

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

FIRST REPORT

Presented to Lok Sabha on 30.07.2021

Laid in Rajya Sabha on 30.07.2021



**LOK SABHA SECRETARIAT
NEW DELHI**

July, 2021 / Shravana, 1943 (Saka)

Price: _____

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

Dr. Satya Pal Singh - *Chairperson*

MEMBERS

Lok Sabha

2. Shri Behanan Benny
3. Shri Vinod Chavda
4. Shri Vijay Kumar Hansdak
5. Dr. Manoj Rajoria
6. Smt. Aparajita Sarangi
7. Shri Mahendra Singh Solanky
8. Shri L.S. Tejasvi Surya
9. Shri Balashowry Vallabbhaneni
10. Shri Shyam Singh Yadav

Rajya Sabha

11. Dr. Sasmit Patra
12. Shri Mahesh Poddar
13. Shri V. Vijayasai Reddy
14. Ms. Dola Sen
15. Shri Hardwar Dubey*

SECRETARIAT

- | | | | |
|----|--------------------------|----|---------------------|
| 1. | Smt. Suman Arora | -- | Joint Secretary |
| 2. | Smt. B. Visala | -- | Director |
| 2. | Shri Munish Kumar Rewari | -- | Additional Director |
| 3. | Shri Raj Kumar Chaudhary | -- | Under Secretary |
| 4. | Shri Kundan Kumar | -- | Committee Officer |

* Nominated as Member of the Committee *vide* Rajya Sabha Bulletin Part-II dated 12.02.2021 (Para No.60610) consequent upon the expiry of the term of Shri K. Keshava Rao.

INTRODUCTION

I, the Chairperson of the Joint Committee on Offices of Profit, having been authorized by the Committee to present the Report on their behalf, present this First Report of the Committee.

2. At their sitting held on 19th November, 2020, the Committee examined the term, composition, character, functions, etc., of the National Khadi and Village Industries Board (NKVIB) with a view to consider as to whether the nomination of a Member of Parliament to the NKVIB would attract disqualification from the angle of 'office of profit' under Article 102(1)(a) of the Constitution of India.

3. The Committee considered and adopted this Report at their sitting held on Monday, 15th March, 2021.

4. The Committee wish to express their thanks to the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) for furnishing the information desired by the Committee for detailed examination of the issues involved in the matter.

5. The Observations/Recommendations made by the Committee in respect of the matter considered by them are given at the end of this Report in bold letters.

NEW DELHI:
24th March, 2021
03 Chaitra, 1943 (Saka)

DR. SATYAPAL SINGH
Chairperson,
Joint Committee on Offices of Profit.

REPORT

ELECTION OF A MEMBER OF RAJYA SABHA TO THE NATIONAL KHADI VILLAGE INDUSTRIES BOARD (NKVIB)

The Rajya Sabha Secretariat has sought the consideration, approval and recommendations of the Joint Committee on Offices of Profit on the issue of whether the Membership of MPs in the National Khadi Village Industries Board (*hereinafter* the NKVIB or the Board) would entail any disqualification from the 'Office of Profit' angle.

2. During the 7th Lok Sabha (1980-1984), the Joint Committee on Offices of Profit examined the National Khadi and Village Industries Commission and presented Fourth Report on 11th August, 1982, stating that the Chairmanship including the membership of the Commission *ought not to be exempt* from disqualification. However, the instant case pertains to the membership of the Board constituted under the Khadi and Village Industries Commission Act, 1956.

3. In the present case, the Minister of Micro, Small and Medium Enterprises (MSME) had given a Notice of Motion, addressed to the Secretary General, Rajya Sabha for election of one Member of Rajya Sabha to the Board (**Annexure – I**), following which the Committee Coordination Branch (Rajya Sabha Secretariat) have forwarded the same along with related papers to this Secretariat, for placing the matter before the Joint Committee on Offices of Profit, for consideration.

4. Article 102(1)(a) of the Constitution of India provides that *a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder.*

According to various court judgments, the essential elements for attracting the provisions of this article are that there must be an office, such office must be an office of 'profit', it must be under the Government of India or the Government of a State and such office must not be excluded from the operation of this sub-clause by a law made by Parliament.

5. In pursuance of Article 102 of the Constitution, the Parliament (Prevention of Disqualification) Act, 1959 (**Annexure – II**) was enacted which lays down which offices would not disqualify holders thereof from the membership of Parliament. As per Section 3(i) of the Act, if a Chairman or Director or Member of any statutory or non-statutory body is not entitled to any remuneration other than the compensatory allowance, he would not incur disqualification for being chosen as, or for being, a member of Parliament.

Under Section 2(a) of the said Act, “compensatory allowance” has been defined as any sum of “*money payable to the holder of an office by way of daily allowance (such allowance not exceeding the amount of daily allowance to which a Member of Parliament is entitled under the Salary, Allowances and Pension of Members of Parliament Act, 1954), any conveyance allowance, house-rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office*”.

6. The expression “holds any office of profit under the Government” occurring in Article 102 (1) (a) has nowhere been defined precisely. However, in order to determine whether an office held by a person is an office of profit under the Government, the Joint Committee on Office of Profit, in their Tenth Report (7th Lok Sabha), presented to Lok Sabha on 7th May, 1984 (**Annexure – III**), laid down the following guiding principles: -

The broad criteria for the determination of the question whether an office held by a person is an office of profit have been laid down in judicial pronouncements. If the Government exercises control over the appointment to an dismissal from the office and over the performance and functions of the office and in case the remuneration or pecuniary gain, either tangible or intangible in nature, flows from such office irrespective of whether the holder for the time being receives such remuneration or gain or not, the office should be held to be an office of profit under the Government. Otherwise, the object of imposition of the disqualifications as envisaged in the Constitution will become frustrated. This first basic principle should be the guiding factor in offering positions to a member of the Legislature.

7. Keeping the above position in view, the Joint Committee on Office of Profit have been following the undernoted criteria to test the Committees, Commissions, etc., for

deciding the question as to which of the offices should disqualify and which should not disqualify a person for being chosen as, and for being, a Member of Parliament: -

(i) whether 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, like sitting fee, honorarium, salary, etc. i.e. any remuneration other than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959; (The Principle thus is that if a member draws not more than what is required to cover the actual out of Pocket expenses and does not give him pecuniary benefit, it will not act as a disqualification).

(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 licences, etc., or gives powers of appointment, grant of scholarship, etc.; and

(iv) Whether the body in which an office is held wields influence or power by way of patronage.

If reply to any of the above criteria is in affirmative then the office in question may entail disqualification.

8. The NKVIB is a statutory body established under Section 10 of the Khadi and Village Industries Commission Act, 1956. Regarding the constitution and the functioning of the Board, Section 10 of the Act specifies that, -

For the purpose of assisting the Commission in the discharge of its functions under this Act, the Central Government may, by notification in the Official Gazette, constitute a Board to be called the National Khadi and Village Industries Board consisting of a Chairman and such number of other members as the Central Government think fit, chosen from among persons who, in the opinion of the Central Government, are qualified as having had experience, and shown capacity, in matters relating to the development of khadi and village industries. Section 11 of the Act states that the Commission shall ordinarily consult the Board with respect to the discharge of its functions under this Act.

9. The Khadi and Village Industries Commission Rules, 2006 (*hereinafter* the Rules) have been framed under Section 26 of the Act, 1956. Rule 15 of the Rules provides for the National Khadi Village Industries Board and its constitution and specifies that the Board shall consist, *inter-alia*, three Members of Parliament, two from Lok Sabha and one from Rajya Sabha. The relevant portions of the Rules are placed below (**Annexure – IV**).

According to Rule 17, *a member of the Board, other than a member of the Commission shall hold office for such period not exceeding three years as may be specified in the notification of his appointment published in the Official Gazette and shall be eligible for re-appointment.* The Central Government may remove from office any such member of the Board for the contingencies specified in Rule 17(2).

Rule 21(3) of the Rules protects a Member of Parliament or State Legislatures from disqualification as it provides that, -

Notwithstanding anything contained in sub-rules (1) and (2), a member of the Board who is also a member of Parliament or of the Legislature of a State shall not be entitled to any remuneration other than compensatory allowance as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959 or, as the case may be, other than the allowances, if any, which a member of the Legislature of the State may, under any law for the time being in force in the State relating to the prevention of disqualification for membership of the State Legislature, receive without incurring such disqualification.

10. M/o Micro, Small and Medium Enterprises has provided the comments of the Department of Legal Affairs of the M/o Law & Justice (**Annexure – V**), that they had sought in the matter, the relevant parts of which are as under: -

“13.Though in the composition of the Commission as per section 4 of the Act, it is not specifically provided that Members of Parliament are to be part of the Commission, however, from a conjoint reading of the said section and Rule 6(4) of the Rules providing for the salary or Honorarium and Allowances payable to Members of the Commission, it can be inferred that the Chairman or any other member of the Commission, may be a member of the Parliament or of the State Legislature and in the said case also, he shall not be entitled to any remuneration other than the allowances as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959.

14. Though, the Member of the Parliament may be the Chairman or Member of the Commission and exercise functions like implementation of the Act, granting financial assistance and making disbursement of funds, which appear to be executive functions performed on behalf of the Government and thus appears to be holding an 'office', yet with respect to the issue of allowance and 'office of profit', it is categorically provided in Rule 6(4) of the Rules that they will not be entitled to either a rent free accommodation or any remuneration other than compensatory allowance as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. It may be pointed out that the Department has not furnished any other information with respect to the pecuniary benefits or facilities provided to the Members of the Parliament as member of the Board, except to draw attention to proviso of Rule 21(3) of the Rules. Thus, even though the Members of Parliament may be holding an 'office' in the present case, as the allowances payable to a member of the Board or of the Commission are only those permissible to the Members of Parliament as per section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959, in absence of any other information with respect to facilities provided to such Members, the ingredient of 'profit' or 'pecuniary' gain' appears to be absent in the present case.

15. Further, in pursuance of the Article 102 of the Constitution, Parliament enacted the Parliament (Prevention of Disqualification) Act, 1959, exempting certain offices of profit from incurring disqualification for being chosen as, or from being a Member of Parliament. As per section 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, the office of Chairman, Director or Member of any statutory or non-statutory body other than body covered under clause (h), is not disqualified from being a Member of Parliament, if the holder of such office is not entitled to any remuneration other than compensatory allowance. However, it may be mentioned that recourse to the said section may not be needed as the 'office' in the present case does not appear to be an 'office of profit'.

