

CB-II No.489

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

**FIRST REPORT**

Presented to Lok Sabha on 13 December, 2005  
Laid in Rajya Sabha on 13 December, 2005

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**LOK SABHA SECRETARIAT  
NEW DELHI**

**December, 2005/Agrahayana, 1927 (Saka)**  
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**COMPOSITION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT**  
**(FOURTEENTH LOK SABHA)**

Shri Chandra Bhushan Singh                      -      Chairman

**MEMBERS**

**LOK SABHA**

2.      Shri Ananth Kumar
3.      Shri Ashok Argal
4.      Shri Shivraj Singh Chauhan
5.      Shri Mohan Jena
6.      Shri S.K. Kharventhan
7.      Shri G. Nizamoddin
8.      Shri Nikhilananda Sar
9.      Shri Bharatsinh M. Solanki
10.     Shri Sita Ram Yadav

**RAJYA SABHA**

11.     Prof. Saif-ud-Din-Soz\*
12.     Shri Silvius Condpan
13.     Shri Manoj Bhattacharya
14.     Shri Ram Nath Kovind
15.     Shri K. Rama Mohana Rao

**SECRETARIAT**

1.      Shri John Joseph            -      Secretary
2.      Shri R.C.Ahuja              -      Joint Secretary
3.      Shri R.K. Bajaj              -      Deputy Secretary
4.      Shri J.V.G. Reddy           -      Under Secretary

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\*      Elected by Rajya Sabha on 22 August, 2005 vice Shri Eduardo Faleiro retired

## **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 matters covered in the Report were considered by the Joint Committee on Offices of Profit at their sittings held on 15 March and 17 June, 2005. The Minutes of the sittings form part of the Report and are at Appendices.
3. The Committee examined the composition, character, functions etc. of National Monitoring Committee for Minorities Education constituted by the Ministry of Human Resource Development, Government of India and a deemed University registered under Societies Registration Act and Bombay Public Trust Act and the emoluments and allowances payable to their non-official Members/Chancellor with a view to considering whether the holders of the offices of these bodies would incur disqualification under Article 102 of the Constitution of India.
4. The detailed information regarding the composition, character, functions, emoluments and allowances payable to the members of these bodies was furnished by the Ministry of Human Resource Development. The Committee wish to express their thanks to the Ministry for furnishing the information desired by them.
5. The Committee considered and adopted this Report at their sitting held on 19 September, 2005 (Appendix-III).
6. The observations/recommendations of the Committee in respect of the matters considered by them are given in the respective Chapters of this Report.

**CHANDRA BHUSHAN SINGH,**  
**Chairman,**  
**Joint Committee on Offices of Profit**

**NEW DELHI**  
**19 September, 2005**  
**28 Bhadrapada, 1927 (Saka)**

## **REPORT**

### **Cases of nomination/appointment which do not appear to attract disqualification**

#### **CHAPTER-I**

##### **Nomination of Members of Parliament to the National Monitoring Committee for Minorities Education**

The Ministry of Human Resource Development (Department of Secondary and Higher Education) vide their D.O. letter No.F.9-7/2002-MC(L)(Pt.-I) dated 13 August, 2004 requested for nomination of two Members of Lok Sabha from Minority Community to National Monitoring Committee for Minorities Education. A separate request was also made to Hon'ble Speaker by the Ministry of Human Resources Development in this regard. The said Monitoring Committee has been constituted by a resolution.

1.2 The terms of reference of the Monitoring Committee are stated to be as follows:-

- (i) To monitor the implementation of "Minorities' Education of the Programme of Action 1992".
- (ii) To recommend to the Government how to best address issues related to reservation, recognition and affiliation of minority institutions.
- (iii) To monitor the ongoing schemes of the Ministry of Human Resource Development targeted at Minorities.
- (iv) To advise the Government on the contemporary approach towards traditional methods of instruction.

