

JOINT COMMITTEE ON OFFICES OF PROFIT

(SEVENTEENTH LOK SABHA)

THIRD REPORT

Presented to Lok Sabha on 30.07.2021

Laid in Rajya Sabha on 30.07.2021



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

July, 2021 / Shravana, 1943 (Saka)

Price: _____

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- I. Extracts of the Minutes of the Eighth Sitting of the Joint Committee on Offices of Profit (Seventeenth Lok Sabha) held on Monday, 15th March, 2021.
- II. Extracts of the Minutes of the Sixth Sitting of the Joint Committee on Offices of Profit (Seventeenth Lok Sabha) held on Thursday, 24th June, 2021.

**COMPOSITION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT
(SIXTEENTH 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. Shri Munish Kumar Rewari -- Additional Director
3. Smt. Manjinder Pubbi -- 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 expire 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 Third Report of the Committee.

2. At their sitting held on 15th March, 2021, the Committee examined the term, composition, character, functions, etc., of the Committees, Boards and District Level Committees constituted for Central/District Jails by the State Government of Rajasthan with a view to consider as to whether the nomination of a Member of Parliament to them 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 Thursday, 24th June, 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:

5th July, 2021

14 Ashadha, 1943 (Saka)

DR. SATYA PAL SINGH

*Chairperson,
Joint Committee on Offices of Profit*

REPORT

APPOINTMENT/NOMINATION OF MEMBERS OF PARLIAMENT TO THE COMMITTEES, BOARDS AND DISTRICT LEVEL COMMITTEES CONSTITUTED FOR CENTRAL/DISTRICT JAILS BY THE STATE GOVERNMENT OF RAJASTHAN.

A proposal regarding seeking consent of the Hon'ble Speaker, Lok Sabha for nomination of Members of Parliament to the Committees/Advisory Boards to be constituted for Central/District Jails was received from the State Government of Rajasthan *vide* their Letter No. F.15(2) Parliament/2015 dated 18th August, 2015 (**Annexure-I**).

2. Since the information received along with the said request was found to be insufficient for proper examination of the matter from the angle of 'Office of Profit', the State Government of Rajasthan was requested *vide* this Secretariat Letter No. 21/2/2(13)/2015/CII dated 15th September, 2015 to furnish all the pertinent details regarding the matter.

3. The State Government of Rajasthan *vide* their Letter F. No. P6(1) GRIH-12/KARA/1999 Part dated 20th September, 2018 (**Annexure-II**) have stated that the Advisory Board of the Jails is a standing body. They have stated that the Advisory Board is constituted as per Rule 3 of the Rajasthan Prisons (Shortening of Sentences) Rules, 2006. As per Rule 3(1), Advisory Board shall be constituted for every Central Jail and District Jail to recommend to the Government for shortening of sentences and premature release of eligible prisoners in accordance with these rules. The Committee is advisory body and its functions are to scrutinize/analyse the case of shortening of sentences and advise the Government as per Rules. The role of Member of Parliament as a Member in the Committee is advisory. The Committee exercise executive powers. The Committee has no powers of disbursement of funds, allotment of lands etc., no powers of appointment/removal and wield no influence of powers by way of patronage.

4. The State Government have also informed that the term of the Member of Parliament as non-official member of the Advisory Board is two years, but the State Government may extend the period by one year or less. It is also stated in reply to the List of Point [5(b)] that the Government exercise control over the appointment to and removal from the office and over the performance and functions of the office.

5. The Member of Parliament as member of the Board/Committee is not paid sitting fee, daily allowances, travelling allowance, house rent allowance, compensatory allowance, honorarium etc. and conferred no facilities nor there is any proposal in this regard. The Member of Parliament as Member of the Advisory Board/Committee is nominated/appointed by the State Government *vide* Rule 3(2) (c) of the Rajasthan Prison (Shortening of Sentences) Rules, 2006 (Annexure-III). These rules have been framed under clauses 5 and 27 of Section 59 of the Prisons Act, 1894 (IX of 1894) (Annexure-IV). However, the Rajasthan Prison (Shortening of Sentences) Rules, 2006 do not provide for exemption from disqualification of non-official Member of the Advisory Board.

6. As per the provision of Article 102 (1) (a) of the Constitution of India: -

"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"

7. Parliament has passed a law, namely the Parliament (Prevention of Disqualification) Act, 1959 laying down offices which would not disqualify holders thereof from the membership of Parliament (Annexure-V). The Act also provides that 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, Allowance 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."

8. The expression "holds any office of profit under the Government" occurring in Article 102 (1) (a) has nowhere been defined precisely. However, the Joint Committee on Offices of Profit has been following the below mentioned criteria for determining as to whether an office ought or ought not to disqualify the holder thereof for being chosen as, and for being, a Member of Parliament: -

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

9. Therefore, as per the information furnished by the State Government of Rajasthan, the Committee under reference is advisory body and its functions are to scrutinize/analyse the case of shortening of sentences and send advice to Government as per Rules. The Committee exercise Executive Powers. The term of Member of Parliament as non-official member of the advisory Board is two years, but the State Government may extend the period by one year or less. The State Government also exercise control over the appointment to and removal from the office and over the performance and functions of the office.

10. The Committee sought written opinion of the Ministry of Law and Justice (Department of Legal Affairs and Legislative Department). The Department of Legal Affairs offered their written comments *vide* Dy. No.329232/LS/2019 dated 18.04.2019 (**Annexure-VI**) as under: -

“3. in reply to the points required by the Secretariat of Lok Sabha, the Government of Rajasthan has clarified that the role of Hon'ble MPs in the committee is purely advisory in nature and the Committee would not influence or power by way of patronage. It is further noted that there is no provision regarding payment of any remuneration under the Rule of 2006 and it appears from the collective reading of the Rules and reply of the State Government that no remuneration is paid to the Members of Advisory Board.

4.....so far as the disqualification is concerned, Sec. 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, provides that 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. In the instant matter, there does not appear any remuneration to the Members of Advisory Board. In view of above, the nomination of Hon'ble MPs to such Committees may not attract the disqualification from membership of the House under Article 102(1)(a) of the Constitution of India."

11. The Ministry of Law and Justice (Legislative Department) vide O.M. F.No.17(2)/2019-Leg.III dated 14.05.2019 (**Annexure-VII**) offered their comments, relevant extracts of which are as under: -

"8. In the light of reply to the list of points given against serial number 5(D) and going through the Rajasthan Prisons (shortening of Sentences) Rule, 2006 under which the Advisory Board is constituted, it is cleared that the functions of the said Board are purely advisory in nature. However, with regard to the powers of the Advisory Board are concerned, the State Government has specifically replied that the Advisory Board exercise executive powers. Further, the State Government of Rajasthan in its reply to the list of points at serial number 5 (B) has also admitted that the State Government exercise control over the appointment and removal of the member from the office and over the performance and functions of the office. In this regard, it is noteworthy to mention that rule 4 of the Rajasthan Prisons (Shortening of Sentences) Rules, 2006 also empowers the State Government to extend the period of a non-official member for a period of one year or less. However, on going through the reply to the list of points and the Rajasthan Prisons (Shortening of Sentences) Rules, 2006, it is clear that a non-official member of the Advisory Board is not entitled to any remuneration, allowances, honorarium etc."

9. In this regard, it may be mentioned that in order to determine whether an office held by a person is an office of profit under the Government, the Joint Committee on Offices of Profit, in their Tenth Report (Seventh Lok Sabha), presented to Lok Sabha on 7th May, 1984 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 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 should be the guiding factor in offering positions to a member of the Legislature.”

Keeping the above position in view, the Joint Committee on Offices of Profit have been following the under noted 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 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 disqualification]

(ii) Whether the body in which an office is held, exercises executive, legislative or judicial powers or confers power of disbursement of funds, allotment of lands, issue of licences etc., or gives powers of appointment, grant of scholarships, etc, and

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

If reply to any of the above is in affirmative then the offices in question will entail disqualification.

10. In this context, it may be mentioned that for determining such question, which has come up before the Supreme Court in umpteen cases, the Apex Court

has laid down the following tests in the case of *Shivamurthy Swami Inamdar Vs. Sanganna Andanappa* (1971) 3 SCC 870: -

(a) whether the Government makes the appointment;

(b) whether the Government has the right to remove or dismiss the holder;

(c) whether the Government pays the remuneration;

(d) whether the functions of the holder are and does he perform them for the Government; and

(e) whether the Government exercises any control over the performance of those functions.

The above tests have been reiterated by the Supreme Court in series of Cases decided by it subsequently. While applying the above mentioned test on the instant case to determine as to whether the nomination of a Member of Parliament as member to the Advisory Board constituted under rule 3 of the Rajasthan Prison (Shortening of Sentences) Rule, 2006, it is evident the instant case may attract clauses (a), (b) and (e) of the tests laid down by the Apex Court. Further, it may also attract the guidelines followed by the Committee mentioned at paragraph 9 above.

11. Having considered all aspects of the matter, this Department is of the view that the nomination of a member of Parliament to the Advisory Board constituted for Central/District Jails of the State Government of Rajasthan may attract disqualification from the angle of 'office of profit'."

12. It may be seen that the advice of the two departments in the extant case stood on an altogether different footing. Thus, in the light of the contradictions in the views expressed by both the Department of Legal Affairs and Legislative Department in this matter wherein the former was of the view that nomination of Members of Parliament to such Advisory Board might not attract disqualification from membership of the House, whereas, the latter felt that such nomination of Member of Parliament in the Advisory Board might attract disqualification from the angle of 'office of profit', the same was required to be put up for the consideration of the Committee.

13. The matter was put up before the Committee for its consideration in its sitting held on 20.11.2019 wherein it took oral evidence from the representatives of both the Departments of the Ministry of Law and Justice. To sort out the contradictions in the views expressed by both the departments, the Committee directed the Legislative Department to look into the matter afresh and furnish their considered opinion on the basis of the relevant Court judgments and legal position so as to enable the Committee to arrive at a conclusive decision.

14. Subsequently, in response to this, the Legislative Department *vide* their OM F.No. 17(2)/2019-Leg.III dated 29.11.2019 (**Annexure-VIII**) have furnished their opinion in the matter as under: -

"2. In this regard, it may be mentioned that the matter has been re-examined in this Department in the light of extant legal provisions. In this regard, clause (i) of section 3 of the Parliament Prevention of Disqualification Act, 1959 (10 of 1959) exempts 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. This exemption is not available to the chairman of bodies specified in Part I of the Schedule to the Act and chairman and secretary to the bodies specified in Part II of the Schedule to the Act. Further, the District Level Committee constituted for Central/District Jail by the State Government of Rajasthan is not specified in the Schedule to the Act.