16. In view of the above, on the basis of the information furnished by the administrative Ministry that the Members being entitled to only permissible compensatory allowances, we are of the view that the election of Members of Parliament to National Khadi and Village Industries Board may not be considered

as an 'office of profit' and may not incur disqualification in terms of Article 102(1)(a) of the Constitution of India."

11. The Legislative Department vide their letter No.17(4)/2020-Leg.III dated 14th October (Annexure – VI) have furnished their opinion as under: -

“4. On examination of the Khadi and Village Industries Act, 1956, it is seen that section 11 provides that the Commission shall ordinarily consult the Board with respect to the discharge of its functions under this Act. Further, as per sub-rule (4) of rule 6 of the Khadi and Village Industries Commission Rules, 2006, Member of Parliament is not entitled to any remuneration other than the allowance as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959.

5. Thus, on examination of the papers made available by the Lok Sabha Secretariat to this Department and as per the extant provisions of the Act, 1956 and rules made thereunder, a Member of Parliament nominated to National Khadi and Village Industries Board is not entitled to get any remuneration other than the compensatory allowances as defined in clause (a) of section 2 of the Act, 1959.

6. In view of the above, this Department is in agreement with the opinion tendered by the Department of Legal Affairs that a Member of Parliament being nominated to the National Khadi and Village Industries Board may not incur disqualification in terms of sub-clause (a) of clause (1) of article 102 of the Constitution.”

12. In this connection, the Joint Committee on Offices of Profit called the representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) for oral evidence on Thursday, 19th November, 2020. During the evidence, the representatives of the Ministry briefed the Committee as under: -

“Khadi Village Industries Commission Act was enacted in 1956 for the purpose of development of Khadi and Village Industries and for other matters. In this regard, the Khadi and Village Industries Commission is important for implementation of the provisions of the Act, and the Central Government is also empowered under Section 10 of Act, to constitute a Khadi Village Board to assist the Commission in discharge of its functions. That means, it is not compulsory that

Board shall assist always assist the Commission. As and when necessary, the Commission will take the help of the Board, and in such cases, the Board will extend their assistance to the Commission. The Board Members are appointed by the Central Government by notification. But Rule 21(3) of the Khadi and Village Industries Commission Rules, 2006, categorically says that they are not entitled to allowances more than the compensatory allowances prescribed under Section 2 of the 1959 Act.

.....though the Members of the Board are nominated by the Central Government by a notification, it may amount to an office, under the Government. But that office does not yield any pecuniary gain. Whatever amount they are receiving is within the permissible limits of compensatory allowances as defined under Section 2(a) of the 1959 Act. Since there is no pecuniary gain and since there is no profit attached to that office, they do not attract disqualification in terms of office of profit under article 102 of the Constitution.”

The representatives of the Ministry further added:

“Prima facie, what the Prevention of Disqualification Act, 1959 indicates is that, office would definitely be there. The question is, what offices are exempted. Under Section 3(i) of the Parliament (Prevention of Disqualification) Act, within which this office would fall. So, definitely, if it stands exempted, and if there is no pecuniary gain it would not attract disqualification provided under article 102 of the Constitution. We have already given our opinion in this regard.”

On being asked whether this Board has been figured somewhere or not in the Parliament Prevention of Disqualification Act, 1959, the Ministry submitted that, -

“The Board has not been specifically mentioned therein, however what we have to see is the intention. So, if we look at Section 3(i), certain offices have been mentioned in Part I and Part II of the Schedule. But there are other clauses, which give broad parameter that what are the offices of profit but may not be included for the purpose of disqualification. However, we have to test it on the yardstick as to whether the office has any pecuniary gain or a possibility of a pecuniary advantage to fall or not to fall within those disqualification parameters. Section 3(h) speaks of the office of the Chairman or a Member of a Committee whether consisting of one or more Members set up temporarily for the purpose of advising

the Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry.

If we go to Section 3 (i), it says that the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (h), if the holder of such office is not entitled to any remuneration other than the compensatory allowance. What is excluded within this, is the offices which have been mentioned in Part I of the Schedule and Part II of the Schedule. But the broad parameter would be that in case it is a statutory or a non-statutory authority in which the governing factor would be whether a member is entitled to any remuneration other than the compensatory allowance.

So, considering the parameters provided in the concerned Act, National Khadi and Village Industries Act, 1956 Act, along with the Rules therein, the provisions of Article 102 would not be attracted in this particular case.”

13. On the issue of the yardsticks adopted by the Ministry in arriving on their conclusion as highlighted by Dr. Sasmit Patra, MP (LS), as to whether they are against the yardsticks of the Khadi and Village Industries Commission Act, 1956 or against the yardsticks of the Khadi and Village Industries Commission Rules, 2006, the representative of the Ministry replied that,-

“Sir, the National Khadi and Village Industries Board is a statutory body which is established under Section 10 of the Khadi and Village Industries Commission Act, 1956. So, the provisions of the Act have been taken note of along with the Rules which have been framed thereunder. It is a very detailed and an exhaustive opinion.”

Observations/Recommendations

14. The Committee note that the National Khadi and Village Industries Board is a statutory body which is established under Section 10 of the Khadi and Village Industries Commission Act, 1956. The Khadi and Village Industries Commission Rules, 2006 have been framed under Section 26 of the Act. Rule 15 of the Rules provides for the National Khadi Village Industries Board and its constitution and specifies that the Board shall consist *inter-alia* three Members of Parliament, two from Lok Sabha and one from Rajya Sabha. Rule 17, *inter alia*, provides for the tenure, re-appointment and removal of the member of the Board other than the members of the Commission. Rule 21(3) protects a Member of Parliament or State Legislatures from disqualification as it specifically provides that a member of the Board who is also a member of Parliament or of the Legislature of a State shall not be entitled to any remuneration other than compensatory allowance as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959.

15. The opinion expressed by the Ministry of Law and Justice (Department of Legal Affairs) clearly highlight that even though the Members of Parliament may be holding an 'office' in the present case, as the allowances payable to a member of the Board or of the Commission are only those permissible to the Members of Parliament as per section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959, in absence of any other information with respect to facilities provided to such Members, the ingredient of 'profit' or 'pecuniary' gain' appears to be absent in the present case. The Committee note the view that recourse to the section 3(i) may not be needed as the 'office' in the present case does not appear to be an 'office of profit'. Since the Members are being entitled to only permissible compensatory allowances, the election of Members of Parliament to National Khadi and Village Industries Board may not be considered as an 'office of profit' and may not incur disqualification in terms of Article 102(1)(a) of the Constitution of India.

16. According to the views expressed by the Legislative Department, under the extant provisions of the Act, 1956 and rules made thereunder, a Member of Parliament nominated to National Khadi and Village Industries Board is not entitled to get any remuneration other than the allowances as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959. Therefore, the

Department is in agreement with the opinion tendered by the Department of Legal Affairs that a Member of Parliament being nominated to the National Khadi and Village Industries Board may not incur disqualification in terms of sub-clause (a) of clause (1) of article 102 of the Constitution.

17. In view of the above position and after the deliberations during oral hearing, the Committee find that the membership of the Board would not entail disqualification from the angle of the office of profit in terms of Section 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, as the Rules framed under the Khadi and Village Industries Commission Act, 1956 for the Board specially provide for an exemption from disqualification by way of providing for no remuneration other than the compensatory allowance as defined and articulated by Section 2(a) of the Act, 1959. Thus, the Committee have no objection to the nomination of the Member of the Rajya Sabha to the Board.

NEW DELHI:
15th March, 2021
24 Phalguna, 1942 (Saka)

DR. SATYAPAL SINGH
Chairperson,
Joint Committee on Offices of Profit

नितीन गडकरी
NITIN GADKARI



संख्या नं. 07.10.2019 Annexure - I
मंत्रालय

सड़क परिवहन एवं राजमार्ग और
सूक्ष्म, लघु और मध्यम उद्यम
भारत सरकार

Minister

Road, Transport & Highways and
Micro, Small & Medium Enterprises
Government of India

03rd October, 2019

DO. No. 6/6/2019-KVI (II)

To

The Secretary, General,
Rajya Sabha Secretariat,
Parliament House,
New Delhi

Sub: - Election for nomination of Member of Parliament from Rajya Sabha on National Khadi and Village Industries Board (NKVIB).

Sir,

As per the provisions of Sub-Section 1 of Section 10 of the Khadi and Village Industries Commission Act, 1956 (as amended on March, 2006) (copy enclosed) read with Rule 15 of Khadi and Village Industries Rule, 2006, three Members of Parliament of whom two shall be elected by the House of People and one by the Council of States are to be included as Member of the National Khadi and Village Industries Board to represent the House. Sub-Rule 1 of Rule 17 of the Khadi and Village Industries Commission Rule, 2006 provides that "a member of the Board, other than a member of the Commission shall hold office for such period not exceeding three years as may be specified in the notification of his appointment published in the Official Gazette and shall be eligible for re-appointment".

In accordance with the provisions of KVIC Act, 1956 and Rules thereon, none of the Member of House was elected as member of the Board as notified vide Gazette of India Notification No. S.O. 1868 (E) dated 24th May, 2016 (copy enclosed). In accordance with the provisions of KVIC Act, 1956 and Rules thereon the term of membership of the Hon'ble Members has been completed on 23.05.2019.

For this purpose, I hereby give a notice of my intention to move the following Motion in the House during the ensuing session:

"That in pursuance of Section 10 of Khadi and Village Industries Commission Act, 1956 (as amended from time to time) read with Rule 15 of Khadi and Village Industries Commission Rules, 2006 (as amended from time to time), this House do proceed to elect in such a manner as the Speaker may direct, two Members from amongst the Members of House, to be Members of the National Khadi and Village Industries Board for a term of three years or till the next Board is constituted or till the Member ceases to be a Member of Parliament, whichever is earlier".



