

CONFIDENTIAL

CB-II No.

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

SIXTH REPORT

Presented to Lok Sabha on _____
Laid in Rajya Sabha on _____

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**LOK SABHA SECRETARIAT
NEW DELHI**

**March, 2008/Phalguna, 1929 (Saka)
Price:**

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JOINT COMMITTEE ON OFFICES OF PROFIT

Lok Sabha

Shri Chandra Bhushan Singh - Chairman

2. Shri Ananth Kumar
3. Shri Ashok Argal
- #4. Shri Rajiv Ranjan 'Lalan' Singh
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. Shri Silvius Condpan
- *12. Dr. Abhishek Manu Singhvi
- *13. Shri Arun Jaitley
- &14. Shri P.R. Rajan
- **15. Shri N. Jothi

Secretariat

| | | |
|------------------|---|------------------|
| Shri P.K. Grover | - | Joint Secretary |
| Shri R.S. Misra | - | Director |
| Shri K. Jena | - | Deputy Secretary |

* Elected by Rajya Sabha on 28.7.2006 vice Sarvashri Manoj Bhattacharya, Ram Nath Kovind and K. Rama Mohana Rao who retired w.e.f. 2.4.2006 and Shri Saif-ud-din-Soz resigned on 29.1.2006 consequent upon his appointment as Union Minister.

& Elected to the Committee on 4.5.2007 vice Shri Chittabrata Majumdar passed away on 20.2.2007.

Elected to the Committee on 31-8-2007 vice Shri Ajit Kumar Singh passed away on 1-8-2007

** Elected to the Committee on 23.11.2007 vice Shri P.G. Narayanan retired from Rajya Sabha

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 Sixth Report of the Committee.

2. The matters covered in the Report were considered by the Joint Committee on Offices of Profit at their sitting held on 14 December, 2007. The Minutes of the sitting form part of the Report and is at Appendix I.

3. The Committee examined the composition, character, functions etc. of two bodies constituted by the Union/State Governments and the emoluments and allowances payable to their members and non-official members.

4. The detailed information regarding the composition, character, functions, emoluments and allowances payable to the members of these bodies was furnished by the concerned Union/State Governments. The Committee wish to express their thanks to the Union/State Governments for furnishing the information desired by the Committee.

5. The Committee considered and adopted this Report at their sitting held on 4 March, 2008.

6. The observations/recommendations of the Committee in respect of the matters considered by them are given in the respective Chapters of this Report. The recommendations of the Committee will, however, remain advisory in nature and as such can not give any protection from disqualification under the law until the recommendations are given statutory effect by the Government by suitably amending the Parliament (Prevention of Disqualification) Act, 1959.

NEW DELHI;

March, 2008

Phalgun, 1929 (Saka)

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

CHAPTER-I

Appointment of Dr. K. Kasturirangan, Member, Rajya Sabha as Chair Professor on Satellite Education in IGNOU.

Rajya Sabha Secretariat had forwarded a letter received from Dr. K. Kasturirangan, M.P., Rajya Sabha as Chair Professor on Satellite Education in Indira Gandhi National Open University and requested to place the matter before the Joint Committee on Offices of Profit for their approval.

2. In order to examine the matter from the angle of 'office of profit' the Ministry of Human Resource Development (Department of Higher Education) were requested to furnish some more information. The information was received from the Ministry (O.M.No.F.5-113/2007-DL dated 23 November, 2007). The details regarding constitution, remuneration and functions attached with the post of Chair Professor on Satellite Education in IGNOU and other related details are as follows:-

Constitution of post of Chair Professor

- The post of Chair Professor was recently created through an Memorandum of Understanding signed between ISRO and IGNOU on 10.9.2007.

Aims and Objectives

It has been stated that in order to strengthen the University objectives and responsibilities for imparting education, the Chair for Satellite Communication Studies has been proposed to be instituted with the following broad objectives:

- to identify technological gaps between the needs of the users and technological solutions provided by ISRO;

- Develop suitable curriculum in the areas of operation and maintenance of satellite communication ground systems;
- conduct training needs survey amongst users and develop suitable training modules in the related areas;
- to organize and conduct training, workshop, seminars for the personnel of educational institutions for updating the skills of personnel working in O&M of satellite communications area;
- To provide leadership for the development of Satellite Communication studies for education.

Tenure

The tenure of the Chair would be for a period of three years, extendable for a further period of three years.

Remuneration

As per the provision of MOU, under reference, the Chair Professor would be offered a monthly salary of Rs.18,000/- in addition to expenditure towards conveyance, travel and other administrative expenses. An additional honorarium of Rs.25,000/- per month from IGNOU would also be provided as per the norm.

