explained that the Central Passport Committee would be a non statutory body to be set up under the administrative powers of the Ministry of External Affairs under the Passports Act. The executive powers in the matter of issue of passports can only be exercised by a Passport Authority which the Passports Act defines as under:—

"An officer or authority empowered under the rules made under the Act to issue passports or travel documents and this includes the Central Government."

14. The Ministry can set up non statutory committees under its administrative powers only provided the functions of such committees are consultative and recommendatory.

15. When asked whether MPs should be allowed to be associated with it keeping in view the existing guidelines of the Committee, the Foreign Secretary stated that the powers conferred on the Members of the proposed Advisory Committee would also be based on the fact that the Committee as a whole is consultative and recommendatory. Therefore, the participation or association of Members of Parliament with the Committee would be in keeping with the guidelines and would be appropriate.

16. When asked to clarify whether these powers in any way contravene or violate the provision of Article 102(1)(a) and 191(1)(a) of the constitution, the representative stated that the functions of the Advisory Committee are entirely advisory, consultative and recommendatory in nature. In particular, no financial remuneration of any Member is envisaged. The TA and DA of the Member appointed to serve a Passport Advisory Committee, and attending its meeting, shall be regulated by the rules of the Central Government for first grade officers for this purpose. In the case of Members of the Parliament, it is by the current guidelines of Members of Parliament. Therefore the functioning of the Committee in terms of remuneration or profit would be in order because as such no remuneration is envisaged. Therefore, it would not, in our opinion contravene the provisions of Article 102(1)(a) and 191(1)(a) of the Constitution.

17. When asked to explain the composition and functions of the proposed Committee, the Secretary stated as follows :

- (a) Chairman — External Affairs Minister/Minister of State for External Affairs in charge of CPV Division;
- (b) One Member of Lok Sabha who is also a Member of the Standing Committee of Parliament on Ministry of External Affairs;
- (c) One Member of Rajya Sabha who is also a Member of the Standing Committee of Parliament on Ministry of External Affairs;
- (d) One Member of Lok Sabha who is also a Member of the Consultative Committee of Parliament on Ministry of External Affairs;
- (e) One Member of Rajya Sabha who is also a Member of the Consultative Committee of Parliament on Ministry of External Affairs;
- (f) Seven Eminent public men;
 - One representative of the Tourism Industry;
 - One representative of the Aviation Industry;
 - President of the Bar Council of India;
 - One Member of the Citizen's Charter Group/consumer activist;
 - Three members nominated by the External Affairs Minister/Minister of State for External Affairs;
- (g) A nominee of the Home Secretary;

(h) Additional Secretary in the Ministry of External Affairs, in charge of CPV Division; and

(i) A Joint Secretary, CPV who is also the Chief Passport Officer who would be the Advisor of the Committee."

18. About the functions, he stated that the first important function of the Committee is to make improvement in the functioning of the Passport Office, including upgradation of public facilities. The other functions are: any proposal to enhance the convenience of the public for obtaining passports; any matter referred to the Committee by the Ministry of External Affairs; and recommending the issue of passports, where there has been unnecessary delay, duly documented. The intention is to approve and to advise on the important functioning of the passport system of the Government of India.

19. When asked to state the aim of having M.Ps. as non-officials at the Committee, the representatives of the Ministry stated that it is their belief that the Hon'ble M.Ps., who would be on the Committee would be associated and helped by the participation of officials who are dealing with these matters.

20. When asked how many Advisory Committees will be there, the Secretary replied that in each State where Passport Office is located, one Advisory Committee will be there and the State where there are more than one passport office, there will be more Committees and so far we have 28 passport offices in all the States.

21. On an enquiry made that then you would need more number of M.Ps. for nomination but you have asked for only 2 M.Ps. why it is so.

22. The Secretary replied that they first want to formulate C.P.A.C.

23. The Secretary was directed by the Committee that he should come to the Committee with the exact number of M.Ps. they want to nominate.

24. The Committee also realized and pointed out to the Secretary about one of the functions that the Committee has power to recommend the issue of passport which will become primary function of the Committee setting aside other function and M.Ps. would unnecessarily be involved if something goes wrong while issuing the passport.

25. The Committee directed the representative of the Ministry of External Affairs to rethink over this function and come before the Committee with full facts.

26. The representative of the Ministry gave assurance that they would rethink about it and come back with a clear picture and give due importance to it.

27. The Committee then adjourned to meet again on Friday, 8 January, 1999.

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