Encl.: As above

Yours faithfully,

Nitin Gadkari
(Nitin Gadkari)

2192
4-10-19

5/10/19

J S (Sd)

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भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 1283]

नई दिल्ली, मंगलवार, मई 24, 2016/ज्येष्ठ 3, 1938

No. 1283]

NEW DELHI, TUESDAY, MAY 24, 2016/JYAISTHA 3, 1938

सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय

अधिसूचना

नई दिल्ली, 24 मई, 2016

का.आ. 1868(अ).— केन्द्रीय सरकार, खादी और ग्रामोद्योग आयोग नियम, 2006 के नियम 15 और 17 के साथ पठित खादी और ग्रामोद्योग आयोग अधिनियम, 1956 (1956 का 61) की धारा 10 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से निम्नलिखित अध्यक्ष एवं सदस्यों को मिलाकर उनके नाम के समक्ष दर्शाई गई अवधि के लिए राष्ट्रीय खादी और ग्रामोद्योग बोर्ड का गठन करती है, अर्थात्:-

क्र.सं.	नाम/पदनाम	अध्यक्ष/ सदस्य	नियुक्ति की अवधि
1	भारसाधक मंत्री, सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली।	अध्यक्ष	पदेन
2	अध्यक्ष, खादी और ग्रामोद्योग आयोग, ग्रामोदय, 3, इर्ला रोड, विले पार्ले (प.), मुंबई	सदस्य	पदेन
3	आयोग का एक आंचलिक सदस्य— छमाही क्रमावर्ती	सदस्य	रिक्त
4	आयोग का एक विशेष सदस्य— छमाही क्रमावर्ती	सदस्य	रिक्त
5	सचिव, सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली।	सदस्य	पदेन
6	सचिव, ग्रामीण विकास मंत्रालय या उनका नामनिर्देशिती, जो संयुक्त सचिव, भारत सरकार से नीचे की पंक्ति का न हो, कृषि भवन नई दिल्ली।	सदस्य	पदेन
7	सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग, भारत सरकार या उनका नामनिर्देशिती जो संयुक्त सचिव, से नीचे की पंक्ति का न हो, अनुसंधान भवन, नई दिल्ली।	सदस्य	पदेन

8	सचिव, वित्त मंत्रालय, भारत सरकार, वित्तीय क्षेत्र का कार्य देखने वाले आर्थिक कार्य विभाग या उनका नामनिर्देशिती, जो संयुक्त सचिव से नीचे की पंक्ति का न हो, नई दिल्ली।	सदस्य	पदेन
9	विकास आयुक्त, सूक्ष्म, लघु और मध्यम उद्यम, सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय, भारत सरकार, निर्माण भवन, नई दिल्ली।	सदस्य	पदेन
10	सलाहकार (ग्रामीण और लघु उद्यम), नीति आयोग, संसद मार्ग नई दिल्ली।	सदस्य	पदेन
11	हथकरघा विकास आयुक्त, वस्त्र मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली।	सदस्य	पदेन
12	हस्तशिल्प विकास आयुक्त, वस्त्र मंत्रालय, भारत सरकार, पश्चिमी ब्लॉक-7, आर.के. पुरम, नई दिल्ली।	सदस्य	पदेन
13	कार्यकारी निदेशक, राष्ट्रीय डिजाइन संस्थान, अहमदाबाद।	सदस्य	पदेन
14	महानिदेशक, राष्ट्रीय फैशन प्रौद्योगिकी संस्थान, नई दिल्ली।	सदस्य	पदेन
15	अध्यक्ष और प्रबंध निदेशक, भारतीय लघु उद्योग विकास बैंक (सिडबी), 10/10, मदन मोहन मालवीय मार्ग, लखनऊ।	सदस्य	पदेन
16	प्रबंध निदेशक, राष्ट्रीय कृषि और ग्रामीण विकास बैंक या उनका नामनिर्देशिती, जो कार्यकारी निदेशक की पंक्ति से नीचे का न हो, स्टीलिंग सेंटर, प्रथम मंजिल, डॉ. एनी बेसेंट रोड, वर्ली, मुंबई।	सदस्य	पदेन
17	अध्यक्ष, भारतीय स्टेट बैंक या उनका नामनिर्देशिती, जो उप प्रबंध निदेशक की पंक्ति से नीचे का न हो, न्यू एडमिनिस्ट्रेटिव बिल्डिंग, मैडम कामा रोड, मुंबई।	सदस्य	पदेन
18	महानिदेशक, पब्लिक एक्शन और ग्रामीण प्रौद्योगिकी परिषद, इंडिया हेबिटेड सेंटर, जोन-5 (कोर-सी), द्वितीय मंजिल, लोधी रोड, नई दिल्ली।	सदस्य	पदेन
19	भारसाधक — सचिव, खादी और ग्रामोद्योग, राजस्थान प्रदेश सरकार उत्तरी अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
20	भार साधक — सचिव, खादी और ग्रामोद्योग, त्रिपुरा प्रदेश सरकार उत्तर पूर्वी अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
21	भार साधक — सचिव, खादी और ग्रामोद्योग, उत्तरांचल प्रदेश सरकार मध्य अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
22	भार साधक—सचिव, खादी और ग्रामोद्योग, ओडिशा प्रदेश सरकार पूर्वी अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
23	भार साधक — सचिव, खादी और ग्रामोद्योग, गुजरात प्रदेश सरकार पश्चिमी अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
24	भार साधक — सचिव, खादी और ग्रामोद्योग, तेलंगाना प्रदेश सरकार दक्षिणी अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
25	अध्यक्ष, खादी और ग्रामोद्योग बोर्ड, जम्मू और कश्मीर उत्तरी अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
26	अध्यक्ष, खादी और ग्रामोद्योग बोर्ड, असम सरकार उत्तर पूर्व अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
27	अध्यक्ष, खादी और ग्रामोद्योग बोर्ड, छत्तीसगढ़ मध्य अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
28	अध्यक्ष, खादी और ग्रामोद्योग बोर्ड, अंडमान और निकोबार पूर्वी अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष

29	अध्यक्ष, खादी और ग्रामोद्योग बोर्ड, महाराष्ट्र पश्चिमी अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
30	अध्यक्ष, खादी और ग्रामोद्योग बोर्ड, आंध्र प्रदेश दक्षिणी अंचल का प्रतिनिधित्व।	सदस्य	एक वर्ष
31	श्री अर्जुन राम मेघवाल, संसद सदस्य (लोक सभा)।	सदस्य	3 वर्ष अथवा 16वीं लोक सभा के कार्यकाल की समाप्ति तक जो भी पहले हो
32	श्री शिवाजी अधलराव पाटिल, संसद सदस्य (लोक सभा)।	सदस्य	3 वर्ष अथवा 16वीं लोक सभा के कार्यकाल की समाप्ति तक जो भी पहले हो
33	रिक्त		
34	रिक्त		
35	रिक्त		
36	रिक्त		
37	रिक्त		
38	रिक्त		
39	रिक्त		
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41	रिक्त		
42	रिक्त		
43	रिक्त		
44	रिक्त		
45	रिक्त		
46	रिक्त		
47	रिक्त		
48	अपर सचिव और वित्तीय सलाहकार, सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय, उद्योग भवन, नई दिल्ली।	सदस्य	पदेन
49	संयुक्त सचिव, सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय, उद्योग भवन, नई दिल्ली।	सदस्य	पदेन
50	वित्तीय सलाहकार, खादी और ग्रामोद्योग आयोग, ग्रामोदय, 3 इर्ला रोड, विले पार्ले (पश्चिम), मुम्बई।	सदस्य	पदेन
51	मुख्य कार्यकारी अधिकारी, खादी और ग्रामोद्योग आयोग, ग्रामोदय, 3 इर्ला रोड, विले पार्ले (पश्चिम), मुम्बई।	सदस्य-सचिव	पदेन

[फा. सं. 6(6)/2013-केवीआई-II]

बी. एच. अनिल कुमार, संयुक्त सचिव

MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES

NOTIFICATION

New Delhi, the 24th May, 2016

S.O. 1868(E).— In exercise of the powers conferred by section 10 of the Khadi and Village Industries Commission Act, 1956 (61 of 1956), read with rules 15 and 17 of the Khadi and Village Industries Commission Rules, 2006, the Central Government hereby constitutes the National Khadi and Village Industries Board, consisting of the following Chairman and other members, for a period shown against their names, with effect from the date of publication of this notification in the official Gazette, namely:—

Sr. No.	Name/designation	Chairman/Member	Period of appointment
(1)	(2)	(3)	(4)
1.	Minister, in-charge of the Ministry of Micro, Small and Medium Enterprises, Government of India, Udyog Bhawan	Chairman	<i>ex officio</i> ;
2.	Chairman, Khadi and Village Industries Commission, Gramodaya, 3, Irla Road, Vile Parle (West), Mumbai	Member	<i>ex officio</i> ;
3.	One zonal member of the Commission- by bi-annual rotation	Member	<i>vacant</i>
4.	One expert member of the Commission- by bi-annual rotation	Member	<i>vacant</i>
5.	Secretary to the Government of India in the Ministry of Micro, Small and Medium Enterprises, Udyog Bhawan, New Delhi	Member	<i>ex officio</i> ;
6.	Secretary to the Government of India in the Ministry of Rural Development, or his nominee not below the rank of Joint Secretary to the Government of India, Krishi Bhawan, New Delhi	Member	<i>ex officio</i> ;
7.	Secretary to the Government of India in the Department of Scientific and Industrial Research, or his nominee not below the rank of Joint Secretary to the Government of India, Anusandhan Bhawan, New Delhi	Member	<i>ex officio</i> ;
8.	Secretary to the Government of India in the Ministry of Finance, Department of Economic Affairs dealing with financial sector, or his nominee not below the rank of Joint Secretary to the Government of India, New Delhi	Member	<i>ex officio</i> ;
9.	Development Commissioner for Micro, Small and Medium Enterprises, Ministry of Micro, Small and Medium Enterprises, Government of India, Nirman Bhawan, New Delhi	Member	<i>ex officio</i> ;
10.	Adviser (Village and Small Enterprises) in the National Institute of Transforming India Aayog, Sansad Marg, New Delhi	Member	<i>ex officio</i> ;
11.	Development Commissioner for Handlooms, Ministry of Textiles, Government of India, Udyog Bhawan, New Delhi	Member	<i>ex officio</i> ;
12.	Development Commissioner for Handicraft, Ministry of Textiles, Government of India, West Block 7, R.K. Puram, New Delhi	Member	<i>ex officio</i> ;
13.	Executive Director, National Institute of Design, Ahmedabad	Member	<i>ex officio</i> ;
14.	Director General, National Institute of Fashion Technology, New Delhi	Member	<i>ex officio</i> ;
15.	Chairman and Managing Director, Small Industries Development Bank of India (SIDBI), 10/10, Madan Mohan Malviya Marg, Lucknow	Member	<i>ex officio</i> ;

