

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

ELEVENTH REPORT

Presented to Lok Sabha on 22 August, 2013
Laid in Rajya Sabha on 22 August, 2013



**LOK SABHA SECRETARIAT
NEW DELHI**

22 August, 2013/Sravana 1935(Saka)

Price : _____

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COMPOSITION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT
(FIFTEENTH LOK SABHA)

Shri Rewati Raman Singh - Chairman

**MEMBERS
LOK SABHA**

2. Shri P.C. Chacko
3. Shri Dara Singh Chauhan
4. Shri Sanjay Dhotre
5. Shri Prataprao Ganpatrao Jadhav
6. Shri Vishwa Mohan Kumar
7. Shri Rajendrasinh Rana
8. Shri Ashok Tanwar
9. Shri Pradeep Majhi
10. Shri Gopal Singh Shekhawat*

RAJYA SABHA

11. Dr. Bharatkumar Raut
12. Smt. Mohsina Kidwai
13. Shri Janardan Dwivedi
14. Shri Ravi Shankar Prasad
15. Dr. (Smt.) T.N. Seema

SECRETARIAT

- | | | |
|--------------------|---|------------------|
| 1. Shri R.S. Kambo | - | Joint Secretary |
| 2. Shri Shiv Kumar | - | Director |
| 3. Shri Maya Lingi | - | Deputy Secretary |

*Elected to the Committee on 14.03.2013 vice Shri Sarvey Sathyanarayana resigned w.e.f. 06.12.2012 consequent upon his appointment as Minister of State.

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 Eleventh Report of the Committee.

2. The matter covered in the Report was considered by the Committee at their sittings held on 20 June and 12 July, 2013 . The Minutes of the sittings form part of the Report and are given at Appendices I and II.

3. The Committee examined the term, composition, character, functions etc. of the the City Level Committee Constituted under Rajasthan Urban Infrastructure Development Project- RUIDP Phase III and the Central Advisory Board of Education (CABE) with a view to consider as to whether the nomination/appointment of a Member of Parliament as a Member to the City Level Committee and to the Central Advisory Board of Education Board would attract disqualification from the angle of 'office of profit' under Article 102 (1)(a) 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 Government of Rajasthan and the Ministry of Human Resource Development.

5. The Committee considered and adopted this Report at their sitting held on 29 July, 2013 and the Minutes of the sitting are given at Appendix-III.

6 The Committee wish to express their thanks to the Government of Rajasthan and the Ministry of Human Resource Development for furnishing the information desired by the Committee.

7. The observations/recommendations made by the Committee in respect of the matters considered by them are given at the end of this Report in bold letters.

NEW DELHI;

05 August, 2013

14 Sravana, 1935 (Saka)

**REWATI RAMAN SINGH,
Chairman,
Joint Committee on Offices of Profit**

REPORT

CHAPTER - I

Nomination of MPs to the City Level Committee under Rajasthan Urban Infrastructure Development Project – RUIDP Phase-III.

1.1. The Government of Rajasthan (Office of Project Director, Rajasthan Urban Infrastructure Development Project) vide their letter no.F3(201)(8)/PMU/RUIDP/PH-III/CLC/2013/20434 dated 25.03.2013 have sought the approval for inclusion of the MPs as a Member in the City Level Committee of towns for Rajasthan Urban Infrastructure Development Project – Phase-III. The Department has requested to place the matter before the Joint Committee on Offices of Profit for their consideration and recommendation as to whether or not the nomination of the Members could be considered as a disqualification for being a Member of Parliament.

1.2. Since the information regarding Constitution, Power, remuneration, allowances and other facilities, etc. furnished by the State Government of Rajasthan was not sufficient to examine the matter from the angle of 'office of profit', they were asked to furnish all the necessary details. The Government of Rajasthan have since furnished the requisite information vide their letter dated 04.04.2013 and dated 17.05.2013. The gist of information furnished is reproduced below :-

Term of Office

- The term of the Member of Parliament as non-official member in the Committee shall be till the completion of project.