The Committee shall advise the Government on all matters pertaining to the education of minorities. In addition, it will review the functioning of various schemes launched by the Ministry for the purposes of promoting minority education. The Committee will meet as often as required but at least once every year.

1.3 Since the information furnished by the Ministry of Human Resource Development was inadequate to examine the case from the angle of “Office of Profit”, they were requested to furnish detailed information on certain points. After protracted correspondence, the Ministry furnished the requisite information vide their O.M. Nos.9-7/2002-MC (L) dated 6 September, 2004, 22 November, 2004 and 21 December, 2004.

The details contained in these communications are as follows:-

--The National Monitoring Committee for Minorities Education is a Standing Committee with Union Minister of Human Resource Development as the Chairperson of the Committee. The tenure of the Committee is three years from its setting up. In the case of MPs, the nominations have to be made by Speaker, Lok Sabha and Chairman, Rajya Sabha.

--To a query whether the Committee performs any executive functions and whether it has any financial powers the reply of the Ministry is in negative. Similarly, to a query whether the Committee would be wielding influence or power by way of patronage, the Ministry’s reply is in negative. The Committee is stated to be purely an advisory Committee.

--TA/DA to the Members of Parliament for attending the meeting of the National Monitoring Committee for Minority Education will be paid as per the entitlement of the non-official Members of the Committee. They will not be paid any other remuneration by way of salary, sitting fee etc. The non-official members will be paid Rs.250/- per day as D.A. and actual expenditure on his travel by air (economy class) or Train by first class to the place of meeting and back along with local conveyance from the airport/station to the place of meeting. If the meeting is for two or more days, the non-official members are provided accommodation at the place of meeting or the expenditure incurred by him are reimbursed.

1.4 The Committee considered the matter at their sitting held on 15 March, 2005 (APPENDIX-I)

**1.5 The Committee note that the TA/DA to be paid to the non-official members is Rs.250/- per day as D.A. and actual expenditure on travel by air (economy class) or Train (first class) to the place of meeting and back along with**

local conveyance from the airport/station to the place of meeting. Hence, the quantum of TA/DA falls within the limits of 'compensatory allowance' defined in the Parliament(Prevention of Disqualification)Act, 1959. The Committee also note that the National Monitoring Committee for Minorities Education will not exercise any executive and financial powers and the holders of the office are not likely to wield any influence or power by way of patronage. It is stated to be an advisory Committee. The Committee further note that the nomination of members of Parliament to the Committee is to be made by the Speaker, Lok Sabha or Chairman,Rajya Sabha who are independent of the Executive Government and therefore, nomination by them cannot be said to affect the independence of members. Hence, the membership to be acquired cannot be said to be an Office of Profit.

1.6 In view of the above, the Committee feel that the members of Parliament, if nominated on the said Committee, will not entail disqualification for being chosen as or for being a member of Parliament. However, in order to remove doubts, if any, the Committee recommend that the members of Parliament nominated to the said Monitoring Committee should be saved from incurring disqualification.

## **CHAPTER-II**

### **Query whether the position of Chancellor of Tilak University, Pune or any other University is an Office of Profit**

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The Minister of Home Affairs (Shri Shivraj V. Patil) desired to know vide his note dated 8 June, 2004 whether the position of the Chancellor of Tilak University, Pune or any other University is an Office of Profit.

2.2 In order to examine this question, detailed information about the position of the Chancellor in general and position of the Chancellor of Tilak University, Pune in particular was sought from the Ministry of Human Resource Development (Department of Secondary and Higher Education). This was furnished by the Ministry vide their O.M. dated 31 August and 13 December, 2004 and 19 April, 2005. The details are as follows:-

#### **I. Chancellor of Central Universities:**

##### **(i) Appointment :**

Each Central University is established by an Act of Parliament. The Chancellor of Central University other than Banaras Hindu University (BHU), Aligarh Muslim University (AMU), Delhi University (DU), Jamia Millia Islamia (JMI), Tezpur University is appointed by the Visitor from out of panel of not less than three persons prepared and recommended by the Executive Council/Board of Management of the concerned University; provided that if the Visitor does not approve of any of the persons specified in the panel prepared and recommended by the Executive Council, he may call upon the Executive Council to prepare a fresh panel of persons. In case of BHU, AMU and JMI, the Chancellor is elected by the Court of the University, while the Vice-