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16.	Managing Director, National Bank for Agriculture and Rural Development or his nominee not below the rank of Executive Director, Sterling Center, 1 st Floor, Dr. Annie Besant Road, Worli, Mumbai	Member	<i>ex officio</i> ;
17.	Chairman, State Bank of India or his nominee not below the rank of a Deputy Managing Director, New Administrative Building, Madam Cama Road, Mumbai	Member	<i>ex officio</i> ;
18.	Director General, Council for Advancement of Peoples Action and Rural Technology, India Habitat Center, Zone-5. (Core-C), 2 nd Floor, Lodhi Road, New Delhi	Member	<i>ex officio</i> ;
19.	Secretary in-charge of Khadi and Village Industries of the State Government of Rajasthan representing Northern Zone	Member	one year;
20.	Secretary in-charge of Khadi and Village Industries of State Government of Tripura representing North-Eastern Zone	Member	one year;
21.	Secretary in-charge of Khadi and Village Industries of State Government of Uttaranchal representing Central Zone	Member	one year;
22.	Secretary in-charge of Khadi and Village Industries of State Government of Odisha representing Eastern Zone	Member	one year;
23.	Secretary in-charge of Khadi and Village Industries of State Government of Gujarat representing Western Zone	Member	one year;
24.	Secretary in-charge of Khadi and Village Industries of State Government of Telangana representing Southern Zone	Member	one year;
25.	Chairperson, Khadi and Village Industries Board, Jammu and Kashmir representing Northern Zone	Member	one year;
26.	Chairperson, Khadi and Village Industries Board, Assam representing North-Eastern Zone	Member	one year;
27.	Chairperson, Khadi and Village Industries Board, Chhatisgarh representing Central Zone	Member	one year;
28.	Chairperson, Khadi and Village Industries Board, Andaman and Nicobar representing Eastern Zone	Member	one year;
29.	Chairperson, Khadi and Village Industries Board, Maharashtra representing Western Zone	Member	one year;
30.	Chairperson, Khadi and Village Industries Board, Andhra Pradesh representing Southern Zone	Member	one year;
31.	Shri Arjun Ram Meghwal, Member of Parliament (Lok Sabha)	Member	three years or till the expiry of the term of Sixteenth Lok Sabha, whichever is earlier;
32.	Shri Shivaji Adhalrao Patil, Member of Parliament (Lok Sabha)	Member	three years or till the expiry of the term of Sixteenth Lok Sabha, whichever is earlier;
33.	Vacant		
34.	Vacant		
35.	Vacant		
36.	vacant		
37.	Vacant		
38.	Vacant		
39.	Vacant		
40.	Vacant		
41.	Vacant		
42.	Vacant		
43.	Vacant		
44.	Vacant		

45.	Vacant		
46.	Vacant		
47.	Vacant		
48.	Additional Secretary and Financial Advisor, Ministry of Micro, Small and Medium Enterprises, Udyog Bhawan, New Delhi	Member	<i>ex officio;</i>
49.	Joint Secretary to the Government of India in the Ministry of Micro, Small and Medium Enterprises, Udyog Bhawan, New Delhi	Member	<i>ex officio;</i>
50.	Financial Adviser, Khadi and Village Industries Commission, Gramodaya, 3, Irla Road, Vile Parle (West), Mumbai	Member	<i>ex officio;</i>
51.	Chief Executive Officer, Khadi and Village Industries Commission, Gramodaya, 3, Irla Road, Vile Parle (West), Mumbai	Member-Secretary	<i>ex officio.</i>

[F. No. 6(6)/2013-K.VI-II]

B. H. ANIL KUMAR, Jt. Secy.

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) ACT, 1959
(10 OF 1959)

[4th April, 1959.]

An Act to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being, members of Parliament.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Parliament (Prevention of Disqualification) Act, 1959.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "compensatory allowance" means any sum of money payable to the holder of an office by way of daily allowance [such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under [the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954)], any conveyance allowance, house rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions, of that office;

(b) "statutory body" means any corporation, committee, commission, council, board or other body of persons, whether incorporated or not, established by or under any law for the time being in force;

(c) "non-statutory body" means any body of persons other than a statutory body.

3. **Certain offices of profit not to disqualify.**—It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament, namely:—

(a) any office held by a Minister, Minister of State or Deputy Minister for the Union or for any State, whether *ex officio* or by name;

² [(aa) the office of a Leader of the Opposition in Parliament;]

³ [(ab) the office of Deputy Chairman, Planning Commission;]

⁴ [(ac) the office of [each leader and deputy leader] of a recognised party and recognised group in either House of Parliament;]

⁶ [(ad) the office of the Chairperson of the National Advisory Council constituted by the Government of India in the Cabinet Secretariat vide Order No. 631/2/1/2004-Cab., dated the 31st May, 2004;]

(b) the office of Chief Whip, Deputy Chief Whip or Whip in Parliament or of a Parliamentary Secretary;

⁷ [(ba) the office of Chairperson of—

(i) the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992 (19 of 1992);

⁸ [(ii) the National Commission for the Scheduled Castes constituted under clause (1) of article 338 of the Constitution;

[(iia) the National Commission for the Scheduled Tribes constituted under clause (1) of article 338A of the Constitution;

(iii) the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990 (20 of 1990);]

(c) the office of member of any force raised or maintained under the National Cadet Corps Act, 1948 (31 of 1948), the Territorial Army Act, 1948 (56 of 1948), or the Reserve and Auxiliary Air Forces Act, 1952 (62 of 1952);

(d) the office of a member of a Home Guard constituted under any law for the time being in force in any State;

(e) the office of sheriff in the city of Bombay, Calcutta or Madras;

1. Subs. by Act 54 of 1993, s. 2, for certain words (w.e.f. 27-8-1993).

2. Ins. by Act 33 of 1977, s. 12 (w.e.f. 1-11-1977).

3. Ins. by Act 54 of 1993, s. 3 (w.e.f. 19-7-1993).

4. Ins. by Act 5 of 1999, s. 5.

5. Subs. by Act 18 of 2000, s. 5, for certain words (w.e.f. 7-6-2000).

6. Ins. by Act 31 of 2006, s. 2 (w.e.f. 18-8-2006).

7. Ins. by Act 54 of 1993, s. 3 (w.e.f. 27-8-1993).

8. Subs. by Act 28 of 2013, s. 2 (w.e.f. 19-2-2014).

(f) the office of chairman or member of the syndicate, senate, executive committee, council or court of a university or any other body connected with a university;

(g) the office of a member of any delegation or mission sent outside India by the Government for any special purpose;

(h) the office of chairman or member of a committee (whether consisting of one or more members), set up temporarily for the purpose of advising the Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry into, or collecting statistics in respect of, any such matter, if the holder of such office is not entitled to any remuneration other than compensatory allowance;

¹ [(i) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (h), if the holder of such office is not entitled to any remuneration other than compensatory allowance, but excluding (i) the office of chairman of any statutory or non-statutory body specified in Part I of the Schedule, (ii) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule;]

(j) the office of village revenue officer, whether called a lambardar, malguzar, patel, deshmukh or by any other name, whose duty is to collect land revenue and who is remunerated by a share of, or commission on, the amount of land revenue collected by him, but who does not discharge any police functions.

² [(k) the office of Chairman, Deputy Chairman, Secretary or Member (by whatever name called) in any statutory or non-statutory body specified in the Table;

(l) the office of Chairman or Trustee (by whatever name called) of any Trust, whether public or private, not being a body specified in the Schedule;

(m) the office of Chairman, President, Vice-President or Principal Secretary or Secretary of the Governing Body of any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law relating to registration of societies, not being a body specified in the Schedule.]

³ [Explanation 1].—For the purposes of this section, the office of ⁴ [Chairman, Deputy Chairman or Secretary] shall include every office of that description by whatever name called.

⁵ [Explanation 2].—In clause (aa), the expression "Leader of the Opposition" shall have the meaning assigned to it in the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977 (33 of 1977).]

⁶ [Explanation 3].—In clause (ac), the expressions "recognised party" and "recognised group" shall have the meanings assigned to them in the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 (5 of 1999).]

4. Temporary suspension of disqualification in certain cases.—If a person being a member of Parliament who immediately before the commencement of this Act held an office of profit declared by any law repealed by this Act not to disqualify the holder thereof for being such member, becomes so disqualified by reason of any of the provisions contained in this Act, such office shall not, if held by such person for any period not extending beyond a period of six months from the commencement of this Act disqualify him for being a member of Parliament.

5. Repeals.—The Parliament (Prevention of Disqualification) Act, 1950 (19 of 1950), the Parliament Prevention of Disqualification Act, 1951 (68 of 1951), the Prevention of Disqualification Act, 1953 (1 of 1954), and any provision in any other enactment which is inconsistent with this Act are hereby repealed.

1. Subs. by Act 54 of 1993, s. 3, for cl. (f) (w.e.f. 19-7-1993).

2. Ins. by Act 31 of 2006, s. 12 (w.e.f. 4-4-1959).

3. Explanation numbered as Explanation 1 thereof by Act 33 of 1977, s. 12 (w.e.f. 1-11-1977).

4. Subs. by Act 54 of 1993, s. 3, for certain words (w.e.f. 27-8-1993).

5. Ins. by Act 33 of 1977, s. 12 (w.e.f. 1-11-1977).

6. Ins. by Act 5 of 1999, s. 5.

THE SCHEDULE

[See section 3(f)]

PART I

BODIES UNDER THE CENTRAL GOVERNMENT

Air India International Corporation established under section 3 of the Air Corporations Act, 1953 (27 of 1953).

Air Transport Council constituted under section 30 of the Air Corporations Act, 1953 (27 of 1953).

Board of Directors of the Export Risks Insurance Corporation ¹ *** Limited.

Board of Directors of the Heavy Electrical ¹ *** Limited.

Board of Directors of the Hindustan Cables ¹ *** Limited.

Board of Directors of the Hindustan Insecticides ¹ *** Limited.

Board of Directors of the Hindustan Machine Tools ¹ *** Limited.

Board of Directors of the Hindustan Shipyard Limited.

Board of Directors of the ² [Hindustan Chemicals and Fertilizers Limited].

Board of Directors of the National Coal Development Corporation (Private) Limited.

Board of Directors of the National ³ [Industrial] Development Corporation ¹ *** Limited.