3. In the light of the above provisions, the nomination of a Member of Parliament to the District Level Committee constituted for Central/District Jails of the State Government of Rajasthan may not attract disqualification from the angle of "Office of profit". "

15. 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 Monday, 15th March, 2021. Joint Secretary and Legal Counsel, (Legislative Department) submitted that, -

".....The Rules do not provide for any allowance either compensatory or otherwise. So, there is complete silence about any remuneration/ profit in lieu of the services rendered by this particular Member of the Legislative Assembly or the Parliament as the case may be. This itself shows that the nomination to this particular Board does not entail disqualification because the first and foremost

criteria is that the Member should be receiving some remuneration for sitting fees or other allowances. Since there is complete silence, it is presumed that the Member of Parliament will only be entitled to the salary and allowances as mentioned in the 1954 Act, which provides for the salary, allowances and pension of the Members of the Houses of Parliament. So, this is the sum and substance of this particular examination.

The State Government has also answered to the questionnaire provided by the Committee Secretariat. They have also said that the functions of the Committee are purely advisory in nature.

The advisory nature of the Committees functioning, non-receipt of any remuneration and also, there is a particular provision in the rule which says that the recommendation of the Committee is not binding on the Government. The Government is free to reject the recommendations. There is absolutely no question of wielding any power by the Members, who is a part of this Committee. Even if we examine it on the basis of earlier recommendations of this august Committee or even the Supreme Court judgements, we will be able to see that under section 3(i), the Member will not be incurring any disqualification at all because we need to go by the statutory provision before we get into the recommendation of any Committee or the Supreme Court judgement. There is no need to get into the Supreme Court judgement at all when the statutory provision is crystal clear.”

16. The Secretary, Department of Legal Affairs, submitted that, -

.....Since the provisions have already referred to and the rules have been framed, under the Prisons Act, 1894, Section 3, Rule 3 speaks of the constitution of the Advisory Board. There would be two words – advisory board shall be constituted for every Central Jail and District Jail to recommend to the Government. So, the function is completely advisory in nature. It is just like a body which has been constituted to assess whether the prisoners could be recommended for a premature release or otherwise. There is a set criterion for determination of the same. The recommendation is put up, the recommendation may or may not be accepted by the Government considering the overall circumstances. So, there can

be no doubt that the bodies are statutory in nature and the role is recommendatory.

So far as the allowance part is concerned, it has already been clarified by the Legislative Department that there does not appear to be something which could fall within the prevention of disqualification. In my opinion also, I think, we had already opined that so far as Legal Affairs is concerned the office should not fall within the definition of office of profit. There was a difference of opinion with the Legislative Department which they have further rectified.

Observations/Recommendations

17. The Committee note that the Advisory Board of the Central/District Jails is a standing body which is constituted as per Rule 3 of the Rajasthan Prisons (Shortening of Sentences) Rules, 2006. As per Rule 3(1), Advisory Board shall be constituted for every Central Jail and District Jail to recommend to the Government for shortening of sentences and premature release of eligible prisoners in accordance with these rules. The Committee/Board is advisory in nature as its functions are to scrutinize/analyse the case of shortening of sentences and advise the Government as per Rules. The role of Member of Parliament as a Member in the Committee is advisory. The Committee/Board exercise executive powers but has no powers of disbursement of funds, allotment of lands etc., no powers of appointment/removal and wield no influence of powers by way of patronage. The term of the Member of Parliament as non-official member of the Advisory Board is two years, but the State Government may extend the period by one year or less. The Government exercise control over the appointment to and removal from the office and over the performance and functions of the office.

18. The opinions expressed by the Ministry (Legislative Department and Department of Legal Affairs) concurrently underscore that as per the extant statutory provisions, the nomination of a Member of Parliament to the District Level Committee constituted for Central/District Jails of the State Government of Rajasthan does not fall within the definition of 'office of profit' and, thus, may not attract disqualification from the angle of "Office of profit.

19. In view of the above position and after the deliberations during oral hearing, the Committee find that the membership of the Committees/Boards constituted for Central/District Jails of the Government of Rajasthan 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 and as per the provisions contained in the Rajasthan Prison (Shortening of Sentences) Rule, 2006 and the Salary, Allowances and Pension of Members of Parliament Act, 1954. Thus, the Committee have no objection to the nomination of the Member of Lok Sabha to the Committees/Boards constituted for Central/District Jails of the Government of Rajasthan.

NEW DELHI:

24th June, 2021

03, Ashadha, 1943 (Saka)

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

Government of Rajasthan

Department of Parliamentary Affairs

S.No. F. 15(2) Parliament / 2015

Jairam Dated 18

To,

The Deputy ~~Secret~~ Secretary

Lok Sabha Secretariat

Parliament House,

New Delhi - 110001

Subject: Regarding procedure for nomination
of Members of Parliament to ^{the} committees,
boards and district level committees or
by the state governments ^{regarding}

Ref.: - Home (Group-12) Department's DO note no. 81

Home - 12 / Pension / 99 Part Dated 2

Sr,

With reference to the letter received
Please find enclosed herewith the

Received
on 08/09/15
\$ 17:30 hrs.

letter referred above received from the Deputy Secretary, Home (Group - 12) Department on the above mentioned subject. ^{as stated above, I am able to state that} ~~along with the desire~~ information and it is submitted that this Department has received proposals ^{regarding seeking con-} ~~to obtain approval~~ of Hon. Speaker, Lok Sabha for nominating the following members of Parliament to the advisory boards to be constituted for Central district ^{jails} ~~prisons~~ :-

Sl. No.	Advisory Board	Name of the Hon. Member of Parliament
1	Central Jail Prison, Bikaner	Shri Ajay Meghwal Hon. MP, B.
2	Central Jail Prison, Udaipur	Shri Arjunlal Meena Hon. MP, Udaipur
3	District Jail, Chittorgarh	Shri Chandraprakash Hon. MP, Chit.
4	District Jail, Jhunjhunu	Shrimati Santosh A. Hon. MP, Jhunj.

Therefore, it is requested to obtain the
Consent of the hon. Speaker, ^{lok sabha} regarding the prof
received from the administrative department
and apprise the departments of the same as
the earliest.

Yours sincerely

Enclosed: As above

Adl-
Senior Deputy
Secretary to the G

राजस्थान सरकार

गृह (ग्रुप-12) विभाग

SL NO. P. (G) GRH-12/CARA/1999 Part

क्रमांक प. 6(1)गृह-12/कारा/1999 पार्ट

जयपुर, दिनांक: 20 SEP 2015

अवर सचिव,
लोक सभा सचिवालय,
कमेटी ब्रॉच-II
(Joint Committee on Offices of Profit),
पार्लियामेन्ट हाउस एनेक्स,
नई दिल्ली-110001

विषय:- Appointment/nomination of Members of Parliament to the
Committees boards and district level Committees constituted
by the State Government – regarding.

संदर्भ:- आपका पत्रांक 21/2/2(13)/2015/CII दिनांक 04.12.2015

महोदय,

उपरोक्त विषयान्तर्गत संदर्भित पत्र के क्रम में लिस्ट्स ऑफ पॉइन्ट्स के सम्बन्ध
में चाही गई सूचना विभाग द्वारा बिन्दुवार तैयार कर आवश्यक कार्यवाही हेतु संलग्न कर
प्रेषित है।

संलग्न : उपरोक्तानुसार।

भवदीय,

(कैलाश चन्द)

शासन उप सचिव,

Received
8/10/15

Reply of the list of points required by The Secretariat of Lok Sabha New Delhi.

S.No./point no.	Description of Points	Reply	others
1	✓ Please state whether the "Advisory Boards of central/District Jails of Bikaner, Udaipur, Chittorgarh and Jhunjhunu are a standing or an Adhoc body.	Advisory board of these jails is a <u>standing body</u> .	
2	Please furnish details of the Committee indicating the number of officials and non-officials in the body.	The Committee of advisory board is furnished according to The Rule 3 of The Rajasthan Prisons (Short. of Sent.) 2006.	The copy of Rule 3 is enclosed.
3	Please give in detail the powers and functions of The Committee.	Committee is advisory body and its functions are to scrutinize analyze the case of shortening of sentences and send advise to Government as per Rules	The Copy of The Rajasthan Prisons (Short. of Sent.) Rules 2006.
4	✓ Whether the functions of the Committee are <u>purely advisory in nature</u> .	<u>Yes.</u>	
5	Please furnish details with respect to the following:- ✓ (A) The term of the Member of Parliament as chairperson/Co-chairperson as (non official member) in the Committee. ✓ (B) Whether the Government exercise control over the appointment to end removal from the office and over the performance and functions of the office. (C) The Qualifications for Membership; and ✓ (D) <u>The role of the Member of Parliament a Member in the Committee.</u>	(A) A non-official member of an advisory board shall be appointed for a period of Two years <u>but the Government may extend the period by 1 year or less.</u> ✓ (B) <u>Yes.</u> (C) Preferably Members of the State Legislature or Parliament <u>nominated by the Government</u> (D) <u>Advisory</u>	Rule 4 is enclosed.

6	<p>Please also give a specific reply to each of the following:-</p> <p>(A) Whether the Committee exercise executive, legislative or judicial powers.</p> <p>(B) Whether the Committee confers powers of disbursement of funds, allotment of lands, etc;</p> <p>✓(C) Whether it would have powers of appointment/removal; and</p> <p>✓(D) Whether the Committee would influence or power by way of patronage.</p>	<p>(A) <u>Executive powers.</u></p> <p>(B) <u>No.</u></p> <p>(C) <u>No.</u></p> <p>(D) <u>No.</u></p>	
7	<p>(A) Please indicate the details of expenses payable to the Member of Parliament as member of the Committee specifying the actual rates of payment with break-up of sitting fee, daily allowances, travelling allowance house rent allowance, compensatory allowance, honorarium, etc.</p> <p>✓(B) Please specify the facilities, other than the remuneration given or proposed to be given to the Member of Parliament as a member of the Committee.</p> <p>(C) Please state whether the allowances payable to the Member of Parliament as Member of the Committee are covered under the Compensatory Allowance defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959.</p>	<p>(A) <u>No.</u></p> <p>(B) <u>No.</u></p> <p>(C) <u>No.</u></p>	
8	<p>Please furnish any information which the Government of Rajasthan wish to furnish on the subject.</p>		<p>Considered at the Government level.</p>

GOVERNMENT OF RAJASTHAN
Home (Gr. XII Department)

No.F.6 (1) H-12/Jail-2002

Jaipur, Dated 17.1 .2007

NOTIFICATION

In exercise of the powers conferred by clause (5) and clause (27) of section 59 of the prisons Act 1894 (IX of 1894) of the Central Legislature as adapted to Rajasthan and of all other powers enabling it in that behalf, the Government of Rajasthan hereby makes the following Rules, namely:-

1. **Short title and commencement.** (1) These rules may be called the Rajasthan Prisons (Shortening of Sentences) Rules, 2006.