Composition

Committee is proposed to be constituted for each project town as per the following Composition for City Level Committee:

- | | | |
|----|--|----------|
| 1. | Addl. Chief Secretary, UDH & LSGD (For Jaipur City Only) | Chairman |
| 2. | District Collector (For Towns other than Jaipur) | Chairman |

3.	Hon'ble Member of Parliament (concerned Town)	Member
4.	Mayor/Chairman-Municipal Corporation/Council	Member
5.	Dy. Mayor/Vice Chairman – Municipal Corporation/Council	Member
6.	Chairman/Secretary, UIT	Member
7.	Addl. Chief Engineer/Superintending Engineer, PHED (as the case may be)	Member
8.	Addl. Chief Engineer/Superintending Engineer, PWD (as the case may be)	Member
9.	CEO/Commissioner-Municipal Corporation/Council	Member
10.	Senior Most officer of Town Planning Department in district	Member
11.	Superintending Engineer/Executive Engineer, Project Implementation Unit, RUIDP (as the case may be)	Member Secretary
12.	Representatives of local NGOs and CBOs as nominated by the State Government	Invitees

Functions

- The role of the Committee is purely advisory in nature and envisage identifying the deficits area in the infrastructure, prioritizing deficient sectors for intervention and identification of the priority works in City Level Committee with officials of line agencies for their respective towns and to recommend the proposal for inclusion in the project. The Committee is also to assist in planning and programming the Project activities, monitor the Project progress and activities, to sort out the issues and to provide guidance on actions to be taken to improve the project performance.

The approval for constituting the Committee as per composition has already been obtained from GoR. Further after getting consent from concerned Hon'ble Member of Parliament the proposal will be again submitted to Administrative Reforms Department, GoR for issuing order.

- The Committee was also informed that City Level Committee does not have Executive Legislative and Financial powers. Further, the body does not have powers of appointment/removal.
- The body neither wield influence or power by way of patronage nor powers of disbursement of funds, allotment of land.

1.3. As per criteria laid down by the Joint Committee on Offices of Profit, the following points are required to be taken note of, in particular, by the Committee for determining as to whether an office ought or ought not to disqualify the holder thereof for being chosen as, and for being, a Member of Parliament:

- (i) Whether the Government exercise control over the appointment to and removal from the office and over the performance and functions of the office;
- (ii) Whether the holder draws any remuneration other than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.;
- (iii) Whether the body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licenses, etc., or gives powers of appointment, grant of scholarships, etc; and
- (iv) Whether the body in which an office is held enables the holder to wield influence or power by way of patronage.

1.4. The Joint Committee on Offices of Profit considered the matter at the sitting held on 20 June, 2013 (APPENDIX – I).

1.5 The Committee note from the information furnished by the State Government of Rajasthan that the objective behind the nomination of Hon'ble Member as the non-official Member to the City Level Committee is to involve the Member in identification of the deficit areas in the infrastructure, prioritizing deficient Sectors for intervention for their respective Towns and to recommend the proposal for inclusion in the Projects. The Committee would assist in planning and programming of the Project activities, monitor the Project progress and activities, sort out the contentious issues, if any, and provide guidance on actions to be taken to improve the Project/performance. The City Level Committee does not have powers of appointment/removal. No allowances/other facilities are payable to the Honourable M.P. Further the Membership of the Committee implicitly neither confers Executive, Legislative and Financial Powers

of lands, etc., nor allows to wield influence or power by way of patronage. The Membership of the Committee is only tenure based i.e., till the completion of the project and the State Government of Rajasthan (GoR) has no power to remove the Members of Parliament from the City Level Committee.

1.6. In view of foregoings, the Committee observe that a Member of Parliament, if included in the City Level Committee of towns under their Parliamentary Constituencies for Rajasthan Urban Infrastructure Development Project Phase-III - may not attract disqualification for being chosen as, or for being, a Member of Parliament.