President shall be the Chancellor of Delhi University and the Governor of the State of Assam shall be the Chancellor of Tezpur University. The office of the Chancellor does not exist in Indira Gandhi National Open University and Mizoram University. The Acts/Statutes of each Central University is silent about the removal of the Chancellor thereof. The term of Chancellor in Central Universities varies from 3 years to 5 years.

**(ii) Functions:**

While the Chancellor of a Central University is by virtue of his office the Head of the relevant University, his functions are primarily to preside over the convocation of the University and the meetings of the Court of the University. In a few Central Universities, the Chancellor is also empowered to approve/confirm proposals for conferment/withdrawal of honorary degrees.

Subject to the provisions of the relevant Acts, the Courts of the Central Universities (except Aligarh Muslim University and University of Delhi), in general, have the following powers and functions :

- (a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;
- (b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;
- (c) to advise the Visitor in respect of any matter which may be referred to it for advice; and
- (d) to perform such other functions as may be prescribed by the relevant Act or Statutes. (In case of Visva Bharati, the Search Committee for appointment of the Vice Chancellor includes, inter alia, a nominee of the Court of the University)

In case of Aligarh Muslim University and University of Delhi the Court is the supreme governing body/authority of the University and exercises all the powers of the University, not otherwise provided for by the University Act, the Statutes, the Ordinances and the Regulations and it has the power to review the acts of the Executive and the Academic Councils (save where such Councils have acted in accordance with powers conferred on them under the University Act, the Statutes or Ordinances). Further, subject to the provisions of the University Act, the Court of AMU exercises the following powers and performs the following duties, namely:-

- (a) to make Statutes and to amend or repeal the same;
- (b) to consider Ordinances;
- (c) to consider and pass resolutions on the annual report, the annual accounts and the financial estimates;
- (d) to elect such persons to serve on the authorities of the University and to appoint such officers as may be prescribed by this Act or the Statutes; and
- (e) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

**(iii) Remuneration:**

The Acts/statutes of the Central Universities are silent about payment of any remuneration to the Chancellors. However, it has been stated that the Chancellor of a Central University, whether appointed by the Visitor or elected by its Court, serves only in an honorary capacity and hence is not entitled to any salary and allowances like House Rent Allowance, City Compensatory Allowance etc. It is further stated by the Ministry that as ascertained over phone from the Registrars of a few Central Universities, while no TA/DA is paid to the Chancellor of

a Central University for attending the meeting(s) of the Court of the University, the University provides him a vehicle for the purpose as also arranges for his accommodation in the University's Guest House.

## II. **Chancellor of Tilak University:**

The exact and full name of Tilak University, Pune is Tilak Maharashtra Vidyapeeth, Pune and is registered under the Societies Registration Act, 1860 and also under the Bombay Public Trust Act, 1950. It was declared as Deemed University from 24<sup>th</sup> April, 1987.

### (i) **Appointment:**

The President of Tilak Maharashtra Vidyapeeth, Pune shall by virtue of his office be the Chancellor of the University and shall, when present, preside over the Convocations of the University. He shall be appointed according to the following procedure:-

- (a) The Regulating Council, the Board of Trustees and the Board of Management of the Tilak Maharashtra Vidyapeeth shall nominate one member each to constitute a panel to nominate the President.
- (b) The nominee of the Regulating Council shall preside over the meeting to constitute a panel for nominating the President.
- (c) The panel shall nominate a suitable person other than any of its members to be the President of the Tilak Maharashtra Vidyapeeth.

There is no provision for removal of the Chancellor in the Constitution of Tilak Maharashtra Vidyapeeth, Pune.