(2) They shall come into force at once.

2. **Definition.** - In these rules unless the context otherwise requires;

(a) "Act" means the Prisons Act, 1894 (Central Act IX of 1894);

(b) Government means the Government of Rajasthan;

(c) "habitual criminal" means a prisoner liable to be classified as such under the rules for the time being in force: made under the Act;

(d) "premature release" means a release of a prisoner without completing his judicially ordained sentence as a result of shortening of sentence;

(e) "Shortening of Sentence" means the reduction of that period of sentence of a prisoner which he has to serve in the prison upon a judicially pronounced sentence as a matter of grace on the part of the State and as a recognition of his good behaviour in the prison.

✓ 3. **Constitution of Advisory Board-----** (1) Advisory Board shall be constituted for every Central Jail and District Jail to recommend to the Government for shortening of sentences and premature release of eligible prisoners in accordance with these rules.

(2) Advisory Board for the Central Jails located at Divisional Headquarter shall be constituted as follows:-

(a) Divisional Commissioner concerned Chairman

(b) District and Sessions Judge within whose jurisdiction the Central Jail is situate. Member

(c) Two non-officials, preferably Members
members of the State Legislature or
Parliament nominated by the Government

(d) Superintendent of the Central Jail concerned Member-Secretary

(3) Advisory Boards for all other Central Jails and District Jails ('A' & 'B' Class) shall be constituted as follows:-

53

- (a) District Magistrate of the District in which the concerned Jail is situate. Chairman
- (b) Judicial Officer next in seniority to the District and Sessions Judge within whose jurisdiction the Central Jail or District Jail is situate. Member
- (c) Two non-officials, preferably local members of the State Legislature or Parliament nominated by the Government. Members
- (d) Superintendent or Deputy Superintendent in charge of the concerned Central or District Jail. Member-Secretary

✓ 4. **Terms of office of non-official members of the Advisory Board.** - A non-official member of an Advisory Board shall be appointed for a period of two years but the Government may further extend the period by one year or less.

5. **Meetings of Advisory Board.** - The meeting of an Advisory Board shall be convened by the Member-secretary at least twice a year in respect of a Central Jail or the District Jail concerned, as the case may be, on such date and at such venue as may be appointed for the purpose by the Chairman of the Advisory Board, normally in the months of January and July every year or on such other dates as the Chairman may appoint.

6. **Quorum.** - The quorum for the meeting of Advisory Board shall be three including Chairman.

✓ 7. **Scrutiny by the Advisory Board.** - Before recommending shortening of sentences or premature release of prisoners, the Advisory Board shall examine the following matters in full and accurate details:-

- (i) Circumstances under which offence was committed and the punishment was awarded by the court;
- (ii) Details of the prisoner's previous history and character in district where the prisoner was resident;
- (iii) Prisoner's conduct in the Prison and the result of imprisonment already undergone by him;
- (iv) Whether the prisoner has been reformed and is fit to be rehabilitated in the society without any difficulty;
- (v) Opinion of the District Magistrate and the Superintendent of Police of the districts in which the prisoner was convicted and was resident, as to what is likely to be the impact of the prisoner's premature release with special reference to the following points :
 - (a) the reaction in the locality;
 - (b) the feelings of the relatives of the victim or victim of the offence;

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- (c) whether the life of the accused himself will be safe;
- (d) any other information material to the case of the prisoner; and
- (e) whether the prisoner can be released without any risk to the society; //

8. Prisoners eligibility for consideration by the advisory Board.-

(1) The Advisor Board may consider the cases of the following type of prisoners only:-

- (i) a prisoner undergoing a substantive sentence of five years or over, and who has completed two thirds of imprisonment, including remission;
- (ii) a prisoner sentenced to imprisonment for life or for more than 14 years, and who has served 2/3rd of his sentence excluding remission or 13 years 4 months of imprisonment including remission) whichever is less. The period of imprisonment shall include sentence in default of payment of fine, if the same has not been paid;
- (iii) Prisoners awarded sentences by Court-Martial who have served two-third of their sentences including the period of remissions;
- (iv) Prisoners suffering from fatal diseases like cancer, AIDS, or infectious diseases, such as leprosy; provided their disease is likely to be dangerous to other prisoners and conditions prescribed in rule 7 are fulfilled;
- (v) Prisoners who are completely blind or handicapped and are wholly dependent on others for their daily routine work;
- (vi) Prisoners who have attained the age of 70 years in case of male prisoners and 65 years in case of women prisoners and who have completed at least one third of their sentence, and in whose case no public interest is likely to be served by keeping them in prison, provided they are serving sentences for their first and only conviction.

(2) Notwithstanding anything in sub-rule (1)

- (i) a prisoner who has been sentenced to imprisonment for life for an offence for which death penalty is one of the punishment provided by law or who has been sentenced to death but his sentence has been commuted under Section 433 of Code of Criminal Procedure, 1973, into one of imprisonment for life, shall be considered only after he has served 14 years of actual imprisonment excluding remission but including the period of detention spent during enquiry, investigation or trial, on the condition that such a prisoner shall also have to earn a minimum of 4 years of remission in order to be eligible for consideration.
- (ii) prisoners sentenced to imprisonment for life under Sections 304 B, 376, 396, 467, and 489 'D' of the Indian Penal Code may be considered for premature release only after completion of 14 years of actual imprisonment (with the period undergone during trial), on the condition that such a prisoner shall also have to earn a minimum of 4 years of remission in order to be eligible for consideration.

Explanation:- For the purpose of this rule, remission shall mean only that part of the remission which is actually earned by a prisoner in accordance with the provisions of the Jail Manual but shall not include any special remission that may be awarded to prisoners in general to mark the occasion of some events like Independence Day, Republic Day, Centenary Celebrations of National Leaders, visit of some dignitaries to jail, etc.

9. Prisoners not eligible for consideration by the Advisory Board.-

Notwithstanding anything in these Rules, the Advisory Board shall not consider the cases of following types of prisoners: -

- (1) Prisoners convicted of forgery or any offence against the State involving violence;
Explanation- For this purpose an offence punishable under sections 466, 468, 469 and section 471 to 474 of the Indian Penal Code shall be deemed to be a variation of the offence of forgery.
- (2) Prisoners convicted of offences punishable under Sections 366, 366A, 366B, 372, 373, 498B, and 498C of Indian Penal Code;
- (3) Prisoners who are habitual criminals, meaning thereby having three or more convictions, all of which are of such a nature as to justify their classification as habitual criminals;
- (4) Prisoners detained under any Preventive Detention Law;
- (5) Prisoners convicted under Terrorist and Disruptive Activities (Prevention) Act, 1987 (Central Act 28 of 1987);
- (6) Prisoners convicted under Narcotic Drugs and Psychotropic Substances Act 1985 (Central Act 61 of 1985); and
- (7) Prisoners convicted under the Prevention of Terrorism Act, 2002 (Central Act 15 of 2002).

10. Procedure. - In order that all necessary information might be placed before the Advisory Board, the following procedure shall be adopted:-

- (i) The Secretary of the Advisory Board shall collect full particulars regarding each prisoner eligible for consideration by the Board before the date appointed for the meeting of the Board and shall place full accurate details regarding the prisoner's previous history and character, judgment of the sentencing court depicting circumstances in which the offence or offences were committed and sentences were awarded, his prison record together with the report of the District magistrate and the District Superintendent of Police of the district containing information whether the prisoner is considered fit for premature release etc, before the Board. Any other information required by the Advisory Board shall also be made available from the recorded the prison.
- (ii) Before coming to a decision in each case whether a prisoner is fit for release without any danger to himself and the community at large, the Advisory Board shall carefully scrutinize and consider the judgment of the court, reports of the police and the District Magistrate concerned on the conduct and character of the prisoner recommended for release, any conditions to be prescribed in case of release and the prisoner's conduct and behavior in the prison. Only the prisoner whose conduct has been exemplary in the prison should deserve the consideration of the Advisory Board.
- (iii) Report about physical and mental conditions of prisoner fit for release shall be obtained by the secretary of the Advisory Board from the Medical Officer in-charge of the prison concerned and the same be placed before the Board for consideration for final recommendation is made to the Government.
- (iv) The Advisory Board shall then submit its recommendations with full history of each case along with relevant papers in form-1 to the Government.

(v) In case of a prisoner convicted by Court-Martial the prisoner's antecedents need not ordinarily be inquired into and it will be sufficient to enquire about his behavior in prison.

11. Conditions for release. - The Advisory board may recommend release of a prisoner conditionally or unconditionally whenever a prisoner is to be released prematurely. Stringent conditions shall be imposed on a prisoner recommended to be released conditionally if so accepted by the Government, and the prisoner so recommended for release shall be made to enter into a bond in Form-2.

12. Consideration by Government. - (1) On receipt of the proceedings of the Advisory Board, and any other relevant paper the Government may order release of a prisoner in cases for which, having regard to all the circumstances of the case, it considers that the prisoner may be released without any harm or danger to the society and the victim and his family. The Government may, if so advised seek more information from any other source it deems fit in order to reach a considered decision.

(2) Government may accept or reject of a recommendation for the release a prisoner

Provided that while issuing an Order of rejection in respect of a recommendation of premature release by an Advisory Board, it shall be sufficient for the Government to state in the said Order, that the matter has been considered in detail and the Order has been passed after taking all the relevant aspects into account.

(3) In case of a prisoner sentenced by Court-Martial the Government shall forward its recommendations to the Government of India for necessary orders.

W/ **13. Overriding effect.** - In case of an inconsistency between these Rules and provisions in any other Rules made under the Act, the provisions these Rules shall prevail and have overriding effect.

14. Repeal and savings.- The Rajasthan Prisons (Shortening of Sentences) Rules-1958; and rule 135 of Part XXV and rules 136-152 of Part XXVI of the Prison Rules, 1951 are hereby repealed. All action taken under the said rules shall so far as they are consistent with these Rules, be deemed to have been passed or taken under these Rules.

THE PRISONS ACT, 1894

(No. 12 of 1894)

An Act to amend the law relating to Prisons

WHEREAS it is expedient to amend the law relating to prisons in India except the territories which immediately before the 1st November, 1956, were comprised in Part B States other than the States of Jammu and Kashmir, Jharkhand, Madhya Pradesh and Orissa and to provide rules for the regulation of such prisons it is hereby enacted as follows:—

CHAPTER I—PRELIMINARY

- 1. (1) This Act may be called the Prisons Act, 1894.
- (2) It extends to the States of India, except the territories which immediately before the 1st November, 1956, were comprised in Part B States other than the States of Madhya Pradesh and Orissa, and to the States of Madhya Pradesh and Orissa, and to provide rules for the regulation of such prisons it is hereby enacted as follows:—

- 2. Repeals by Act 1 of 1938.
- 3. In this Act—

- (1) "Prison" means any jail or place used permanently or temporarily under the general or special orders of the State Government for the detention of prisoners and includes all lands and buildings appurtenant thereto, but does not include—
 - (a) any place in the confinement of prisoners who are exclusively in the custody of the police;
 - (b) any place specially appointed by the State Government under section 541 of the Code of Criminal Procedure, 1882; or
 - (c) any place which has been declared by the State Government by general or special order to be a sub-judicial jail.