CHAPTER - II

Election of Four Members of Lok Sabha and Two Members of Rajya Sabha to the Central Advisory Board of Education (CABE).

* * *

2.1 Ministry of Human Resource Development (Department of Higher Education) *vide* their O.M. No. 17-43/2010-PN-I dated 22 April, 2013 had requested to place the matter regarding : Election of Four Members of Lok Sabha and Two Members of Rajya Sabha to the Central Advisory Board of Education (CABE) of the Ministry of Human Resource Development (Department of Higher Education) before the Joint Committee on Offices of Profit for their consideration and recommendation.

2.2 As the aforesaid request was not accompanied with the adequate details, the Ministry of Human Resource Development (Department of Higher Education) were requested to furnish information on certain points relating to power, functions, remuneration, daily allowances, other facilities, etc. proposed to be provided to the Members and also about the nature of Body. The Ministry furnished the requisite information *vide* their O.M. dated 13 May and 03 July, 2013. The extracts of same are reproduced below :-

CONSTITUTION OF CABE

The Central Advisory Board of Education (CABE), the highest advisory body to advise the Central and State Government in the field of education, was first established in 1920. It was dissolved in 1923 as a measure of economy and was again revived in 1935. It continued to be in existence till 1994. Since important decisions have been taken on the advice of CABE and it has provided a forum for widespread consultation and examination of issues relating to educational and cultural development, CABE was reconstituted on 12.12.2008 for tenure of three years and the said tenure has since expired. CABE has an important role to play in the present times, particularly in view of the significant socio-economic and socio-culture developments taking place in the country as also the wide

ranging reforms taking place in the education sector. It is, therefore, desirable that the Central and State Governments, educationists and people representing different interests should evolve a participative process of decision making in education which enhances the federal structure of our polity.

COMPOSITION

Ministry of Human Resource Development (Department of Higher Education) has reconstituted a Central Advisory Board of Education (CABE) vide Resolution No.2-18/2011-PN-I dated 18.05.2012 and subsequent Resolution dated 15.02.2013 with the following composition:-

1. Chairperson -1
Minister of Human Resource Development
2. Vice Chairpersons -2
 - (i) Minister of State for Human Resource Development.
 - (ii) Minister of State for Human Resource Development
3. Representatives of the Government of India - 12
4. Representatives of State Governments and UT Administrations – 35
5. Representatives Elected by Parliament (Lok Sabha - 4/Rajya Sabha – 2)
6. Ex-officio Members - 26
7. Vice Chancellors of Universities/Heads of Institutions of National Importance - 10
8. Nominated Members representing different interests – 29
 - a) Four persons representing industry with interest in education
 - b) Six eminent Academicians/Technologists/Scientists
 - c) Seven persons representing special interests
 - d) Five nominees representing School Education
 - e) Two nominees representing Creative Arts
 - f) One nominee representing Minority Educational Institutions
 - g) Four nominees representing different Languages
9. Media Representatives - 3
10. Member Secretary - 1
11. Permanent Invitees - 11

MANNER OF APPOINTMENT OF ELECTED REPRESENTATIVES

Minister (HRD) move motions before both Houses of Parliament, for election of MPs to CABE. Therefore, the election procedure is initiated in both the Houses and Members so elected are nominated as Members of CABE.

FUNCTIONS

The functions of the body are:-

- (a) To review the progress education from time to time;
 - (b) To appraise the extent and manner in which the National Policy on Education has been implemented by the Central and State Governments and other concerned agencies, and to give appropriate advice in the matter;
 - (c) To advise regarding coordination between the Central and State Governments/UT Administrations, State Governments, Non-Governmental Agencies for development of education in accordance with the National Policy on Education;
 - (d) To advise suo-moto, or on a reference made to it by the Central Government or any State Government or a Union Territory Administration on any Educational question;
 - (e) To review the National Policy on Education.
- For the discharge of these functions, the Board may:-
- (a) Call for information and comments from any government institution, any other organisation or an individual;
 - (b) Appoint committees or groups comprising members of the CABE and/or others as may be necessary; and
 - (c) Commission through the Government or any other agency, studies, research or reports on any specific issue requiring the attention of the Board or its Committees or groups.