The term of office of the Chancellor of Tilak Maharashtra Vidyapeeth, Pune is five years and he is eligible for re-appointment

(ii) **Functions:**

The powers and functions of the Kulapati (Chancellor) are to nominate persons as members of the Niyamak Mandal (Regulating Council), the Karyakari Mandal (Executive Council) and the Vitta Samiti (Finance Committee) as per the provisions made in the Constitution in that behalf. He shall also preside over the convocation and all the meetings of the Niyamak Mandal.

(iii) **Remuneration:**

The post of Chancellor of Tilak Maharashtra Vidyapeeth, Pune is honorary in nature. Since the Chancellors of Deemed Universities are not treated as employees of the Deemed University, they do not receive any pay or allowances for holding the post of Chancellor.

III. **Chancellors of Deemed Universities:-**

Normally Chancellors of Deemed Universities do not exercise any executive powers. The functions assigned to them are more in the nature of a titular head, and reflects the respect and reverence due to them. Their duties include presiding over the convocation, Board meetings, etc. Since they are not treated as employees of the Deemed University, they do not receive any pay or allowances for holding the post of Chancellor.

2.3 The Committee considered the matter at their sitting held on 17 June, 2005 (APPENDIX-II)

2.4 **The Committee note from the information furnished by the Ministry of Human Resource Development (Department of Secondary and Higher Education) that Government does not exercise any control over the appointment of the Chancellors of Central Universities and that the position of Chancellor is held either on ex-officio basis or elected by the Court of University or appointed by Visitor (President of India) from out of a panel proposed and nominated by the**

**Executive Council/Board of Management of the concerned University. The Committee also note that the holder of the office of Chancellor is not entitled to any remuneration other than the compensatory allowance as defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959. The Committee further note that the Chancellors of Central Universities do not exercise any executive, legislative or judicial powers and that their functions are primarily to preside over convocation and meetings of the Court of the University, to approve/confirm proposals for conferment/withdrawal of honorary degrees. In this connection, the Committee also note that the Joint Committee on Offices of Profit (Bhargava Committee) in its report presented to Lok Sabha on 22 October, 1955 held the view that the Governors, the Chief Ministers or the Prime Minister are usually the incumbents of the office of Chancellor and, therefore, ordinarily the question of holding an office of profit and thereby being disqualified does not arise. The Committee therefore, feel that the position of Chancellors of Central Universities does not attract any disqualification from the angle of office of profit to the holder of the position.**

**2.5 As regards Tilak Maharashtra Vidyapeeth, Pune, a deemed University, the Committee note that it is not a Government body but registered under the Societies Registration Act, 1860 and Bombay Public Trust Act, 1950. The Committee also note that since the position of Chancellor of the University is not a position in any Government body, the question of office of profit does not arise. Incidentally, the position of the Chancellor of the University is stated to be honorary in nature and he**

is not treated as an employee of the University nor does he receive any pay or allowance for holding the post of Chancellor.

NEW DELHI

19 September, 2005  
22 Bhadrapada, 1927 Saka

CHANDRA BHUSHAN SINGH,  
Chairman,  
Joint Committee on Offices of Profit

## APPENDIX - I

(Vide para 1.4 of Chapter I)

### III

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

The Committee sat on Tuesday, 15 March, 2005 from 1500 hrs. to 1530 hrs in Committee Room 'E', Parliament House Annexe, New Delhi.