Board of Directors of the National Instruments ¹ *** Limited.

Board of Directors of the National Small Industries Corporation ¹ *** Limited.

Board of Directors of the Neyveli Lignite Corporation (Private) Limited.

Board of Directors of the Sindri Fertilizers and Chemicals ¹ *** Limited.

Board of Directors of the State Trading Corporation of India ¹ *** Limited.

Central Warehousing Corporation established under section 17 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Coal Board established under section 4 of the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952).

Coal Mines Labour Housing Board constituted under section 6 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947).

Commissioners for the Port of Calcutta.

Committee for the allotment of land in the township of Gandhidham.

Company Law Advisory Commission constituted under section 410 of the Companies Act, 1956 (1 of 1956).

Cotton Textiles Fund Committee constituted under the Textile Funds Ordinance, 1944 (Ord. 34 of 1944).

Dock Labour Board, Bombay, established under the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Dock Labour Board, Calcutta, established under the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Dock Labour Board, Madras, established under the Madras Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Forward Markets Commission established under section 3 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Indian Airlines Corporation established under section 3 of the Air Corporations Act, 1953 (27 of 1953).

Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948).

1. The brackets and word "(Private)" omitted by Act 58 of 1960, s. 3 and the Second Schedule.

2. Subs. by Act 58 of 1960, s. 3 and the Second Schedule, for "Nangal Fertilizers and Chemicals (Private) Limited".

3. Ins. by s. 3 and the Second Schedule, *ibid.*


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Licensing Committee constituted under rule 10 of the Registration and Licensing of Industrial Undertakings Rules, 1952, made under the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Mining Boards constituted under section 12 of the Mines Act, 1952 (35 of 1952).

National Co-operative Development and Warehousing Board established under section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Rehabilitation Finance Administration constituted under section 3 of the Rehabilitation Finance Administration Act, 1948 (12 of 1948).

Tariff Commission established under section 3 of the Tariff Commission Act, 1951 (50 of 1951).

Trustees of the Port of Bombay.

Trustees of the Port of Madras.

Trustees or Commissioners of any major port as defined in the Indian Ports Act, 1908 (15 of 1908), other than the Port of Calcutta, Bombay or Madras.

Bodies under State Governments

Andhra Pradesh

Agricultural Improvement Fund Committee constituted under section 3 of the Hyderabad Agricultural Improvement Act, 1952.

Co-operative Agricultural and Marketing Development Fund Committee.

Livestock purchasing Committee.

Assam

Adhi Conciliation Boards constituted under section 2A of the Assam Adhiars Protection and Regulation Act, 1948.

Assam Evacuee Property Management Committee constituted under section 12 of the Assam Evacuee Property Act, 1951.

Assam Text Book Committee.

Bihar

Mining Board for Coal Mines.

Text Book and Education Literature Committee.

Bombay

Allocation Committee (Allopathic) under the Employees' State Insurance Scheme.

Allocation Committee (Ayurvedic) under the Employees' State Insurance Scheme.

Board to conduct over-all supervision of the business and affairs of the *Narsinggiriji* Mills, Sholapur.

Bombay Housing Board constituted under section 3 of the Bombay Housing Board Act, 1948.

Bombay State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Bombay State Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

Medical Service Committee under the Employees' State Insurance Scheme.

Pharmaceutical Committee under the Employees' State Insurance Scheme.

Regional Transport Authority for Ahmedabad, Aurangabad, Bombay, Nagpur, Poona, Rajkot and Thana constituted under section 44 of the *Motor Vehicles Act, 1939 (4 of 1939).

Saurashtra Housing Board constituted under section 3 of the Saurashtra Housing Board Act, 1954.

State Transport Authority constituted under section 44 of the * Motor Vehicles Act, 1939 (4 of 1939).

Vidarbha Housing Board constituted under section 3 of the Madhya Pradesh Housing Act, 1950.

* Now see the relevant provisions of the Motor Vehicles Act, 1988 (59 of 1988).

Kerala

Board of Examiners appointed under rule 8 of the Travancore-Cochin Boiler Attendants Rules, 1954.

Panel of Assessors constituted under rule 63 of the Travancore-Cochin Boiler Attendants Rules, 1954.

Panel of Assessors constituted under the Travancore-Cochin Economiser Rules, 1956.

Madhya Pradesh

Madhya Pradesh Housing Board constituted under section 3 of the Madhya Pradesh Housing Board Act, 1950.

Mahakoshal Housing Board.

¹ *[Tamil Nadu]*

Committee to select Books for Study for S.S.L.C. Examination.

Landing and Shipping Fees Committees for Minor Ports.

Local Committee constituted under regulation 10A of the Employees' State Insurance (General) Regulations, 1950.

Madras Board of Transport.

² [Tamil Nadu Electricity Board] constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Madras State Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

Port Conservancy Boards.

Port Trust Boards of Minor Ports.

State Board of Communications.

Text Books Committee.

³ *[Karnataka]*

Board of Management, Mysore Iron and Steel Works, Bhadravathi.

Board of Management of Industrial Concerns.

Orissa

Appeal Committee under the Board of Secondary Education.

Orissa Board of Communications and Transport.

Regional Transport Authority constituted under section 44 of the *Motor Vehicles Act, 1939 (4 of 1939).

State Transport Authority constituted under section 44 of the *Motor Vehicles Act, 1939 (4 of 1939).

Punjab

Punjab State National Workers (Relief and Rehabilitation) Board.

Rajasthan

City Improvement Trust, Kota, constituted under the City of Kota Improvement Act, 1946.

Excise Appellate Board, Ajmer.

Rajasthan State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Urban Improvement Board, Jaipur.

Uttar Pradesh

Government Cement Factory Board.

Local Committees for Agra, Kanpur, Lucknow and Saharanpur appointed under section 25 of the Employees' State Insurance Act, 1948 (34 of 1948).

Sub-Committee to select books for Educational Expansion Department.

U.P. Sugar and Power Alcohol and Labour Housing Board constituted under section 10 of the U.P. Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act, 1950.

1. Subs. by the Madras State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1970, for "Madras" (w.e.f. 14-1-1969).

2. Subs., *ibid.*, for "Madras State Electricity Board".

3. Subs. by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1974, for "Mysore" (w.e.f. 1-11-1973).

* Now see the relevant provisions of the Motor Vehicles Act, 1988 (59 of 1988).

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West Bengal

Licensing Board constituted under the regulations made under rule 45 of the Indian Electricity Rules, 1956.
West Bengal Housing Board constituted under the West Bengal Development Corporation Act, 1954.

BODIES IN UNION TERRITORIES

Delhi Development Authority constituted under section 3 of the Delhi Development Act, 1957 (61 of 1957).

Delhi Electricity Power Control Board constituted under section 5 of the Bombay Electricity (Special Powers) Act, 1946, as applied to Delhi.

Delhi State Electricity Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

PART II

BODIES UNDER THE CENTRAL GOVERNMENT

Advisory Committee for the Air-India International Corporation appointed under section 41 of the Air Corporations Act, 1953 (27 of 1953).

Advisory Committee for the Indian Airlines Corporation appointed under section 41 of the Air Corporations Act, 1953 (27 of 1953).

Central Silk Board constituted under section 4 of the Central Silk Board Act, 1948 (61 of 1948).

Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942).

Coir Board constituted under section 4 of the Coir Industry Act, 1953 (45 of 1953).

Development Council for Acids and Fertilizers established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Alkalis and Allied Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Bicycles established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Drugs, Dyes and Intermediates established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Food Processing Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Heavy Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Internal Combustion Engines and Power Driven Pumps established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Light Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Machine Tools established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Non-ferrous Metals including alloys established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Oil-based and Plastic Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Sugar Industry established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Textiles made of artificial silk including artificial silk yarn established under section 6 of the Industries Development and Regulation Act, 1951 (65 of 1951).

Development Council for Textiles made of wool including woollen yarn, hosiery, carpets and drugget established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Durgah Committee, Ajmer, constituted under section 4 of the Durgah Khwaja Sahab Act, 1955 (36 of 1955).

Indian Central Arecanut Committee.

Indian Central Coconut Committee constituted under section 4 of the Indian Coconut Committee Act, 1944 (10 of 1944).

Indian Central Cotton Committee constituted under section 4 of the Indian Cotton Cess Act, 1923 (14 of 1923).

Indian Central Jute Committee.

Indian Central Oilseeds Committee constituted under section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946).

Indian Central Sugarcane Committee.

Indian Central Tobacco Committee.

Indian Lac Cess Committee constituted under section 4 of the Indian Lac Cess Act, 1930 (24 of 1930).

Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947).

Tea Board constituted under section 4 of the Tea Act, 1953 (29 of 1953).

BODIES UNDER STATE GOVERNMENTS

Andhra Pradesh

Market Committee constituted under section 4 of the Hyderabad Agricultural Market Act No. II of 1339 F.

Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act, 1933.

Bihar

Bihar State Board of Religious Trusts.

Bihar SubaiMajlisAwqaf.

Bodh Gaya Temple Advisory Committee constituted under section 15 of the Bodh Gaya Temple Act, 1949.

Bodh Gaya Temple Management Committee constituted under section 3 of the Bodh Gaya Temple Act, 1949.

Kerala

Administration Committee for Coir Purchase Scheme.

Malabar Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act, 1933.

Tapioca Market Expansion Board.

¹ *[Tamil Nadu]*

Area Committee for Hindu Religious and Charitable Endowments constituted under section 12 of the Madras Hindu Religious and Charitable Endowments Act, 1951.

Madras State Wakf Board constituted under section 9 of the Wakf Act, 1954 (29 of 1954).

Punjab

State Marketing Board constituted under section 3 of the Patiala Agricultural Produce Markets Act, 2004.

² * * * * *

³ [TABLE

[See section 3(k)]

S.No.	Name of the Body
(1)	(2)
1.	The Tripura Khadi and Village Industries Board, a body constituted under the Tripura Khadi and Village Industries Act, 1966.
2.	The Uttar Pradesh Development Council.
3.	The Irrigation and Flood Control Commission, Uttar Pradesh.

1. Subs. By the Madras State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1970, for "Madras" (w.e.f. 14.1.1969).
2. Part III omitted by Act 54 of 1993, S. 4 (w.e.f. 19.7.1993).
3. Ins. by Act 31 of 2006, s.3 (w.e.f. 4-4-1959).