- Further the CAGE of the Ministry of Human Resource Development (Department of Higher Education) does not exercises executive, legislative or judicial powers.
- CAGE does not confer powers of disbursement of funds, allotment of land etc.
- The body does not have powers of appointment/removal.
- The body does not wield influence or power by way of patronage.

TENURE

The tenure of the CAGE in the Ministry shall be 3 years from the date of Notification of the Resolution.

2.3 The Joint Committee on Offices of Profit consider the following criteria for determining as to whether an office ought or ought not to disqualify the holder thereof for being chosen as, and for being a Member of Parliament:-

- (i) Whether the Government exercise control over the appointment to and removal from the office and over the performance and functions of the office;
- (ii) Whether the holder draws any remuneration other than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959;
- (iii) Whether the body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licenses, etc., or gives powers of appointment, grant of scholarships, etc; and
- (iv) Whether the body in which an office is held enables the holder to wield influence or power by way of patronage.

2.4 The Joint Committee on Offices of Profit considered the matter at their sitting held on 12 July, 2013 (APPENDEDIX – II).

2.5 The Committee note from the information furnished by the Ministry of Human Resource Development (Department of Higher Education) that the Central Advisory Board of Education (CAGE) is a Standing Body of the Government of India being

constituted for the purpose of advising the Government in the field of education. Its functions are purely advisory in nature. Member of Parliament nominated by virtue of election to CAGE does not have powers of disbursement of funds, allotment of land, etc. and as such they are not in position to wield any influence by way of patronage. They would be paid Travelling Expenses which would be in consonance with the definition of Compensatory Allowances as defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959. However, they will not get any remuneration, daily allowance or other expenses. Further, the office is not vested with executive, legislative or judicial powers.

2.6 In view of the foregoing, the Committee observe that the Member(s) of Parliament, if elected to the Central Advisory Board of Education (CAGE) constituted by the Ministry of Human Resource Development (Department of Higher Education) may not attract disqualification, for being, a Member of Parliament from the angle of 'office of profit.'

NEW DELHI;

August, 2013

Sravana, 1935 (Saka)

REWATI RAMAN SINGH,
Chairman,
Joint Committee on Offices of Profit

**EXTRACTS OF THE MINUTES OF THE TWENTY SEVENTH SITTING OF THE
JOINT COMMITTEE ON OFFICES OF PROFIT (15TH LOK SABHA) HELD ON
THURSDAY, 20 JUNE, 2013**

PRESENT

MEMBERS
LOK SABHA

- RAJYA SABHA**

- SECRETARIAT**

- At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them about the agenda of the sitting.

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8. Then, the Committee took up for consideration Memorandum No.29 regarding: Inclusion of Hon'ble M.Ps. as a Member in the City Level Committee of their town for Rajasthan Urban Infrastructure Development Project – RUIDP Phase-III.

9. The Committee took note of the information furnished by the State Government of Rajasthan to the effect that the objective behind the inclusion of Hon'ble Member in the City Level Committee is to involve him/her in identification of the deficit areas in the infrastructure, prioritizing deficient Sectors - for intervention and identification of the priority works in City Level Committee with the officials of line agencies for their respective towns and to recommend the proposal for inclusion in the projects. Further, the Committee would be assisting in planning and programming the Project activities, monitor the Project progress and activities, to sort out the issues and to provide guidance on actions to be taken to improve the project performance. The Membership of the Committee neither confers powers of disbursement of funds, allotment of lands etc. nor wields influence or power by way of patronage so far. Further no allowances/other facilities are paid to Hon'ble M.P. Also, once the Committee is constituted it will work till the completion of the project and Government of Rajasthan (GoR) has no role to remove the Members of Parliament from City Level Committee.