#### **PRESENT**

**Shri Nikhilananda Sar** - **In the Chair**

#### **MEMBERS (LOK SABHA)**

2. Shri Ananth Kumar
3. Shri S.K. Kharventhan
4. Shri G. Nizamoddin
5. Shri Sita Ram Yadav

#### **MEMBERS (RAJYA SABHA)**

6. Shri Silvius Condpan
7. Shri Manoj Bhattacharya

#### **SECRETARIAT**

Shri A. Louis Martin - Director  
Shri Ashok Balwani - Under Secretary

2. In the absence of Chairman, the Committee chose Shri Nikhilaananda Sar, M.P. to act as Chairman for the sitting under Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. Thereafter, the Committee took up for consideration **Memoranda No. 2** regarding nomination of Members of Parliament to the National Monitoring Committee for Minorities Education. The Committee noted that quantum of TA/DA to be provided to Members of Parliament in the Monitoring Committee would fall within the limits of 'compensatory allowance' as defined in the Parliament (Prevention of Disqualification) Act, 1959. The Committee also noted that the National Monitoring Committee for Minorities Education would not exercise any executive and financial powers and the holders of the office were not likely to wield any influence or power by way of patronage. It is stated to be an advisory Committee. The Committee further observed that the nomination of members of Parliament to the Committee is to be made by the Speaker, Lok Sabha or Chairman, Rajya Sabha who are independent of the executive Government and therefore, nomination by them cannot be said to affect the independence of members. Hence, the membership to be acquired cannot be said to be an Office of Profit. The Committee, therefore, decided to recommend that the members of Parliament, if nominated, as members of the National Monitoring Committee for Minorities Education might be exempted from disqualification for being chosen as or being a member of Parliament.

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The Committee then adjourned.



**APPENDIX - II**

(Vide para 2.3 of Chapter II)

IV

**EXTRACTS OF THE MINUTES OF THE FOURTH SITTING OF THE  
JOINT COMMITTEE ON OFFICES OF PROFIT  
( (FOURTEENTH LOK SABHA)**

The Committee sat on Friday, 17 June, 2005 from 1500 hrs. to 1550 hrs in Committee Room 'C', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Chandra Bhushan Singh - Chairman**

**MEMBERS (LOK SABHA)**

2. Shri Ananth Kumar
3. Shri Ashok Argal
4. Shri Mohan Jena
5. Shri G. Nizamoddin
6. Shri Bharatsinh M. Solanki
7. Shri Sita Ram Yadav

**MEMBERS (RAJYA SABHA)**

8. Shri Silvius Condpan
9. Shri Manoj Bhattacharya
10. Shri Ram Nath Kovind

**SECRETARIAT**

Shri A. Louis Martin - Director  
Shri J.V.G. Reddy - Under Secretary

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

3 (i) Thereafter, the Committee took up for consideration Memorandum No.4 regarding the query from the Minister of Home Affairs (Shri Shivraj V. Patil) as to whether the position of Chancellor of Tilak University, Pune or any other University is an Office of Profit. The Committee noted that Government did not exercise any control over the appointment of the Chancellors of Central Universities and that the position of Chancellor was held either on ex-officio basis or elected by the Court of University or appointed by Visitor (President of India) from out of a panel proposed and nominated by the Executive Council/Board of Management of the concerned University. The Committee observed that the holder of the office of Chancellor was not entitled to any remuneration other than the compensatory allowance as defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959, that the Chancellors of Central Universities did not exercise any executive, legislative or judicial powers and that their functions were primarily to preside over convocation and meetings of the Court of the University, to approve/confirm proposals for conferment/withdrawal of honorary degrees. In this connection, it was noted that the Joint Committee on Offices of Profit (Bhargava Committee) in its report presented to Lok Sabha on 22 October, 1955 held the view that the Governors, the Chief Ministers or the Prime Minister were usually the incumbents of the office of Chancellor and, therefore, ordinarily the question of holding an office of profit and thereby being disqualified did not arise. The Committee therefore, felt that the position of Chancellors of Central Universities did not attract any disqualification from the angle of office of profit to the holder of the position.

(ii) As regards Tilak Maharashtra Vidyapeeth, Pune, a deemed University, the Committee noted that it was not a Government body but registered under the Societies Registration Act and Bombay Public Trust Act. The Committee also noted that since the position of Chancellor of the University was not a position in any Government body, the question of office of profit did not arise. The Committee further noted that the position of the Chancellor was honorary in nature and he was not treated as an employee of the University nor did he receive any pay or allowance for holding the post of Chancellor.