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(1)	(2)
4.	The Indian Statistical Institute, Calcutta.
5.	The West Bengal Handicrafts Development Corporation Limited.
6.	The West Bengal Small Industries Development Corporation Limited.
7.	The West Bengal Industrial Development Corporation Limited.
8.	The Sriniketan Santiniketan Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
9.	The Haldia Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
10.	The West Bengal Minorities Development and Finance Corporation, a body constituted under the West Bengal Minorities Development and Finance Corporation Act, 1995.
11.	The Hooghly River Bridge Commissioners, constituted under the Hooghly River Bridge Act, 1969 (West Bengal Act No. 36 of 1969).
12.	The Board of Wakf, West Bengal, a body constituted under the Wakf Act, 1995 (43 of 1995).
13.	The State Fisheries Development Corporation Limited, West Bengal.
14.	The West Bengal State Haj Committee, constituted under the Haj Committee Act, 2002 (35 of 2002).
15.	The Asansol Durgapur Development Authority, West Bengal, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
16.	The West Bengal Pharmaceutical and Phytochemical Development Corporation Limited.
17.	The West Bengal Handloom and Powerloom Development Corporation Limited.
18.	The West Bengal Khadi and Village Industry Board.
19.	The Society for Self-employment for Urban Youth, a society registered under the West Bengal Societies Registration Act, 1961 (West Bengal Act No. 26 of 1961).
20.	The Tirumala Tirupati Devasthanams Board.
21.	The Agricultural and Processed Food Products Export Development Authority, an authority constituted under section 4 of the Agricultural and Processed Food Products Export Development Authority Act, 1985 (2 of 1986).
22.	The National Agricultural Co-operative Marketing Federation of India Limited (NAFED).
23.	The Indian Farmer Fertilizers Co-operative Limited (IFFCO).
24.	The Krishak Bharati Co-operative Limited (KRIBHCO).
25.	The National Co-operative Consumers Federation of India Limited (NCCF).
26.	The Auroville Foundation established under sub-section (1) of section 10 of the Auroville Foundation Act, 1988 (54 of 1988).
27.	The National Commission of Enterprises in the Unorganised Sector.
28.	The Planning Board (Asiatic Society) established under sub-section (1) of section 8 of the Asiatic Society Act, 1984 (5 of 1984).
29.	The Delhi Rural Development Board.
30.	The Maulana Azad Education Foundation.
31.	The Indira Gandhi National Centre for the Arts.
32.	The Dr. Ambedkar Foundation.
33.	The Bihar State Board of Religious Trust, a body constituted under the Bihar Hindu Religious Trust Act, 1950 (Bihar Act No. 1 of 1951).
34.	The Research and Information System for the Non-Aligned and Other Developing Countries.
35.	The Indian Institute of Psychometry.
36.	The Uttar Pradesh Film Development Council.
37.	The Uttar Pradesh Provincial Co-operative Federation.

38.	The Uttar Pradesh Co-operative Federation Limited.
39.	The National Co-operative Union of India.
40.	The Uttar Pradesh Krishi and Gram Vikas Bank.
41.	The Uttar Pradesh Co-operative Bank Limited.
42.	The Indian Council for Cultural Relations.
43.	The Board of Control—A.N. Sinha Institute of Social Studies, Patna.
44.	All India Council for Sports.
45.	The Howrah Improvement Trust.
46.	The Dalit Sena, 12, Janpath, New Delhi.
47.	The Social Justice Trust, 12, Janpath, New Delhi.
48.	The Bahujan Foundation (Charitable Trust), Lucknow, Uttar Pradesh.
49.	The BahujanPrerna Charitable Trust, Delhi.
50.	The Central Wakf Council established under section 9 of the Wakf Act, 1995 (43 of 1995).
51.	The Nehru Memorial Museum and Library (NMML).
52.	The JalianwalaBagh Memorial Trust.
53.	The Haj Committee of India constituted under section 3 of the Haj Committee Act, 2002. (35 of 2002).
54.	The MallickghatPhoolbazarParichalan Committee.
55.	The West Bengal Fisheries Corporation Limited.]

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JOINT COMMITTEE ON OFFICES OF PROFIT

TENTH REPORT

(SEVENTH LOK SABHA)

ON

THE DRAFT PARLIAMENT (PREVENTION OF
DISQUALIFICATION) AMENDMENT BILL, 1983



Presented to Lok Sabha on 7th May, 1984

Laid in Rajya Sabha on 7th May, 1984

LOK SABHA SECRETARIAT
NEW DELHI

May, 1984/Vaisakha, 1906 (Saka)

Price : Rs. 5-20

2

purpose behind enacting the 1959 Act. So, with a view to make the provision workable, the task of defining the type of executive power, which was to disqualify a member, would have to be taken up. The law would also become very uncertain and would lead to an increase of election petitions. Same would be the case with legislative, Judicial and financial powers as in each case the exact type of such powers which would disqualify, had to be specified making the issue fairly cloudy. He also stated that the work of advice on the exemption of the nature of the office had been entrusted to the Joint Committee on Offices of Profit since a member was entitled to know before he had accepted an office as to whether acceptance of it would lead him to disqualification. With regard to the guidelines that a member would be disqualified if he held an office where he was in a position to wield influence or distribute patronage, the representatives of the Ministry maintained that the trend of judicial decisions had been to equate profit in terms of money or assess in terms of pecuniary gain. Mere patronage under Article 112 (1) (a) would not disqualify.

10.3 The Committee feel that the basic principle underlying the imposition of disqualification under articles 102 (1) (a) and 191 (1) (a) of the Constitution is that a member of the Legislature should not be indebted to Government by accepting an 'office of profit' under the Government and thus compromise his independence. The Legislature should be kept independent of the executive so that the members would be free to carry out fearlessly their duties to their electorate and not to be influenced by any consideration of personal gain. They should not run the risk of conflict between duty and self-interest.

✓ 10.4 The broad criteria for the determination of the question whether an office held by a person is an office of profit have been laid down in judicial pronouncements. If the Government exercises control over the appointment to and dismissal from the office, and over the performance and functions of the office and in case the remuneration or pecuniary gain, either tangible or intangible in nature, flows from such office irrespective of whether the holder for the time being actually receives such remuneration or gain or not, the office should be held to be an office of profit under the Government. Otherwise, the object of imposition of the disqualifications as envisaged in the Constitution will become frustrated. This first basic principle (para 10.3) should be the guiding factor in offering positions to a member of the Legislature.

10.5 Keeping the above position in view, the Joint Committee on Offices of Profit have been following the undernoted criteria to test the Committees, Commissions, etc. for deciding the question as to which of the offices

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART-II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF AGRO AND RURAL INDUSTRIES

NOTIFICATION

New Delhi, the _____ August 2006

G.S.R. - In exercise of the Powers conferred by sub-sections (1) and (2) of section 26 of the Khadi and Village Industries Commission Act, 1956 (61 of 1956) and in supersession of the Khadi and Village Industries Commission Rules, 1957 except in respect of things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

CHAPTER I

PRELIMINARY

1. Short title and commencement. - (1) These rules may be called the Khadi and Village Industries Commission Rules, 2006.

(2) These rules shall come into force from the date of their publication in the official Gazette.

2. Definitions. - In these rules, unless the context otherwise requires,-

- (a) "Act" means Khadi and Village Industries Commission Act, 1956 (61 of 1956);
- (b) "The Board" means the National Khadi and Village Industries Board constituted under section 10 of the Act;
- (c) "Chairman" means the Chairman of the Commission;
- (d) "Chief Executive Officer" means the Chief Executive Officer appointed under clause (c) of sub-section (2) of section 4 of the Act;
- (e) "Financial Adviser" means the Financial Adviser appointed under clause (d) of sub-section (2) of section 4 of the Act;
- (f) "Government" means the Central Government;
- (g) "Standing Finance Committee" means a committee constituted under section 19A of the Act;
- (h) "Individual" means an artisan or any other worker undertaking activities falling under purview of the commission and for which grants and subsidies are given.

✓ 17. **Term of Office.**- (1) Save as hereinafter provided, a member of the Board, other than a member of the Commission shall hold office for such period not exceeding three years as may be specified in the notification of his appointment published in the Official Gazette and shall be eligible for re-appointment.

- (2) The Government may remove from office any such member of the Board:
- (a) if he is found to be a lunatic or a person of unsound mind; or
 - (b) if he has been adjudged insolvent; or
 - (c) if he has been convicted of an offence involving moral turpitude; or
 - (d) if, in the opinion of the Government, he has failed or is unable to carry out his duties, so as to render his removal necessary; or
 - (e) if he absents himself from three consecutive meetings of the Board without leave of the Board; or
 - (f) if he has any financial interest in any subsisting contract made with or in any work being done for the Commission except as shareholder (other than a Director or Managing Agent) in a company as defined in section 3 of the Companies Act, 1956;

Provided that where he is a shareholder, he will disclose to the Government the nature and extent of shares held by him in such a company.

18. **Casual Vacancies.**- (1) When any such member of the Board dies or resigns or is removed from office, the Government may, by notification in the Official Gazette, appoint a person to fill the vacancy.

(2) A member appointed under sub-rule (1) to fill a casual vacancy shall hold office so long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

19. **Membership roll.**- (1) The Chief Executive Officer shall keep or cause to be kept a record of the names of the members of the Board and their addresses.

(2) If a member of the Board changes his address, he shall notify his new address to the Chief Executive Officer who shall thereupon enter his new address, but if he fails to notify his new address, the address in the official record shall for all purposes be deemed to be the member's address.

20. **Resignation.**- A member of the Board other than a member of the Commission may resign his office by a letter addressed to the Government through the Chairman of the Commission who shall forward it to the government within ten days of its receipt. The office of such member shall fall vacant from the date on which his resignation is notified in the Official Gazette or on the date of expiry of twenty days from the date of receipt by the Government of the letter of resignation whichever is earlier.

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✓21. **Honorarium and Allowances.**- (1) The members of the Board, other than members of the Commission, shall be paid such honoraria or allowances from the funds of the Commission as the Government may from time to time fix.

(2) Such members of the Board shall be entitled to draw from the funds of the Commission, travelling and daily allowances for journeys performed by them for the purpose of attending the meetings of the Board or for the purpose of discharging any functions of the Board assigned to them by the Board or the Commission from time to time, at the highest rate admissible to Grade I officers of the Government.