10. In view of the above, the Committee observed that a Member of Parliament if included in the City Level Committee of their town for Rajasthan Urban Infrastructure Development Project – RUIDP Phase-III - may perhaps not attract disqualification for being chosen as, or for being, a Member of Parliament.

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12. The Committee then adjourned.

**EXTRACTS OF THE MINUTES OF THE TWENTY EIGHTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA)
HELD ON FRIDAY, 12 JULY, 2013**

PRESENT

MEMBERS
LOK SABHA

- RAJYA SABHA**

- SECRETARIAT**

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|----|-----------------|---|------------------|
| 1. | Shri R.S. Kambo | - | Joint Secretary |
| 2. | Shri Shiv Kumar | - | Director |
| 3. | Smt. Maya Lingi | - | Deputy Secretary |

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them about the agenda of the sitting.

3. Thereafter, the Committee took up for consideration Memorandum No. 30 reg. : Election of four Members of Lok Sabha and two Members of Rajya Sabha to the Central Advisory Board of Education (CABE).

4. The Committee took note of the information furnished by the Ministry of Human Resource Development (Department of Higher Education) that the Central Advisory Board of Education (CABE) is a Standing Body of the Government of India being constituted for the purpose of advising the Government in the field of education. Its functions are purely advisory in nature. Member of Parliament nominated by virtue of election to CABE does not have powers of disbursement of funds, allotment of land, etc. and as such they are not in position to wield any influence by way of patronage. They would be paid Travelling Expenses which would be in consonance with the definition of Compensatory Allowances as defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959. However, they will not get any remuneration, daily allowance or other expenses. Further, the office do not exercise executive, legislative or judicial powers.

5. In view of the foregoings, the Committee observed that the Member(s) of Parliament, if elected to the Central Advisory Board of Education (CABE) constituted by the Ministry of Human Resource Development (Department of Higher Education) may not attract disqualification, for being, a Member of Parliament from the angle of 'office of profit.'

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The Committee then adjourned.

APPENDIX-III

MINUTES OF THE TWENTY NINTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON 29 JULY, 2013

The Committee met on Monday, 29 July, 2013 from 1200 hrs to 1235 hrs in Committee Room No.'53', First Floor, Parliament House, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS LOK SABHA

2. Shri Prataprao Ganpatrao Jadhav
3. Shri Vishwa Mohan Kumar

RAJYA SABHA

4. Shri Janardan Dwivedi
5. Dr. Bharatkumar Raut
6. Smt. Mohsina Kidwai
7. Dr. (Smt.) T.N. Seema
8. Shri Ravi Shankar Prasad

SECRETARIAT

1. Shri R.S. Kambo - Joint Secretary
2. Shri Shiv Kumar - Director
3. Smt. Maya Lingi - Deputy Secretary

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them about the agenda of the sitting.

3. Then the Committee took-up for consideration the draft Eleventh Report - consisting of following two Chapters :-

Chapter - I	Inclusion of Hon'ble MPs as a Member in the City Level Committee of their town for Rajasthan Urban Infrastructure Development Project – RUIDP Phase-III
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Chapter-II	Election of four Members of Lok Sabha and two Members of Rajya Sabha to the Central Advisory Board of Education (CABE).
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4. The Committee considered and adopted the Chapter-I without any amendment. The Committee took note of Composition of City Level Committee to be constituted under Rajasthan Urban Infrastructure Development Project (RUIDP) Phase-III. The Committee was of the view that taking into consideration the Warrant of Precedence, it would be prudent if the senior most Member of Parliament of the concerned town, Chair the Committee instead of District Collector. The Committee desired that Government of Rajasthan be apprised of their views by way of letter from Hon'ble Chairman of the Committee, in this regard.

5. The Committee then proceeded to consider Chapter II and adopted the same without any amendment.

6. The Committee authorized the Chairman to finalize the Report and present the same to the Parliament in the ensuing Monsoon Session, 2013.