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The Committee then adjourned.

## **APPENDIX – III**

### **VI**

#### **MINUTES OF THE SIXTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT ( (FOURTEENTH LOK SABHA)**

The Committee sat on Monday, 19 September, 2005 from 1500 hrs. to 1630 hrs in Committee Room 'B', Parliament House Annexe, New Delhi.

#### **PRESENT**

**Shri Chandra Bhushan Singh** - **Chairman**

#### **MEMBERS (LOK SABHA)**

2. Shri Ananth Kumar
3. Shri Ashok Argal
4. Shri Shivraj Singh Chauhan
5. Shri Mohan Jena
6. Shri Nikhilananda Sar
7. Shri Bharatsinh M. Solanki
8. Shri Sita Ram Yadav

#### **MEMBERS (RAJYA SABHA)**

9. Prof. Saif-ud-Din Soz
10. Shri Silvius Condpan
11. Shri Manoj Bhattacharya

#### **SECRETARIAT**

Shri R.K. Bajaj - Deputy Secretary  
Shri J.V.G. Reddy - Under Secretary

2. At the outset, the Chairman welcomed the Members including Prof. Saif-ud-Din Soz, who has been elected to be a member of the Committee w.e.f. 22 August, 2005 vice Shri Eduardo Faliero retired from Rajya Sabha.

3. The Committee then took up for consideration the draft First Report which consisted of the following three chapters:-

**CHAPTER-I** Nomination of Member of Parliament to Advisory Committee on Discretionary Allotments of dealerships/distributorships of petroleum products.

**CHAPTER-II** Nomination of Members of Parliament to the National Monitoring Committee for Minorities Education.

**CHAPTER-III** Query whether the position of Chancellor of Tilak University, Pune or any other University is an Office of Profit.

4. While considering the Chapter-I of the Report, the Committee noted that the Ministry of Petroleum & Natural Gas made a proposal to set up an Advisory Committee under the Chairmanship of Shri Shankar Roy Chowdhury, MP (RS) to assist the Minister of Petroleum & Natural Gas to decide on each case relating to allotment of dealerships/distributorships of petroleum products under the scheme of Minister's discretionary quota to the dependents of Defence/Paramilitary/Police personnel or Central Government Employees, killed in action or permanently disabled while performing their duties. The Committee also noted that earlier all the applications from the eligible candidates under the scheme were processed in the Ministry and decisions regarding allotments of dealerships were to be made by the Minister personally. The Committee also noted that according to the new procedure, the Advisory Committee would consider all the applications alongwith the recommendations thereon received

from the Organizations/offices concerned and forward their recommendations to the Minister of Petroleum & Natural Gas to enable him to take a decision on each case. The Committee further noted that according to the Ministry of Petroleum & Natural Gas, the Advisory Committee would not wield any influence or power by way of patronage in the matter of their recommendations to the Minister. The Committee noted that while considering the memorandum on the subject on 15.3.2005, they had earlier agreed with that view point of the Ministry and decided to recommend that the office of Chairmanship or membership of the Advisory Committee might be exempted from disqualification. However, on reconsideration, the Committee had felt that the power of the Advisory Committee to consider the applications of the eligible candidates and make recommendations to the Minister might involve an element of influence or power by way of patronage as the number of eligible applicants at any given point of time would be more than the number of dealerships to be allotted under the Scheme. The Committee also took into consideration the fact that according to one of the criteria adopted by the Committee, an office which enables the holder of it to wield influence or power by way of patronage would attract disqualification. The Committee, therefore, felt that the Chairmanship/membership of the proposed Advisory Committee appears to be an Office of Profit. The Committee decided that the opinion of the Ministry of Law & Justice might be obtained in the matter and placed before them for further consideration.

5. The Committee then considered the Chapter II & III of the Report and adopted the same without any amendments. The Committee also authorized the Chairman to present their First Report with these two chapters to the Parliament.

The Committee then adjourned.