It has further been informed that subject to concurrence from the Joint Committee on Offices of Profit, the Hon'ble Rajya Sabha Member's honorarium would be fixed upto a maximum of a University Professor's Salary (or the last salary minus pension or other emoluments drawn in the case of Secretary level positions in the Government of India).

Powers

The Committee have been informed that the Chair Professor on Satellite Education in IGNOU would:-

- have full academic autonomy in designating and executing courses, training programme and research projects in the area of satellite education and technology subject to the overall policies of IGNOU and ISRO in this field.
- provide guidance to academics, scientists, teachers and engineers in the area for capacity building at various levels;
- help IGNOU in promoting the satellite medium of education for improving the quality of teaching/learning at all levels and for enhancing the reach of educations to the rural areas and inaccessible regions;
- help policy formulation in the areas of Technology based education using the immense power of the satellite.

On a query whether the functions of the Chair Professor are purely advisory, the Ministry have replied in affirmative. The Ministry, however, further stated that full academic decision making and implementing powers would be given to the M.P. in respect of the following.

- identification of the technological gaps between the need in the field and available technology.
- development of Certificate/diploma programmes for the operation and maintenance of satellite communication equipments used for education.
- identification of training and research needs of the educational institutions and to develop tailor made educational and training programmes to cater to the specific needs of the educational institutions.
- Organizing and conducting seminar, workshop, training for personnel of educational institutions for updating their skills in Satellite communications; and
- Providing leadership for the development of satellite communication studies for education.

3. The Committee considered the matter at their sitting held on 14 December, 2007.

4. The Committee note that the Government do not exercise any control over the appointment of the Chair-Professor of IGNOU. The appointment of Chair Professor is made by the Board of Management of the University as per Clause (f) of Statute 7 of the IGNOU Act. The Committee also note that the holder would also be provided accommodation for official/academic purpose. The Committee further note that the function of the Chair Professor is advisory in nature and no executive, legislative or judicial powers are attached with the post. It also does not confer powers of disbursement of funds, allotment of lands etc. The Committee again note that it would neither have powers of appointment/removal nor wield influence by way of patronage.

5. The Committee also note that the Chair Professor would be offered a monthly salary of Rs.18,000/- in addition to expenditure towards conveyance, travel and other administrative expenses. An additional honorarium of Rs.25,000/- per month from IGNOU would also be provided as per the norm and thus the remuneration including salary and honorarium etc. are not covered under the 'Compensatory Allowance' as defined in Section 2 (a) of Parliament (Prevention of Disqualification) Act, 1959. 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 "when it is a salary attached to the office, it immediately and indisputably makes the office an "office of profit".

6. The Committee feel that the acceptance of the post of Chair Professor in Indira Gandhi National Open University by the Members of Parliament attracts the provisions of Article 102(1)(a) of the Constitution relating to office of profit because the holder of the post of Chair Professor will be offered monthly salary in addition to expenditure towards conveyance, travel and other administrative expenses besides additional honorarium. Having considered all aspects of the matter, the Committee recommend that a person holding the office of the Chair Professor on Satellite Education in Indira Gandhi National Open University may not be exempted from disqualification for being chosen as, and for being a Member of Parliament.

CHAPTER-II

Subject: Nomination of Member of Parliament to the District Level Traffic Management Committees, Rajasthan.

The Government of Rajasthan (Department of Transport) vide their letter No. F/10(595) Transport/P.D./2005/3566 dated 16-3-2006 requested for permission of Hon'ble Speaker, Lok Sabha for nomination of Members of Parliament as members of the District Level Traffic Management Committees of the State.

2. As the information furnished in this regard by the Government of Rajasthan was incomplete to be examined from the angle of 'office of profit', they were requested to furnish some more information. The Government of Rajasthan furnished the desired information vide their letter No.F.10(595)Circular/P.D./6312 dated 12-7-2007.

3. The Committee have been informed that the Traffic Management Committees are Standing Committees constituted under the Chairmanship of the District Collectors. The tenure of the Committees is for indefinite period. The main functions of the Committees are:-

- (i) checking the vehicular pollution due to the growing number of vehicles in the State,
- (ii) preventing road accidents due to transportation by the passenger vehicles, overloading by the goods carrier vehicles,
- (iii) checking the operation of vehicles without obtaining proper fitness certificates and upgrading the quality of urban system. It has further been stated that Hon'ble Chief Minister has approved these Committees.