✓(3) Notwithstanding anything contained in sub-rules (1) and (2), a member of the Board who is also a member of Parliament or of the Legislature of a State shall not be entitled to any remuneration other than compensatory allowance as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959 or, as the case may be, other than the allowances, if any, which a member of the Legislature of the State may, under any law for the time being in force in the State relating to the prevention of disqualification for membership of the State Legislature, receive without incurring such disqualification.

CHAPTER V

BUDGET, ACCOUNTS AND AUDIT

22. **Preparation and submission of annual estimates.**- (1) The budget estimates of the Commission for every financial year beginning on the 1st day of April and ending on 31st day of March following shall be prepared or caused to be prepared by the Financial Adviser sufficiently in advance of the date fixed in sub-rule (4) in accordance with sub-rule (6).

(2) A copy of the budget estimates so prepared shall be sent to each member of the Commission at least fourteen days before the meeting of the Commission at which such estimates are to be considered.

(3) The Commission shall consider and approve, in consultation with the Financial Adviser, the budget estimates with such changes as it things fit at the meeting to which the consideration of the budget estimates fixed by a resolution of the Commission.

(4) The budget estimates as approved by the Commission shall be submitted to the Government by the 15th of October:

Provided that the Government may, on the request of and for sufficient reasons reported by the Commission, extend the date of submission of the budget estimates by such period not exceeding fifteen days as the Government may think fit.

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Amesure - V

Ministry of Law and Justice
Department of Legal Affairs

E.O. No. 347892/B/2019

Ministry of Micro, small and Medium Enterprises, has sought our advice of on the issue whether the election of three Members of Parliament, one from Lok Sabha and other from Rajya Sabha to the National Khadi and Village Industries Board is clear from from the angle of 'Office of Profit'.

2. The matter was earlier referred to this department and vide FTS No. 2431/Adv. B/2014 dated 09.09.2014, the administrative Ministry was requested to specifically mention the provision of the Acts and Rules regarding the salary, honorarium and allowances payable to the non-official Members. Clarification was also sought with respect to whether Members of the Houses are eligible to hold the 'Office of Profit' after becoming the Members of the Board including specific provision of the Acts/Rules.
3. It is now stated by the Department that Rule 21(3) of the Khadi and Village Industries Commission Rules, 2006 provides that "*Notwithstanding anything contained in sub-rules (1) and (2), a member of the Board who is also a member of Parliament or of the Legislature of a State shall not be entitled to any remuneration other than compensatory allowance as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959....*"
4. We have perused the matter and the comments of the administrative Ministry. Section 4 of the Act provides for the establishment and constitution of the Commission by the Central Government by a notification in the Official Gazette, which shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and may by the said name sue and be sued. Section 15 of the Act specifies the functions of the Commission, which is to plan, promote, facilitate, organise and assist in the establishment and development of khadi and village industries in the rural areas in coordination with other agencies engaged in rural development wherever necessary.
5. It is noted that the National Khadi and Village Industries Board is a statutory body established under section 10 of the Khadi and Village Industries Commission Act, 1956 (the Act) and is defined in section 2(a) of the Act as the Board constituted under section 10. Section 10 specifies that for the purpose of assisting the Commission in the discharge of its functions under this Act, the Central Government may, by notification in the Official Gazette, constitute a Board to be called the National Khadi and Village Industries Board consisting of a Chairman and such number of other members as the Central Government think fit, chosen from among persons who, in the opinion of the Central Government, are qualified as having had experience, and shown capacity, in matters relating to the development of khadi and village industries. As per section 11 of the Act, the Commission shall ordinarily consult the Board with respect to the discharge of its functions under this Act.
6. Section 26 empowers the Central Government to make rules to give effect to the provisions of the Act by a notification in the Official Gazette, inter-alia including for the transaction of business at the meetings of the Board under section 10(2), the procedure to be followed in removing a member who is or becomes subject to any disqualification, the term of office and other conditions of service of, the procedure to be followed in the discharge of functions by, and the manner of filling casual vacancies among members of the Board. The Khadi and Village Industries Commission Rules, 2006 have been made in exercise of powers conferred by section 26 of the Act. Rule 15 of the Rules provides for the Board and its constitution and specifies that the Board shall consist *inter-alia*, three Members of Parliament, one from Lok Sabha and other from Rajya Sabha. As per Rule 17, a member of the Board, other than a member of the Commission shall hold office for such period not

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exceeding three years as may be specified in the notification of his appointment published in the Official Gazette and shall be eligible for re-appointment. The Government may remove from office any such member of the Board for the contingencies specified in Rule 17(2).

7. Rules 21 of the Rules provides for the Honorarium and Allowances payable to the Members of the Board and reads as under:

- (1) The members of the Board, other than members of the Commission, shall be paid such honoraria or allowances from the funds of the Commission as the Government may from time to time fix.
- (2) Such members of the Board shall be entitled to draw from the funds of the Commission, travelling and daily allowances for journeys performed by them for the purpose of attending the meetings of the Board or for the purpose of discharging any functions of the Board assigned to them by the Board or the Commission from time to time, at the highest rate admissible to Grade I officers of the Government.
- (3) Notwithstanding anything contained in sub-rule (1) and (2), a member of the Board who is also a member of Parliament or of the Legislature of a State shall not be entitled to any remuneration other than compensatory allowance as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959 or, as the case may be, other than the allowances, if any, which a member of the Legislature of the State may, under any law for the time being in force in the State relating to the prevention of disqualification for membership of the State Legislature, receive without incurring such disqualification.

8. It is noted that Rule 6 of the Rules provides for the salary or Honorarium and Allowances payable to Members of the Commission, which is on similar lines as the allowances payable to those payable to the Members of the Board except as per Rule 6(3), which specifies that the Chairman shall be entitled to a rent-free furnished residence at Mumbai or such other place where the office of the Commission may be located. Pertinently, Rule 6(4) provides that *Notwithstanding anything contained in sub-rules (1), (2) and (3) above, the Chairman or any other member of the Commission (excluding the ex-officio members), who is a member of Parliament or of the State Legislature, shall not be entitled to any remuneration other than the allowances as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959 or, as the case may be, other than the allowances, if any, which a member of the Legislature of the State may, under any law for the time being in force in the State relating to the prevention of disqualification for membership of the State Legislature, receive without incurring such disqualification.*

9. Article 102(1) of the Constitution of India, provides that a person shall be disqualified for being chosen as and for being a member of either House of Parliament (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder. The essential ingredients for attracting the said article are that there must be an office, such office must be an office of 'profit', it must be under the Government of India or the Government of a State, such office must not be excluded from the operation of this sub-clause by a law made by Parliament. To decide the issue, it is imperative to examine the nature of Government control, functions of the Board and the allowances receivable by the Member.

10. Attention is also drawn to the case of *Shivamurthy Swami Inamdar v. Agadi Sanganna Andanappa*, (1971) 3 SCC 870, wherein the Apex Court analyzed the ingredients of Article 102(1)(a) and held as under:

"That Article says that a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder. Therefore before the provisions of that Article can be attracted, it must be established that he was holding an office under the Union or the State Government and that office was an office of profit and thereafter we must see whether the disqualification relating to that office has been removed by any Parliamentary legislation. In other words, the office in question must have been held under a Government and to that some pay, salary

emoluments or allowance is attached." The word 'profit' connotes idea of pecuniary gain. If there is really a gain, its quantum or amount would not be material; but the amount of money receivable by a person in connection with the office he holds may be material in deciding whether the office really carries any profit.'

The Court also reiterated the tests laid down in several decisions for finding out whether an office in question is an office under a Government and whether it is an office of profit. "Those tests are: (1) Whether the Government makes the appointment; (2) Whether the Government has the right to remove or dismiss the holder; (3) Whether the Government pays the remuneration; (4) What are the functions of the holder? Does he perform them for the Government and (5) Does the Government exercise any control over the performance of those functions? "

11. In the recent case of *U.C. Raman v. P.T.A. Rahim*, (2014) 8 SCC 934, the Court has extracted the relevant para of the judgment in the case of *Jaya Bachchan case* [(2006) 5 SCC 266] as under and reiterated the principles laid therein:

*"An office of profit is an office which is capable of yielding a profit or pecuniary gain. Holding an office under the Central or State Government, to which some pay, salary, emolument, remuneration or non-compensatory allowance is attached, is 'holding an office of profit'. The question whether a person holds an office of profit is required to be interpreted in a realistic manner. Nature of the payment must be considered as a matter of substance rather than of form. Nomenclature is not important. In fact, mere use of the word 'honorarium' cannot take the payment out of the purview of profit, if there is pecuniary gain for the recipient. Payment of honorarium, in addition to daily allowances in the nature of compensatory allowances, rent free accommodation and chauffeur driven car at State expense, are clearly in the nature of remuneration and a source of pecuniary gain and hence constitute profit. For deciding the question as to whether one is holding an office of profit or not, what is relevant is whether the office is capable of yielding a profit or pecuniary gain and not whether the person actually obtained a monetary gain. If the 'pecuniary gain' is 'receivable' in connection with the office then it becomes an office of profit, irrespective of whether such pecuniary gain is actually received or not. If the office carries with it, or entitles the holder to, any pecuniary gain other than reimbursement of out-of-pocket/actual expenses, then the office will be an office of profit for the purpose of Article 102(1)(a). This position of law stands settled for over half a century commencing from the decisions of *Ravanna Subanna v. G.S. Kaggeerappa* [AIR 1954 SC 653], *Shivamurthy Swami Inamdar v. Agadl Sanganna Andanappa* [(1971) 3 SCC 870], *Satrucharla Chandrasekhar Raju v. Vyricherla Pradeep Kumar Dev* [(1992) 4 SCC 404] and *Shibu Soren v. Dayanand Sahay* [(2001) 7 SCC 425]."*

12. The Court, in the said case, negated the plea that the word "profit" should include even status and influence, etc. besides the pecuniary profits and reiterated that an "office of profit" is an office which is capable of yielding a profit or pecuniary gain only and the same includes the pecuniary gain not only received but also "receivable" in connection with the office. As in the said case amount was only compensatory in nature by way of TA and daily allowances, the same was held to not amount to remuneration in the form of pay, salary, emoluments; remuneration, commission or anything of such nature.