(2) "General Prisoner" means any prisoner who is not a sub-judicial prisoner and is committed to the custody of the State Government by a court of law or by order of a Court-martial.

(3) "Prisoner" means any person who is committed to the custody of the State Government by a court of law or by order of a Court-martial.

- (3) "Convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1882 or under the Prisoners Act, 1871;
- (4) "Civil prisoner" means any prisoner who is not a criminal prisoner;
- (5) "Remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of prisoners in jails;
- (6) "History-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder;
- (7) "Inspector General" means the Inspector General of Prisons;
- (8) "Medical Subordinate" means an Assistant Surgeon, Apothecary or qualified Hospital Assistant; and
- (9) "Prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule made under this Act.

CHAPTER II—MAINTENANCE AND OFFICERS OF PRISONS

Accommodation for prisoners

4. The State Government shall provide for the prisoners in the territories under such Government accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Inspector-General

5. An Inspector-General shall be appointed for the territories subject to each State Government and shall exercise, subject to the orders of the State Government, the general control and superintendence of all prisons situated in the territories under such Government.

Officers of Prisons

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailor and such other officers as the State Government thinks necessary.

Provided that the State Government of Madhya Pradesh may, declare by order in writing that in any prison specified in the order the office of Jailor shall be held by the person appointed to be Superintendent.

7. Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison

Temporary accommodation for prisoners

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the State Government may direct for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III.—DUTIES OF OFFICERS GENERALLY

8. All officers of a prison shall obey the directions of the Superintendent, all officers subordinate to the Jailor shall perform such duties as may be imposed on them by the Jailor with the sanction of the Superintendent or be prescribed by rules under section 59.

Control and duties of officers of prison.

9. No officer of a prison shall sell or let, nor shall any person in trust for employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

Officers not to have business dealings with prisoners.

10. No officer of a prison shall, nor shall any person in trust for or employed by him have any interest direct or indirect in any contract for the supply of the prison; nor shall he derive any benefit directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Officers not to be interested in prison contracts.

Superintendent

11. (1) Subject to the orders of the Inspector General the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

Superintendent.

(2) Subject to such general or special directions as may be given by the State Government the Superintendent of a prison other than a central prison or a prison situated in a presidency town shall obey all orders not inconsistent with

this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon.

Records to be kept by Superintendent. 12. The Superintendent shall keep, or cause to be kept, the following records:

- (1) a register of prisoners admitted;
- (2) a book showing when each prisoner is to be released;
- (3) a punishment book for the entry of the punishments inflicted on prisoners for prison offences;
- (4) a visitor's book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison;
- (5) a record of the money and other articles taken from prisoners; and all such other records as may be prescribed by rules under section 59.

Medical Officer

Duties of Medical Officer. 13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison and shall perform such duties as may be prescribed by rules made by the State Government under section 59.

Medical Officer to report in certain cases. 14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, seriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector General for information.

Report on death of prisoner. 15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars so far as they can be ascertained, namely:

- (1) the day on which the deceased first complained of illness or was observed to be ill;
- (2) the labour, if any, on which he was engaged on that day;
- (3) the scale of his diet on that day;
- (4) the day on which he was admitted to hospital;
- (5) the day on which the Medical Officer was first informed of the illness.

- (6) the nature of the disease;
- (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate;
- (8) when the prisoner died; and
- (9) (in cases where a post-mortem examination is made) an account of the appearances after death, together with any special remarks that appear to the Medical Officer to be required.

16. (1) The jailor shall reside in the prison unless the Jailer Superintendent permits him in writing to reside elsewhere.

(2) The jailor shall not, without the Inspector General's sanction in writing, be concerned in any other employment.

17. Upon the death of a prisoner, the jailor shall give immediate notice thereof to the Superintendent and the Medical Subordinate. jailer to give notice of death of prisoner.

18. The jailor shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents committed to his care, and for the money and other articles taken from prisoners. Responsibility of jailor.

19. The jailor shall not be absent from the prison for a night without permission in writing from the Superintendent, but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent. jailer to be present at night.

20. Where a Deputy Jailor or Assistant Jailor is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a jailor under this Act or any rule thereunder. Powers of Deputy and Assistant Jailors.

Subordinate Officers

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into, or out of, the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer. Duties of gate-keeper.

22. Officers subordinate to the jailor shall not be absent from the prison without leave from the Superintendent or from the jailor. Subordinate officers not to be absent without leave.

Convict officers. 23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.

CHAPTER IV.—ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS

Prisoners to be examined on admission. 24. Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book to be kept by the jailor a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners, the search and examination shall be carried out by the matron, under the general or special orders of the Medical Officer.

Effects of prisoners. 25. All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the jailor.

Removal and discharge of prisoners. 26. All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged or sent out of the prison if labouring under any acute or dangerous disease, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V.—DISCIPLINE OF PRISONERS

Separation of prisoners. 27. The requirements of this Act with respect to the separation of prisoners are as follows.

(1) In a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their

meeting, or conversing, or holding any intercourse with the male prisoners.

(2) In a prison where male prisoners under the age of twenty one are confined, means shall be provided for separating them altogether from the other prisoners, and for separating those of them who have arrived at the age of puberty from those who have not.

(3) Unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners; and

(4) Civil prisoners shall be kept apart from criminal prisoners.

28. Subject to the requirements of the last foregoing section convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

Association and segregation of prisoners.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

Solitary confinement.

30. Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of the jailor and all articles shall be taken from him which the jailor deems it dangerous or inexpedient to leave in his possession.

Prisoners under sentence of death.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners and shall be placed by day and by night under the charge of a guard.

CHAPTER VI—FOOD, CLOTHING AND BEDDING OF CIVIL UNCONVICED CRIMINAL PRISONERS

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources, at proper hours, food, clothing, bedding or other necessaries, but subject to examination, and to such rules as may be approved by the Inspector General.

Maintenance of certain prisoners from private sources.

32. No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner, and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Restriction on transfer of food and clothing between certain prisoners.

Supply of clothing and bedding to civil and unconvicted criminal prisoners.

33. Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person or his representative shall, within forty-eight hours after the receipt by him of a demand in writing pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner and in default of such payment the prisoner may be released.

CHAPTER VII - EMPLOYMENT OF PRISONERS

Employment of civil prisoners.

34. Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings, but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction to be determined by the Superintendent for the use of implements and the cost of maintenance.

Employment of criminal prisoners.

35. No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history card of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment of any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

Employment of female prisoners sentenced to simple imprisonment.

36. Provisions shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment, but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such abridgement in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII—HEALTH OF PRISONERS

37. The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

Sick prisoners

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting the ration of the discipline or treatment of any such prisoner.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history ticket or in such other record as the State Government may by rule direct, and the Jailer shall make an entry in its proper place, stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make and the date of the cure.

Record of directions of Medical Officer

Hospital

39. In every prison a hospital or proper place for the reception of sick prisoners shall be provided.

Hospital

39-A. The Superintendent may if in his opinion a prisoner requires special treatment in a hospital outside the prison or in any asylum as defined in the Indian Lunacy Act, 1912 (8 of 1912) send him or cause him to be admitted to a hospital or asylum, subject to the approval of an relative or friend of the prisoner executing such order and subject to such other conditions, if any, as the State Government may prescribe.

Power of Superintendent to send a prisoner to hospital or asylum for special treatment

(2) The period spent by the prisoner for such treatment in the hospital or asylum or in going there to or returning there from shall be deemed to be part of the period of his detention in the prison.

Explanation I.—Nothing contained in this section shall be deemed to affect the operation of section 30 of the Prisoners Act, 1900.

Prisoners' Act, 1894 (No. 9 of 1894) (hereinafter referred to as the Principal Act), shall to the State of Madhya Pradesh, be amended in the manner hereinafter provided.

Amendment of Central Act No. 9 of 1894 in its application to the State of Madhya Pradesh.

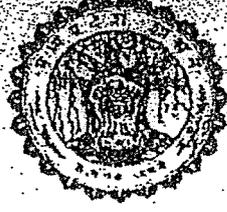
Section 36 of the Principal Act, the following section shall be inserted, namely :—

Insertion of new Section 36-A.

The prisoners shall be paid wages for the employment provided to them at such rate as may be prescribed from time to time. The amount of fifty per cent. of the total amount of wages earned by the prisoner in a month shall be kept and deposited in a separate common fund which shall be exclusively used for the payment of compensation to the deserving victims or his family of the offence the commission of which entailed the sentence of imprisonment to the prisoner. The account of the fund shall be maintained by the Superintendent of Jail in such form and in such manner as may be prescribed. The rate of compensation to be paid to the victims shall be fixed by a committee consisting of such persons as may be prescribed."

Creation of fund for compensation.

इसके अन्तर्गत प्रकाशित करने के बिना
दोनों ही भागों में जाने के लिए अनुमति
अनुमति-पत्र क्र. भा.प.स.स.स.पी.-2
इसके, पी. 1505/2000.



पंजी क्र. 108/भा.प.स.स.स.पी. 2000
एम. पी. 108/भा.प.स.स.पी. 2000

मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 4]

भोपाल, सोमवार, दिनांक 3 जनवरी 2000—पीप 13, शक 1921

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 3 जनवरी 2000

क्र. 92-इन्फोर्मे अ (प्र.)—मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम, जिस पर दिनांक 29 दिसम्बर 1999 को राज्यपाल की अनुमति प्राप्त हो चुकी है, एतद्वारा संवैधानिक प्रती-जानकारी के लिये प्रकाशित किया जाता है।

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. के. सिटोंके, जतिरिक्त सचिव.

मध्यप्रदेश अधिनियम
क्रमांक 1 मन् २०००.

कारागार (मध्यप्रदेश संशोधन) अधिनियम, १९९९.

[दिनांक २९ दिसम्बर, १९९९ को राज्यपाल की अनुमति प्राप्त हुई; अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक ३ जनवरी, २००० को प्रथम बार प्रकाशित की गई.]

कारागार अधिनियम, १९९४ को मध्यप्रदेश संस्य को लागू हुए रूप में अति संशोधित करने हेतु अधिनियम.

भारत गणराज्य के पचासवें वर्ष में मध्यप्रदेश विधान-मण्डल द्वारा निम्नलिखित रूप में यह अधिनियमित हो—

2. इस अधिनियम का संक्षिप्त नाम कारागार (मध्यप्रदेश संशोधन) अधिनियम, १९९९ है.