4. It has been stated that the nomination of members are on ex-officio basis. To the queries whether the Committees would exercise executive, legislative or judicial powers, whether the Committees confer powers of disbursement of funds, whether the members are paid any remuneration including salary, travelling allowance, House rent allowance, compensatory allowance and meeting fee etc. or are provided any special facilities while working as special invitees of these Committees, the reply of Government of Rajasthan

was in negative. As per the information furnished by the Government of Rajasthan the functions of the Committee are advisory in nature.

5. The Committee considered the matter at their sitting held on 14 December, 2007.

6. The Committee note that the proposal of the Government of Rajasthan to nominate members of the Parliament as Members of the Traffic Management Committee is on ex-officio basis by virtue of being Members of Parliament. The Committee further note that the functions of the Committees are advisory in nature with the objective of upgrading the quality of urban traffic system and preventing road accidents.

7. The Committee also note that the District Level Committees neither exercise any executive, legislative or judicial powers nor would they wield any influence by way of patronage. It has been stated that the members of the Committee will not be paid remuneration or be provided any special facilities.

8. The Committee feel that participation of MPs as members in the District Level Traffic Management Committees could hardly be construed as holding office of profit in the State Government. The Committee therefore, recommend that MPs nominated as members of the Traffic Management Committees, Rajasthan should be exempted from disqualification for being chosen as, or for being, Members of Parliament.

NEW DELHI;

March, 2008
Phalguna, 1929 (Saka)

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

APPENDIX-I

CONFIDENTIAL

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

The Committee sat on Friday, 14 December, 2007, from 1500 hrs. to 1545 hrs in Committee Room No. '139', Parliament House Annexe, New Delhi.

PRESENT

Shri Chandra Bhushan Singh - Chairman

MEMBER (LOK SABHA)

2. Shri Ashok Argal
3. Shri Mohan Jena
4. Shri Nikhilananda Sar

MEMBERS (RAJYA SABHA)

5. Shri Silvius Condpan
6. Shri P.R. Rajan

SECRETARIAT

Shri P.K. Grover - Joint Secretary
Shri R.S. Misra - Director
Shri K. Jena - Deputy Secretary

At the outset, the Chairman welcomed the members to the sitting of the Committee. Subsequently, the Chairman also welcomed Shri P.R. Rajan, the newly elected member to the Committee. Thereafter, the Committee took up the consideration of the following Memoranda:-

- (i) Memoranda No.15: Appointment of Dr. K. Kasturirangan, Member, Rajya Sabha as Chair Professor on Satellite Education in IGNOU.
- (ii) Memoranda No.16: Nomination of Members of Parliament as Members in the Animal Welfare Board of India.
- (iii) Memoranda No.17: Nomination of Members of Parliament to the District Traffic Management Committees, Rajasthan.

2. At first, the Committee considered Memorandum No.15 regarding appointment of Dr. K. Kasturirangan, Member, Rajya Sabha as Chair Professor on Satellite Education in IGNOU. The Committee noted that remuneration including Salary and honorarium etc. were not covered under 'Compensatory Allowance' as defined in Section 2 (a) of Parliament (Prevention of Disqualification) Act, 1959. The Committee also noted that the function of the Chair Professor was advisory in nature and no executive, legislative or judicial powers were attached with the post. The Committee further noted that the said post did not confer powers of disbursement of funds, allotment of lands etc. It would neither have powers of appointment/removal nor wield influence or power by way of patronage. The Committee also noted the observation made in the Report made by the Bhargava Committee (on 22 October, 1955) in which the Committee held the view that **“when it is a salary attached to the office, it immediately and indisputably makes the office an “office of profit”. The Committee, therefore recommend that acceptance of the post of Chair Professor in IGNOU by the Member of Parliament (Dr. K. Kasturirangan, M.P) attracts the provisions of Articles 102 (1) (a) of the Constitution and hence he may not be exempted from disqualification for being chosen as, and for being a Member of Parliament.**

3. The Committee then considered the Memorandum No.17 regarding nomination of members of Parliament to the District Traffic Management Committee. The Committee noted that the members of Parliament would not be given any remuneration and any other special facilities while working as special invitees on these Committees. The Committee also noted that these Committees did not exercise executive, legislative or judicial powers as their functions are to give suggestion for management of traffic measures to prevent accidents, control of vehicular pollution, checking of overloaded passenger vehicles, regulation of the truck unions, checking the overloaded goods carrier vehicles etc.

The Committee therefore, recommend that the nomination of members of Parliament to the District Traffic Management Committees do not come within the purview of 'office of profit' and hence they should be exempted from disqualification for being chosen as, or for being Members of Parliament.

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The Committee then adjourned.

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