13. In the present matter, the National Khadi and Village Industries Board is a Statutory Body established as per section 10 of Khadi and Village Industries Commission Act, 1956. Functions of the Board are as per section 11 the Act. The Board has a fixed composition and as per Rule 17, the term of the Member of the Board, other than a Member of the Commission is for such period not exceeding three years and is eligible for re-appointment. Though in the composition of the Commission as per section 4 of the Act, it is not specifically provided that Members of Parliament are to be part of the Commission, however, from a conjoint reading of the said section and Rule 6(4) of the Rules providing for the salary or Honorarium and Allowances payable to Members of the Commission, it can be inferred that the

Chairman or any other member of the Commission, may be a member of the Parliament or of the State Legislature and in the said case also, he shall not be entitled to any remuneration other than the allowances as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959.

14. Though, the Member of the Parliament may be the Chairman or Member of the Commission and exercise functions like implementation of the Act, granting financial assistance and making disbursement of funds, which appear to be executive functions performed on behalf of the Government and thus appears to be holding an 'office', yet with respect to the issue of allowance and 'office of profit', it is categorically provided in Rule 6(4) of the Rules that they will not be entitled to either a rent free accommodation or any remuneration other than compensatory allowance as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. It may be pointed out that the Department has not furnished any other information with respect to the pecuniary benefits or facilities provided to the Members of the Parliament as member of the Board, except to draw attention to proviso of Rule 21(3) of the of the Rules. Thus, even though the Members of Parliament may be holding an 'office' in the present case, as the allowances payable to a member of the Board or of the Commission are only those permissible to the Members of Parliament as per section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959, in absence of any other information with respect to facilities provided to such Members, the ingredient of 'profit' or 'pecuniary gain' appears to be absent in the present case.

15. Further, in pursuance of the Article 102 of the Constitution, parliament enacted the Parliament (Prevention of Disqualification) Act, 1959, exempting certain offices of profit from incurring disqualification for being chosen as, or from being a Member of Parliament. As per section 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, the office of Chairman, Director or Member of any statutory or non-statutory body other than body covered under clause (h), is not disqualified from being a Member of Parliament, if the holder of such office is not entitled to any remuneration other than compensatory allowance. However, it may be mentioned that recourse to the said section may not be needed as the 'office' in the present case does not appear to be an office of profit.

16. In view of the above, on the basis of the information furnished by the administrative Ministry that the Members may be entitled to only permissible compensatory allowances, we are of the view that the election of Members of Parliament to National Khadi and Village Industries Board may not be considered as an 'office of profit' and may not incur disqualification in terms of Article 102(1) (a) of the Constitution of India.

May kindly see.

Archi
(Archi Chopra)
Deputy Legal Adviser
29.01.2020

Additional Secretary (Sh. S.R. Mishra)

Shridhar
4.2.2020

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Shridhar

Shridhar
1/2/20

Sh. S. R. Mishra
Deputy Legal Adviser
No. 3478/92
Date: 13/02/2020

Law Secretary

Shridhar
12.2.20

Archi
13/2/2020

New Delhi, the 14th October, 2020

Office Memorandum

Subject: - Election of a Member of Rajya Sabha to the National Khadi and Village Industries Board (NKVIB) – Office of Profit – reg.

The undersigned is directed to refer to the Lok Sabha Secretariat, Committee Branch -II, Joint Committee on Offices of Profit, Office Memorandum No. 21/14/4/2020/C-II, dated the 30th September, 2020 forwarding therewith copy of papers received from Rajya Sabha Secretariat on the subject cited above requesting for examination as to whether the membership of Member Parliament to the National Khadi and Village Industries Board would entail disqualification from the angle of "Office of Profit".

2. On examination of the papers received from the Lok Sabha Secretariat, it is seen that the Department of Legal Affairs had earlier examined the matter and opined as follows:-

"16. In view of the above, on the basis of the information furnished by the administrative Ministry that the Members being entitled to only permissible compensatory allowances, we are of the view that election of the Members of Parliament to National Khadi and Village Industries Board may not be considered as an 'office of profit' and may not incur disqualification in terms of Article 102 (1) (a) of the Constitution of India."

3. The matter has been examined in this Department also. On examination of the papers and Proforma submitted by the administrative Ministry to Lok Sabha Secretariat, against serial number 9, regarding the questions as to whether the Members of Parliament are entitled for honorarium, travelling allowance, daily allowance and any other allowances perquisite, facilities etc., the administrative Ministry has stated that the Members of Parliament nominated to the National Khadi and Village Industries Board shall not be entitled to any remuneration other than the compensatory allowance as defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959 (Act, 1959). Further with regard to the functions of the Board, against serial number 9, it is stated that the Board is to assist the Commission in discharge of functions under the Khadi and Village Industries Commission Act, 1956 (Act, 1956).

4. On examination of the Act, 1956, it is seen that section 11 provides that the Commission shall ordinarily consult the Board with respect to the discharge of its functions under this Act.

Further, as per sub-rule (4) of rule 6 of the Khadi and Village Industries Commission Rules, 2006, Member of Parliament is not entitled to any remuneration other than the allowances as defined in clause (a) of section 2 of the Act, 1959.

5. Thus, on examination of the papers made available by the Lok Sabha Secretariat to this Department and as per the extant provisions of the Act, 1956 and rules made thereunder, a Member of Parliament nominated to the National Khadi and Village Industries Board is not entitled to get any remuneration other than the allowances as defined in clause (a) of section 2 of the Act, 1959.

6. In view of the above, this Department is in agreement with the opinion tendered by the Department of Legal Affairs that a Member of Parliament being nominated to the National Khadi and Village Industries Board may not incur disqualification in terms of sub-clause (a) of clause (1) of article 102 of the Constitution.

7. This issues with the approval of Secretary, Legislative Department.

Vinay Mishra
14/10/2
(Vinay Kumar Mishra)
Deputy Legislative Counsel
Tel. No. : 23384065
FAX No. : 23382733

Lok Sabha Secretariat (Committee Branch - II),
(Joint Committee on Offices of Profit)
[Kind Attn. Shri. Kusal Sarkar, Director]
Parliament Annexe,
New Delhi - 110 001.

CONFIDENTIAL

EXTRACTS OF THE MINUTES OF THE FIFTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT
(SEVENTEENTH LOK SABHA) HELD ON 19 NOVEMBER, 2020

The Committee met on Thursday, 19 November, 2020 from 1500 hrs. to 1600 hrs. in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Dr. Satya Pal Singh - Chairperson

MEMBERS

LOK SABHA

2. Shri. Vijay Kumar Hansdak
3. Shri L. S. Tejasvi Surya

RAJYA SABHA

4. Dr. Sasmit Patra
5. Shri V. Vijayasai Reddy

SECRETARIAT

1. Smt. B. Visala - Director
2. Shri Raj Kumar Chaudhary - Under Secretary

LIST OF REPRESENTATIVES

MINISTRY OF LAW AND JUSTICE

(i) Department of Legal Affairs

1. Shri Anoop Kumar Mendiratta - Secretary
2. Shri S. R. Mishra - Additional Secretary
3. Dr. Rajiv Mani - Joint Secretary and Legal Advisor

(ii) Legislative Department

1. Dr. G. Narayana Raju - Secretary
2. Shri Vinay Kumar Mishra - Deputy Legislative Counsel

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

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6. The Committee then took up the last agenda, regarding consideration of draft Memorandum No. 6 in respect of Election of a Member of Rajya Sabha to the National Khadi Village Industries Board (NKVIB). The Secretary, Legislative Department informed the Committee that Khadi Village Industries Commission Act was enacted in 1956 for the purpose of development of Khadi and Village Industries and for other matters. The Board Members are appointed by the Central Government by notification under Khadi and Village Industries Commission Rules, 2006. Rule 21(3), categorically says that Board Members are not entitled to allowances more than the compensatory allowances prescribed under Section 2 of the Parliament(Prevention of Disqualification) Act, 1959.

He further added that though the Members of the Board are nominated by the Central Government by a notification and it amounts to an office, this office does not yield any pecuniary gain. Whatever amount the office holders are receiving is within the permissible limits of compensatory allowances as defined under Section 2 of Parliament (Prevention of Disqualification)Act,1959. Since there is no pecuniary gain and no profit attached to the office, this office does not attract the office of profit under Article 102 of the Constitution. Further, under Section 3(h) of the Prevention of Disqualification Act, this office stands exempted as there is no pecuniary gain in terms as required under Article 102, so it would not attract the disqualification under Article 102 of the Constitution.

7. The Hon'ble Chairperson sought clarification, if this office has been expressly exempted in the Act. To this, Secretary responded, that Board may not be specifically mentioned therein but it has been gathered from the intention of the Act. Further, it has also been tested on the yardsticks of pecuniary gain or a possibility of pecuniary advantage to fall or not to fall within disqualification parameters. The Secretary also read out section 3(h) and (i) of 1959, Act to explain the applicability of the same in the instant case.

On being asked, if the requisite yardsticks are in coformity with the Khadi and Village Industries Commission Act, 1956 and Khadi and Village Industries Commission Rules, 2006, the Secretary deposed that the provisions of the Act have been taken note of along with the Rules which have been framed thereunder to submit a very detailed and an exhaustive opinion.

8. The Committee expressed their satisfaction over the clear opinions given by the Ministry and approved draft Memorandum No. 6.

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9. A copy of the verbatim proceedings of the sitting of the Committee has been kept on record.

The Committee then adjourned.

CONFIDENTIAL

EXTRACTS OF THE MINUTES OF THE SEVENTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT
(SEVENTEENTH LOK SABHA) HELD ON 15 MARCH, 2021

The Committee met on Monday, 15 March, 2021 from 1500 hrs to 1545 hrs. in Committee Room No. 3, First Floor, Block 'A', Parliament House Annexe Extension, New Delhi.

PRESENT

Dr. Satya Pal Singh - Chairperson

MEMBERS

LOK SABHA

2. Shri Vijay Kumar Hansdak
3. Dr. Manoj Rajoria
4. Shrimati Aparajita Sarangi
5. Shri Mahendra Singh Solanky

RAJYA SABHA

6. Dr. Sasmit Patra
7. Shri Mahesh Poddar
8. Shri Hardwar Dubey

SECRETARIAT

1. Shrimati Suman Arora - Joint Secretary
2. Shri R. K. Chaudhary - Under Secretary

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

3. Thereafter, the Committee considered and adopted the draft (i) First Report pertaining to nomination of Members of Parliament to the District Planning Committees in the State of Rajasthan; and (ii) Second Report pertaining to election of one Member of Rajya Sabha to the National Khadi and Village Industries Board (NKVIB).

4. The Committee considered and adopted these Reports without any modification.

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The Committee then adjourned.