संक्षिप्त नाम

मध्यप्रदेश राज्य को लागू हुए रूप में केन्द्रीय अधिनियम, 1999 का संशोधन।

2. मध्यप्रदेश राज्य को लागू हुए रूप में कारागार अधिनियम, 1894 (1894 का सं. 3) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) को इसमें इसके पश्चात् उपरोक्त रीति में संशोधित किया जाए।

नई धारा 35-क का अंतःस्थापन

3. मूल अधिनियम को धारा 35 के पश्चात्, निम्नलिखित धारा अंतःस्थापित की जाए अर्थात् —

प्रधिकार के लिए निधि का गुणक

35-क. बंदियों को उन्हें उपलब्ध कराए गए नियोजन के लिए मजदूरी का भुगतान ऐसी दर पर किया जाएगा जैसी कि समय-समय पर निर्दिष्ट की जाए, जन्मो द्वारा एक मास में उपाजित की गई मजदूरी को कुल चोरी चरी पलास प्रदत्त राशि एक गुणक सामान्य निधि में रखी और जमा की जाएगी जिसका अन्ततः उपयोग उन बंदियों के योग्य पीड़ितों या उनके परिवार को प्रतिकार दिए जाने में ही किया जाएगा जिसके लिए किए जाने के कारण वह बन्दी को कारागार से दंडादिष्ट किया गया है। निधि का लेखा खोल के अधीनक द्वारा, ऐसे प्रत्येक और ऐसी रीति में स्थापित किया जाएगा जो कि विहित की जाए, पीड़ितों को भुगतान किए जाने वाले प्रतिकार को दर एक समिति द्वारा नियत की जाएगी जो ऐसे व्यक्तियों से मिलकर बनेगी जो कि विहित किए जाएं।

धोणल, दिनांक 3 जनवरी 2000

क्र. 95-इक्कीस-अ (प्र.)—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, महाराष्ट्र (मध्यप्रदेश) संशोधन अधिनियम, 1999 (क्रमांक 1 सन् 2000) का संशोधन अनुवाद मध्यप्रदेश के प्राधिकार में उपरोक्त अफसरों द्वारा किया है।

मध्यप्रदेश के सचिव के नाम से इस आदेशानुसार,
आर. के. सिट्टी, आतिरिक्त सचिव

MADHYA PRADESH ACT

No. 1 of 2000

THE PRISONS (MADHYA PRADESH AMENDMENT) ACT, 1999.

(Received the assent of the Government on the 29th December, 1999; assent first published in the Madhya Pradesh Gazette (Extra-ordinary) dated 3rd January, 2000.)

An Act further to amend the Prisons Act, 1894, in its application in the State of Madhya Pradesh.

Be it enacted by the Madhya Pradesh Legislature in the Fiftieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Prisons (Madhya Pradesh Amendment) Act, 1999.

(No. 3 of 1900) in cases to which that section applies.

Explanation II.—In this section, prisoner means a convicted criminal prisoner.

Punishment for escape or attempt to escape from hospital or asylum.

39-B. If any prisoner dealt with under section 39-A escape or attempts to escape from the hospital or asylum to which he has been sent or when going thereto or returning therefrom, he shall be punished with imprisonment for a term which may extend to two years, or with fine or with both.

(2) Such punishment shall be in addition to the punishment for which the prisoner was liable for the offence of which he was already convicted.

Provisions applicable to bonds referred to in section 39-A.

39-C. The provisions of Chapter XXII of the Code of Criminal Procedure, 1898 (No. V of 1898), shall, so far as may be, apply to the bonds referred to in section 39-A.

CHAPTER IX—VISITS TO PRISONERS

Visits to Civil and unconvicted criminal prisoners.

40. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

Search of visitors.

41. The Jailor may demand the name and address of any visitor to a prisoner and when the Jailor has any ground for suspicion may search any visitor or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailor may deny him admission, and the grounds of such proceeding with the particulars thereof shall be entered in such record as the State Government may direct.

CHAPTER X—OFFENCES IN RELATION TO PRISONS

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

42. Whoever, contrary to any rule under section 59 introduces or removes or attempts by any means whatsoever to introduce or remove into or from any prison or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article

and every officer of a prison who contrary to any such rule knowingly suffers any such articles to be introduced in or

removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison.

and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section.

Shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

43. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall, without unnecessary delay, make him over to a police officer, and thereupon such police officer shall proceed as if the offence had been committed in his presence.

Power to arrest for offences under section 42.

44. The Superintendent shall cause to be affixed in a conspicuous place inside the prison a notice in English and and Hindi or Devnagari script setting forth the acts prohibited under section 42 and the penalties notified by the Commission.

Publication penalties.

CHAPTER XI—PRISON OFFENCES

45. The following acts are declared to be prison offences when committed by a prisoner—

- (1) such wilful disobedience to any regulation of the prison as shall have been declared by the rules made under section 39 to be a prison offence;
- (2) any assault or use of criminal force;
- (3) the use of insulting or threatening language;
- (4) immoral or indecent or disorderly behaviour;
- (5) wilfully disabling himself from labour;
- (6) contumacious refusal to work;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority;
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment.

Substituted by Madhya Pradesh Act 30 of 1961.

- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;
- (10) wilful damage to prison property;
- (11) tempering with or defacing history-tickets, records or documents;
- (12) receiving, possessing, or transferring any prohibited articles;
- (13) feigning illness;
- (14) wilfully bringing a false accusation against any officer or prisoner;
- (15) committing or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or official; and
- (16) conspiring to escape, or to assist in escaping or to commit any other of the offences aforesaid.

Punishment of such offences.

40. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by:

- (1) a formal warning;

Explanation.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment book and on the prisoner's history ticket.

- (2) change of labour to some more irksome or severe form for such period as may be prescribed by rules made by the State Government;
- (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;
- (4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the State Government;
- (5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months;
- (6) imposition of handcuffs of such pattern and weight in such manner and for such period as may be prescribed by rules made by the State Government;
- (7) imposition of fetters of such pattern and weight in such manner and for such period, as may be prescribed by rules made by the State Government.

- (8) separate confinement for any period not exceeding three months;

Explanation.—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners.

- (9) Penal diet; that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the State Government.

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours and shall not be repeated except for a fresh offence nor until after an interval of one week.

- (10) cellular confinement for any period not exceeding fourteen days;

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement.

Explanation.—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners.

- (11) Penal diet as defined in clause (9) combined with cellular confinement.

- (12) Omitted.

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters.

47. (1) Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely:—

Plurality of punishment under section 46.

- (1) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section;
- (2) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall

* Omitted by Madhya Pradesh Act, 49 of 1961.

any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with cellular confinement.

(3) cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;

(4) Omitted.

(5) no punishment will be combined with any other punishment in contravention of rules made by the State Government;

(2) No punishment shall be awarded for any such offence so as to combine with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.

Award of punishment under section 46 and 47

48. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector-General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishment to be in accordance with foregoing sections

49. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

Medical Officer to certify on fitness of prisoner for punishment

50. (1) No punishment of penal diet, either singly or in combination, or of change of labour under section 46, clause (2) shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment book prescribed in section 12.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

* Omitted by Mysore Prisons Second Extension of Laws Act, 1951. Substituted by Madhya Pradesh Act, No. 40, of 1961.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

51. (1) In the punishment book prescribed in section 42 there shall be recorded in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison offence of which he was guilty, the date on which such prison offence was committed, the number of previous prison offences recorded against the prisoner, and the date of his last prison offence, the punishment awarded, and the date of infliction.

Entries in punishment book.

(2) In the case of every serious prison offence, the names of the witnesses proving the offence shall be recorded.

(3) Against the entries relating to each punishment the Jailor and Superintendent shall affix their initials as evidence of the correctness of the entries.

52. (1) If any prisoner is guilty of any offence against prison discipline which, by reason of his having frequently committed such offences, or otherwise, in the opinion of the Superintendent is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and upon conviction may sentence him to imprisonment, which may extend to one year, and may be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46.

Procedure on conviction of habitual offenders.

(2) Both the provisions omitted.

53. Omitted.

54. (1) Every Jailor or officer of a prison subordinate to him who shall be guilty of any violation of duty, or willful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duty of his office without permission, or without having given previous notice in writing of his intention, for the period of six months or who shall willfully overstep any leave granted to him, or who shall engage without authority in any employment other than his prison duty, or who shall be guilty of

Offences of prison subordinates.

convicted shall be liable on conviction before a Magistrate to fine not exceeding two hundred rupees or to imprisonment for a period not exceeding three months or to both.

(2) Omitted.

CHAPTER XVII—MISCELLANEOUS

Enumerated cases of confinement in work.

55. A prisoner, when being taken to or from any prison in which he may be lawfully confined, or when ever he is working outside or is otherwise beyond the limits of any such prison or of under the lawful custody or control of a prison officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

Confinement in work.

56. Whoever the Superintendent considers it necessary (with reference either to the state of prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in work he may subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the State Government, so confine them.

Confinement of prisoners under sentence of transportation in iron.

57. (1) Prisoners under sentence of transportation may be subject to any rules made under section 39 be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector General for sanction to his retention for the period for which he considers that retention necessary and the Inspector General may sanction such retention accordingly.

Prisoners not to be employed in any work unless necessary.

58. No prisoner shall be put in iron or other mechanical restraint by the labor of his own hands, except in case of urgent necessity in which case notice thereof shall be forthwith given to the Superintendent.

Power to make rules.

59. The State Government may make rules consistent with this Act—

(1) defining the acts which shall constitute prison offences

(2) determining the classification of prison offences and the status and duties of officers

Substituted by Mysore Prison Act 17 of 1961.

- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison offences or classes thereof;
- (4) declaring the circumstances in which acts constituting both a prison offence and an offence under the Indian Penal Code (Act 45 of 1860), may or may not be dealt with as a prison offence;
- (5) for the award of marks and the shortening of sentences;
- (6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;
- (7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released;
- (8) for the classification of prisons and description and construction of wards, cells and other places of detention;
- (9) for the regulation by numbers, length, by character or otherwise of the prisoners to be confined in each class of prisons;
- (10) for the Government of prisons and for the appointment of all officers appointed under this Act;
- (11) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost;
- (12) for the employment, instruction and control of convicts within or without prisons;
- (13) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited;
- (14) for classifying and prescribing the terms of labour and regulating the periods of rest from labour;
- (15) for regulating the disposal of the proceeds of the employment of prisoners;
- (16) for regulating the confinement in factories of prisoners sentenced to transportation;
- (17) for the classification and the separation of prisoners;
- (18) for regulating the committal of convicted criminal prisoners under section 28.

- (19) for the preparation and maintenance of history tickets;
- (20) for the selection and appointment of prisoners as officers of prisons;
- (21) for rewards for good conduct;
- (22) for regulating the transfer of prisoners whose terms of transportation or imprisonment is about to expire, subject, however, to the consent of the State Government or any other state to which the prisoner is to be transferred;
- (23) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;
- (24) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends;
- (25) for the appointment and guidance of visitors of prisons;
- (26) for extending any or all of the provisions of this Act and of the rules thereunder to Subsidiary Jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1882, and to the officers employed, and the prisoners confined therein;
- (27) in regard to the admission, custody, employment, dieting, treatment and release of prisoners; and
- (28) generally for carrying to effect the purposes of this Act.

Power of Local Government to make rules.

*60. Omitted.

Exhibition of copies of rules.

61. Copies of rules under section 59 so far as they affect the Government of prisons, shall be exhibited, both in English and in Hindi (in Devnagari script) in some conspicuous place and to which all persons employed within a prison have access.

Exercise of powers of Superintendent and Medical Officer.

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the State Government may appoint in his behalf either by name or by his official designation.

*Omitted by the Government of India (Consolidation of Indian Laws) Order, 1937.
Amended by Madhya Pradesh Act No. 40 of 1961.

THE SCHEDULE

Provisions repealed

(Repealed by the Repealing Act, 1 of 1938), 2 and Sch.

Type your text
ANNEXURE - II

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 ⁵ [each leader and deputy leader] of a recognised party and recognised group in either House of Parliament;]

⁵ [(ad) the office of the Chairperson of the National Advisory Council constituted by the Government of India in the Cabinet Secretariat vide Order No. 6312/1/2004-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 [(bc) 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;

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

⁹ [(iv) 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. 7-5-2000).

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

7. Ins. by Act 24 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 lamherdar, malguzar, patil, 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. (i) (w.e.f. 15-7-1993).

2. Ins. by Act 31 of 2005, s. 12 (w.e.f. 4-4-2005).

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.

-13-

THE SCHEDULE
[See section 3(1)]
PART I

BODIES UNDER THE CENTRAL GOVERNMENT

Chairman not covered u/s 3(i)

- 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 *** Limited.
- Board of Directors of the Heavy Electrical *** Limited.
- Board of Directors of the Hindustan Cables *** Limited.
- Board of Directors of the Hindustan Insecticides *** Limited.
- Board of Directors of the Hindustan Machine Tools *** Limited.
- Board of Directors of the Hindustan Shipyard Limited.
- Board of Directors of the [Hindustan Chemicals and Fertilizers Limited].
- Board of Directors of the National Coal Development Corporation (Private) Limited.
- Board of Directors of the National [Industrial] Development Corporation *** Limited.
- Board of Directors of the National Instruments *** Limited.
- Board of Directors of the National Small Industries Corporation *** Limited.
- Board of Directors of the Neyveli Lignite Corporation (Private) Limited.
- Board of Directors of the Sindri Fertilizers and Chemicals *** Limited.
- Board of Directors of the State Trading Corporation of India *** 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 Gandhiham.
- 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 A. ct 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 *Narsinggirji* 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).

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(5)

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.

[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. 1-1-1969).
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).

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 15 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 woolen yarn, hosiery, carpets and druggest 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 Sahib Act, 1955 (36 of 1955).

Indian Central Aracanut 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.

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Indian Central Tobacco Committee.
 Indian Lac Cass Committee constituted under section 4 of the Indian Lac Cass 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 Subai Majlis Awqaf.
 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.

[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.

³
 TABLE
 [See section 3(k)]

S.No.	Name of the Body
(1)	(2)
1.	The Tripura Khasi and Village Industries Board, a body constituted under the Tripura Khasi 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. 14.1.1959).
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).

(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 KrishakBharati 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.

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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 Bahujan Prema 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 Jalianwala Bagh Memorial Trust.
53.	The Haj Committee of India constituted under section 3 of the Haj Committee Act, 2002 (35 of 2002).
54.	The Mallickghar Phoolbazar Parichalan Committee.
55.	The West Bengal Fisheries Corporation Limited.]

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(2)

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विधि और न्याय मंत्रालय / Ministry of Law & Justice

विधि कार्य विभाग / Department of Legal Affairs

Subject: Appointment/nomination of Member of Parliament to the Committees, Boards and District Level Committees constituted for Central/District Jails by the State Government of Rajasthan.

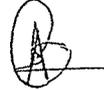
Lok Sabha Secretariat vide OM No. 21/2/2(13)/2015/CI dated 4th April, 2019 has sought our comments in the matter of appointment/nomination of Member of Parliament to the Committees, Boards and District Level Committees constituted for Central/District Jails by the State Government of Rajasthan. The issue for our opinion is, as to whether, the nomination of Hon'ble MP to such Committees would attract the disqualification from membership of the House under Article 102(1)(a) of the Constitution of India.

2. As per the documents received from Lok Sabha Secretariat, it is seen that, in exercise of powers conferred by clause (5) and clause (27) of Section 59 of the Prisons Act, 1894, the Government of Rajasthan made the Rajasthan Prisons (Shortening of Sentences) Rules, 2006 vide notification dated 17.01.2007, wherein, the provision for constitution of Advisory Board was mandated for every Central Jail and District Jail to recommend the Government for shortening of sentences and premature release of eligible prisoners. It is noted that Rule 3 of the said Rules provides the constitution of Advisory Board as per which, two non official members would preferably be the members of the State Legislature or Parliament as nominated by the Government.

3. It is noted that in reply to the points required by the Secretariat of Lok Sabha, the Government of Rajasthan has clarified that the role of Hon'ble MPs in the Committee is purely advisory in nature and the Committee would not influence or power by way of patronage. It is further noted that there is no provision regarding payment of any remuneration under the Rules of 2006 and it appears from the collective reading of the Rules and reply of the State Government that no remuneration is paid to the Members of Advisory Board.

4. So far as the disqualification is concerned, Sec. 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, provides that 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. In the instant matter, there does not appear to any remuneration to the Members of Advisory Board. In view of above, the nomination of Hon'ble MPs to such Committees may not attract the disqualification from membership of the House under Article 102(1)(a) of the Constitution of India.

May kindly see.



(Arpit Anant Mishra)
Asst. Legal Adviser
Date: 18.04.2019

JS & LA (Dr. Rajiv Mani)

ALA (AAM)

24/4/19

RMA
18/4/19

विधि और न्याय
Dept. of Legal Affairs

329232/LS/19
Dy. No. 329232/LS/19
22/04/2019

Lok Sabha Secretariat

Received
21/4/19

LOK SABHA SECRETARIAT

FAX: 23010756

(Committee Branch - II)
(Joint Committee on Offices of Profit)

PARLIAMENT HOUSE ANNEXE
NEW DELHI-110001

No.21/2/2(13)/2015/CII

329232/CS/19
05/4/19

Room No.013, PHA Extn.
Building, New Delhi-110001

Dated 04 April, 2019

OFFICE MEMORANDUM

Subject: - Appointment/nomination of Member of Parliament to the Committees, Boards and District Level Committees constituted for Central/District Jails by the State Government of Rajasthan.

The undersigned is directed to forward herewith copies of the Letter dated 18.08.2015 as received from senior Deputy Secretary to the State Government of Rajasthan, and replies to the list of points and other documents received vide letter dated 20 September, 2018 for ready reference.

2. The Ministry of Law and Justice (Department of Legal Affairs) is kindly requested to furnish their written opinion in the matter so as to enable the Secretariat take decision from the angle of office of profit.
3. The receipt of this communication may please be acknowledged.
4. This may kindly be treated as Most Urgent.

JS (Dr. Bm)

5/4/19
TO

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8/4/19
A2A
(ARM)

The Ministry of Law and Justice
(Department of Legal Affairs)
(Shri Alok Srivastava, Secretary)
Government of India,
Shastri Bhawan, 'A'-Wing
4th Floor, "A" Wing, Shastri Bhawan,
New Delhi-110001

Mema
(MAYA LINGI)
ADDITIONAL DIRECTOR
Ph. No. 23035478/5713
Email: committee-br2@sansad.nic.in

राजस्थान सरकार
संसदीय कार्य विभाग

क्रमांक: प0 15(2)संसद/2015

जयपुर, दिनांक 8/8/15

प्रेषित:- उप सचिव,
लोकसभा सचिवालय,
पार्लियामेंट हाऊस,
नई दिल्ली-110001

विषय:- राज्य सरकार द्वारा गठित समितियों अथवा मण्डलों में एवं जिला स्तरीय समितियों में मा0 सांसदों के मनोनयन की प्रक्रिया बाबत।

संदर्भ:- गृह (ग्रुप-12) विभाग की अशा.टीप सं. प. 6(1)गृह-12/कारा/99 पार्ट दिनांक 2 जून, 2015

महोदय,

उपर्युक्त विषयान्तर्गत उप शासन सचिव, गृह (ग्रुप-12) विभाग से प्राप्त उक्त संदर्भित पत्र मय वांछित सूचना सहित संलग्नक की छायाप्रति संलग्न कर निदेशानुसार निवेदन है कि केन्द्रीय/जिला कारागृहों के लिए गठित सलहकार मण्डलों में निम्नांकित माननीय सांसदों को सदस्य के रूप में मनोनयन हेतु मा0 अध्यक्ष महोदय, लोकसभा की सहमति प्राप्त करने हेतु इस विभाग को प्रस्ताव प्राप्त हुए हैं:-

क्र.सं.	सलाहकार मण्डल	मान0 सदस्य, लोकसभा का नाम
1	केन्द्रीय कारागृह, बीकानेर	श्री अर्जुन मेंघवाल, मा0 सांसद, बीकानेर
2	केन्द्रीय कारागृह, उदयपुर	श्री अजुनलाल मीणा, मा0 सांसद, उदयपुर ग्रामीण
3	जिला कारागृह, चित्तौडगढ	श्री चंद्रप्रकाश जोशी, मा0 सांसद, चित्तौडगढ
4	जिला कारागृह, झुन्झुनू	श्रीमती संतोष अहलावत, मा0 सांसद, झुन्झुनू

अतः प्रशासनिक विभाग से प्राप्त प्रस्ताव को मा0 अध्यक्ष महोदय के समक्ष रखे जाने के साथ ही उनकी सहमति से यथा-शीघ्र इस विभाग को अवगत कराने का कष्ट करें।

संलग्न: उपरोक्तानुसार।

भवदीय,

वरिष्ठ उप शासन सचिव

प्रतिलिपि:-

- 1- उप शासन सचिव, गृह (ग्रुप-12) विभाग की अशा.टीप सं. प. 6(1)गृह-12/कारा/99 पार्ट दिनांक 2 जून, 2015 के संदर्भ में सूचनार्थ प्रेषित है।
- 2-रक्षित पत्रावली।

वरिष्ठ उप शासन सचिव

विषय: राज्य सरकार द्वारा गठित समितियों अथवा मण्डलों में एवं जिला स्तरीय समितियों में गा0 सांसदों के मनोनयन की प्रक्रिया बाबत।

उपरोक्त विषयान्तर्गत निवेदन है कि मान0 मुख्यमंत्री महोदय द्वारा निम्न केन्द्रीय/जिला कारागृहों के लिए गठित सलाहकार मण्डलों में गा0 लोकसभा सदस्यों को बतौर गैर सरकारी सदस्य के मनोनयन संबंधी आदेश जारी किये जाने हेतु सहमति प्रदान की गई है।

क्र. सं.	सलाहकार मण्डल	मान0 सदस्य, लोकसभा का नाम
1.	केन्द्रीय कारागृह, बीकानेर	श्री अर्जुन गंधवाल, सांसद, बीकानेर
2.	केन्द्रीय कारागृह, उदयपुर	श्री अर्जुनलाल गीणा, सांसद, उदयपुर ग्रामीण
3.	जिला कारागृह, चित्तौड़गढ़	श्री वेदप्रकाश जोशी, सांसद, चित्तौड़गढ़
4.	जिला कारागृह, झुंझुनु	श्रीमती संतोष अहलावत, सांसद, झुंझुनु

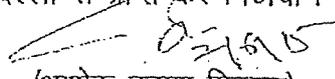
अतः आपके परिपत्र क्रमांक: प.15(12)संसद/95 दिनांक 10.05.2000 के क्रम में माननीय सांसदों को सलाहकार मण्डलों में मनोनयन हेतु मान0 लोकसभा अध्यक्ष महोदय की अनुमति प्राप्ति हेतु 12 मनुष्यार सूचना प्रेषित की जा रही है।

(i)	Name of the Committee/ Board/Corporation/Parishad etc. Please specify the nature of the Committee if it is <u>ad-hoc</u> in nature.	समिति का नाम दण्डित बंदियों की समयपूर्व रिहाई पर विचार हेतु सलाहकार मण्डल केन्द्रीय/जिला कारागृह है।
(ii)	Act, Rule, or Order, under which the Committee/Board/ Corporation/Parishad, etc. was constituted enclosing a copy thereof.	राजस्थान प्रिजन्स (शार्टनिंग आफ सेंटेन्सेज) रूल्स, 2006 के नियम 3, 4 के तहत गठन किया जाता है एवं सलाहकार मण्डल का गठन कारागृहों में सजा भुगत रहे दण्डित बंदियों की समयपूर्व रिहाई पर विचार हेतु किया जाना है।
(iii)	Composition of the Committee/Board/ Corporation/parishad etc. indicating the number of officials and non-officials and whether the Chairman and Secretary are officials or non-officials. Please state	1. जिला कलेक्टर - अध्यक्ष 2. जिला एवं सत्र न्यायाधीश - सदस्य के अधीन वरिष्ठतम न्यायिक अधिकारी 3. दो गैर सरकारी सदस्य - सदस्य (स्थानीय विधायक एवं सांसद सदस्य को प्राथमिकता) 4. अधीशक/उपाधीशक, केन्द्रीय/जिला कारागृह - सदस्य सचिव

	specifically the position regarding nomination of MPs.	
(iv)	The term of office of the members of the Committee/ Board/Corporation/Parishad, etc.	सलाहकार मण्डल में गैर सरकारी सदस्यों के मनोनयन की अवधि 2 वर्ष के लिये है जिसे बाद में 1 वर्ष तक के लिये ओर बढ़ाया जा सकता है।
(v)	The remuneration payable to the members of the Committee/ Board/ Corporation etc. including pay, traveling allowance, daily allowance, compensatory allowance, sitting fee, and other facilities available etc. indicating the actual rates of payment	निल।
(vi)	Mode of appointment /removal of members.	मनोनयन से
(vii)	Qualifications for membership/ Chairmanship.	निल
(viii)	Detailed functions of the Committee/ Board/Corporation etc. Stating, inter-alia :-	
(i)	Whether it performs executive, legislative, or judicial functions and whether it has financial powers.	नही
(ii)	Whether it confers powers of disbursement of funds, allotment of lands, issue of license etc.	नही
(iii)	Whether it gives powers of appointment, grant of scholarship etc	नही

(iv)	Whether the Committee is purely advisory in nature.	जी हाँ
(v)	Whether it is an advisory committee wielding influence or power by way of patronage	नहीं
(ix)	Capital structure, shareholding, annual turnover of the Company etc. in case the body is a public undertaking	निल

अतः उक्त सलाहकार मण्डल केन्द्रीय/जिला कारागृह में माननीय सांसदों के मनोनयन की अनुमति माननीय अध्यक्ष महोदय लोकसभा, नई दिल्ली से प्राप्त कर भिजवाने का कष्ट करे।


(अशोक कुमार मित्तल)
उप शासन सचिव

संलग्न : उपरोक्तानुसार।

वरिष्ठ शासन उप सचिव,

संसदीय कार्य विभाग

अशा.टीप सं. प.6(1)गृह-12/कारा/99 पार्ट

जयपुर, दिनांक 2 JUN 2015

32.

पैरा 289/एन के क्रम में केन्द्रीय एवं जिला कारागारों के लिये गठित सलाहकार बोर्डों में गैर शासकीय सदस्यों का मनोनयन निम्न प्रकार किया जाता है :-

क.स.	नाम कारागृह	मनोनीत गैर सरकारी सदस्य का नाम
1	अजमेर	श्री सुरेश सिंह रावत, विधायक, पुष्कर श्री भागीरथ चौधरी, विधायक, किशनगढ़
2	अलवर	श्री मास्टर मामन सिंह यादव, विधायक, तिजारा श्री ज्ञानदेव आड़ुजा, विधायक, रामगढ़
3	बांसवाड़ा	श्री धनसिंह रावत, विधायक, बांसवाड़ा श्री भीमा भाई, विधायक, कुशलगढ़
4	बारां	श्री ललित कुमार, विधायक, किशनगंज श्री प्रतापसिंह, विधायक छबड़ा
5	बाड़मेर	श्री कैलाश चौधरी, विधायक, बायतु श्री कानसिंह कोटडी, पूर्व विधायक
6	भरतपुर	श्री जगत सिंह, विधायक, कामा श्री विजय बंसल, विधायक, भरतपुर
7	भीलवाड़ा	श्री विट्ठल शंकर अवरथी, विधायक, भीलवाड़ा श्री रामलाल गुर्जर, विधायक, आरिन्द
8	बीकानेर	श्री अर्जुन मेघवाल, सांसद, बीकानेर डा. विश्वनाथ, विधायक, खाजुवाला
9	बूंदी	श्री अशोक डोगरा, विधायक, बूंदी डा. नाथूलाल गुर्जर पूर्व विधायक
10	चित्तौड़गढ़	श्री गीतम कुमार, विधायक, बडीसादडी श्री चंद्र प्रकाश जोशी, सांसद, चित्तौड़गढ़
11	चूरु	श्री खेमाराग, विधायक, सुरजगढ़ श्रीमती कमला कस्वा, पूर्व विधायक
12	दौसा	श्रीमती अलका सिंह, विधायक, बांदीकुई श्री राम किशोर मीणा, पूर्व विधायक
13	धौलपुर	श्री रविन्द्र बोहरा, पूर्व विधायक श्रीमती रानी सिलोटिया, विधायक, बसंडी
14	डूंगरपुर	श्री सुशील कटारा, विधायक, चौरासी श्री गोपी मीणा, विधायक, आसपुर
15	गंगानगर	श्री रामप्रसाद कासनिया, पूर्व विधायक श्री राजेन्द्र भादू, विधायक, सूरतगढ़
16	हनुमानगढ़	श्री अभिषेक मटोरिया, विधायक, नौहर श्रीमती द्रोपदी, विधायक, पीलीबंगा
17	जयपुर	श्री राव राजेन्द्र सिंह, विधायक, शाहपुरा श्री मोहन लाल गुप्ता, विधायक, किशनपोल
18	जैसलमेर	श्री जितेन्द्र सिंह, पूर्व विधायक श्री छोटू सिंह, विधायक, जैसलमेर
19	जालौर	श्री शंकर सिंह राजपुरोहित, विधायक, आहौर श्रीमती अमृता मेघवाल, विधायक, जालौर
20	झालावाड़	श्री नरेन्द्र नागर, विधायक, खानपुर श्री रामचन्द्र, विधायक, डग

21	अंधुनी	श्री सुन्दर लाल, विधायक, पितानी श्रीमती संतोष अहलावत, सांसद
22	जोधपुर	श्री भैराराम सियाल, विधायक, ओरिया श्रीमती कमला मेघवाल, विधायक भोपालगढ़
23	कराली	श्रीमती रोहिणी कुमारी, पूर्व विधायक श्रीमती राजकुमारी, विधायक, हिन्दोन
24	कोटा	श्री संदीप शर्मा, विधायक, कोटा दक्षिण श्री विद्या शंकर नंदवाना, विधायक पीपल्दा
25	भागौर	डॉ. भंजू बाघगार, विधायक, जायल श्री सुखराम, विधायक, मेडता
26	पाली	श्री मदन राठौड़, विधायक, सुधेपुर श्री ज्ञानचंद पारख, विधायक, पाली
27	प्रतापगढ़	श्री गौतम लाल, विधायक, धारीवाड श्री अशोक नवलखा, पूर्व विधायक
28	राजसमंद	श्री सुरेन्द्र सिंह राठौड़, विधायक, कुम्भलगढ़ श्री हरिसिंह रावत, विधायक, भीम
29	रावाईभाघोपुर	राजकुमारी दिया कुमारी, विधायक, सवाईभाघोपुर श्री जितेन्द्र गोठवाल, विधायक, खंडार
30	सीकर	श्री गोरखन, विधायक, धोद श्री बशीर, विधायक, खण्डेला
31	शेरोही	श्रीमती तारा भण्डारी, पूर्व विधायक श्री जगसीराम, विधायक, रेवधर
32	ढोंक	श्री अजीत सिंह, विधायक, ढोंक श्री कन्हैया लाल, विधायक, मालपुरा
33	उदयपुर	श्री फूल सिंह भीणा, विधायक, उदयपुर ग्रामीण श्री अर्जुन लाल भीणा, सांसद

W 8/18/15
(वसुधरा राजे)
मुख्यमंत्री

63473/ACS/15
2015

अतिरिक्त मुख्य सचिव, गृह

May pl. check on the
procedure prescribed for
issue of orders relating to
public representatives such as
MPs / MLAs etc. to such boards
to ensure that we follow this
in full.

26/5/15
A. Mukhopadhaya
ACS, Home

अति-आवश्यक / तत्काल

राजस्थान सरकार

गृह (ग्रुप-12) विभाग

क्रमांक प. 6(1)गृह-12/कारा/1999 पार्ट

जयपुर, दिनांक:

अवर सचिव,
लोक सभा सचिवालय,
कमेटी ब्रॉच-II
(Joint Committee on Offices of Profit),
पार्लियामेन्ट हाउस एनेक्स,
नई दिल्ली-110001

विषय:- Appointment/nomination of Members of Parliament to the
Committees boards and district level Committees constituted
by the State Government – regarding.

संदर्भ:- आपका पत्रांक 21/2/2(13)/2015/CII दिनांक 04.12.2015

महोदय,

उपरोक्त विषयान्तर्गत संदर्भित पत्र के क्रम में लिस्ट्स ऑफ पॉइन्ट्स के सम्बन्ध
में चाही गई सूचना विभाग द्वारा बिन्दुवार तैयार कर आवश्यक कार्यवाही हेतु संलग्न कर
प्रेषित है।

संलग्न : उपरोक्तानुसार।

भवदीय,

(कैलाश चन्द)

शासन उप सचिव,

Reply of the list of points required by The Secretariat of Lok Sabha New Delhi.

S.No./point no.	Description of Points	Reply	others
1	Please state whether the "Advisory Boards of central/District Jails of Bikaner, Udaipur, Chittorgarh and Jhunjhunu are a standing or an Adhoc body.	Advisory board of these jails is a standing body. ✓	
2	Please furnish details of the Committee indicating the number of officials and non-officials in the body.	The Committee of advisory board is furnished according to The Rule 3 of The Rajasthan Prisons (Short. of Sent.) 2006.	The copy of Rule 3 is enclosed.
3	Please give in detail the powers and functions of The Committee.	Committee is advisory body and its functions are to scrutinize analyze the case of shortening of sentences and send advise to Government as per Rules ✓	The Copy of The Rajasthan Prisons (Short. of Sent.) Rules 2006.
4	Whether the functions of the Committee are purely advisory in nature.	Yes. ✓	
5	Please furnish details with respect to the following:- (A) The term of the Member of Parliament as chairperson/Co-chairperson as (non official member) in the Committee. (B) Whether the Government exercise control over the appointment to end removal from the office and over the performance and functions of the office. (C) The Qualifications for Membership; and (D) The role of the Member of Parliament a Member in the Committee.	(A) A non-official member of an advisory board shall be appointed for a period of Two years but the Government may extend the period by 1 year or less. (B) Yes. ✓ (C) Preferably Members of the State Legislature or Parliament nominated by the Government (D) Advisory ✓	Rule 4 is enclosed.

6	<p>Please also give a specific reply to each of the following:-</p> <p>(A) Whether the Committee exercise executive, legislative or judicial powers.</p> <p>(B) Whether the Committee confers powers of disbursement of funds, allotment of lands, etc;</p> <p>(C) Whether it would have powers of appointment/removal; and</p> <p>(D) Whether the Committee would influence or power by way of patronage.</p>	<p>(A) <u>Executive powers.</u></p> <p>(B) <u>No.</u></p> <p>(C) <u>No.</u></p> <p>(D) <u>No.</u></p>	
7	<p>(A) Please indicate the details of expenses payable to the Member of Parliament as member of the Committee specifying the actual rates of payment with break-up of sitting fee, daily allowances, travelling allowance house rent allowance, compensatory allowance, honorarium, etc.</p> <p>(B) Please specify the facilities, other than the remuneration given or proposed to be given to the Member of Parliament as a member of the Committee.</p> <p>(C) Please state whether the allowances payable to the Member of Parliament as Member of the Committee are covered under the Compensatory Allowance defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959.</p>	<p>(A) <u>No.</u></p> <p>(B) <u>No.</u></p> <p>(C) <u>No.</u></p>	
8	<p>Please furnish any information which the Government of Rajasthan wish to furnish on the subject.</p>		<p>Considered at the Government level.</p>

GOVERNMENT OF RAJASTHAN
Home (Gr. XII Department)

No.F.6 (1) H-12/Jail-2002

Jaipur, Dated 17.1 .2007

NOTIFICATION

In exercise of the powers conferred by clause (5) and clause (27) of section 59 of the prisons Act 1894 (IX of 1894) of the Central Legislature as adapted to Rajasthan and of all other powers enabling it in that behalf, the Government of Rajasthan hereby makes the following Rules, namely:-

1. **Short title and commencement.** (1) These rules may be called the Rajasthan Prisons (Shortening of Sentences) Rules, 2006.

(2) They shall come into force at once.

2. **Definition.** - In these rules unless the context otherwise requires;

- (a) "Act" means the Prisons Act, 1894 (Central Act IX of 1894);
- (b) Government means the Government of Rajasthan;
- (c) "habitual criminal" means a prisoner liable to be classified as such under the rules for the time being in force: made under the Act;
- (d) "premature release" means a release of a prisoner without completing his judicially ordained sentence as a result of shortening of sentence;
- (e) "Shortening of Sentence" means the reduction of that period of sentence of a prisoner which he has to serve in the prison upon a judicially pronounced sentence as a matter of grace on the part of the State and as a recognition of his good behaviour in the prison.

3. **Constitution of Advisory Board-----** (1) Advisory Board shall be constituted for every Central Jail and District Jail to recommend to the Government for shortening of sentences and premature release of eligible prisoners in accordance with these rules.

(2) Advisory Board for the Central Jails located at Divisional Headquarter shall be constituted as follows:-

- | | |
|--|------------------|
| (a) Divisional Commissioner concerned | Chairman |
| (b) District and Sessions Judge within whose jurisdiction the Central Jail is situate. | Member |
| (c) Two non-officials, preferably members of the State Legislature or Parliament nominated by the Government | Members |
| (d) Superintendent of the Central Jail concerned | Member-Secretary |

(3) Advisory Boards for all other Central Jails and District Jails ('A' & 'B' Class) shall be constituted as follows:-

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- (a) District Magistrate of the District in which the concerned Jail is situate. Chairman
- (b) Judicial Officer next in seniority to the District and Sessions Judge within whose jurisdiction the Central Jail or District Jail is situate. Member
- (c) Two non-officials, preferably local members of the State Legislature or Parliament nominated by the Government Members
- (d) Superintendent or Deputy Superintendent in charge of the concerned Central or District Jail. Member-Secretary

4. Terms of office of non-official members of the Advisory Board. - A non-official member of an Advisory Board shall be appointed for a period of two years but the Government may further extend the period by one year or less.

5. Meetings of Advisory Board. - The meeting of an Advisory Board shall be convened by the Member-secretary at least twice a year in respect of a Central Jail or the District Jail concerned, as the case may be, on such date and at such venue as may be appointed for the purpose by the Chairman of the Advisory Board, normally in the months of January and July every year or on such other dates as the Chairman may appoint.

6. Quorum. - The quorum for the meeting of Advisory Board shall be three including Chairman.

7. Scrutiny by the Advisory Board. - Before recommending shortening of sentences or premature release of prisoners, the Advisory Board shall examine the following matters in full and accurate details:-

- (i) Circumstances under which offence was committed and the punishment was awarded by the court;
- (ii) Details of the prisoner's previous history and character in district where the prisoner was resident;
- (iii) Prisoner's conduct in the Prison and the result of imprisonment already undergone by him;
- (iv) Whether the prisoner has been reformed and is fit to be rehabilitated in the society without any difficulty;
- (v) Opinion of the District Magistrate and the Superintendent of Police of the districts in which the prisoner was convicted and was resident, as to what is likely to be the impact of the prisoner's premature release with special reference to the following points :
 - (a) the reaction in the locality;
 - (b) the feelings of the relatives of the victim or victim of the offence;

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- (c) whether the life of the accused himself will be safe;
- (d) any other information material to the case of the prisoner; and
- (e) whether the prisoner can be released without any risk to the society;

8. Prisoners eligibility for consideration by the advisory Board.-

(1) The Advisor Board may consider the cases of the following type of prisoners only:-

- (i) a prisoner undergoing a substantive sentence of five years or over, and who has completed two thirds of imprisonment, including remission;
- (ii) a prisoner sentenced to imprisonment for life or for more than 14 years, and who has served 2/3rd of his sentence excluding remission or 13 years 4 months of imprisonment including remission whichever is less. The period of imprisonment shall include sentence in default of payment of fine, if the same has not been paid;
- (iii) Prisoners awarded sentences by Court-Martial who have served two-third of their sentences including the period of remissions;
- (iv) Prisoners suffering from fatal diseases like cancer, AIDS, or infectious diseases, such as leprosy; provided their disease is likely to be dangerous to other prisoners and conditions prescribed in rule 7 are fulfilled;
- (v) Prisoners who are completely blind or handicapped and are wholly dependent on others for their daily routine work;
- (vi) Prisoners who have attained the age of 70 years in case of male prisoners and 65 years in case of women prisoners and who have completed at least one third of their sentence, and in whose case no public interest is likely to be served by keeping them in prison, provided they are serving sentences for their first and only conviction.

(2) Notwithstanding anything in sub-rule (1)

- (i) a prisoner who has been sentenced to imprisonment for life for an offence for which death penalty is one of the punishment provided by law or who has been sentenced to death but his sentence has been commuted under Section 433 of Code of Criminal Procedure, 1973, into one of imprisonment for life, shall be considered only after he has served 14 years of actual imprisonment excluding remission but including the period of detention spent during enquiry, investigation or trial, on the condition that such a prisoner shall also have to earn a minimum of 4 years of remission in order to be eligible for consideration.
- (ii) prisoners sentenced to imprisonment for life under Sections 304 B, 376, 396, 467, and 489 'D of the Indian Penal Code may be considered for premature release only after completion of 14 years of actual imprisonment (with the period undergone during trial), on the condition that such a prisoner shall also have to earn a minimum of 4 years of remission in order to be eligible for consideration.

Explanation:- For the purpose of this rule, remission shall mean only that part of the remission which is actually earned by a prisoner in accordance with the provisions of the Jail Manual but shall not include any special remission that may be awarded to prisoners in general to mark the occasion of some events like Independence Day, Republic Day, Centenary Celebrations of National Leaders, visit of some dignitaries to jail, etc.

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9. Prisoners not eligible for consideration by the Advisory Board.-

Notwithstanding anything in these Rules, the Advisory Board shall not consider the cases of following types of prisoners: -

(1). Prisoners convicted of forgery or any offence against the State involving violence;

Explanation- For this purpose an offence punishable under sections 466, 468, 469 and section 471 to 474 of the Indian Penal Code shall be deemed to be a variation of the offence of forgery.

(2) Prisoners convicted of offences punishable under Sections 366, 366A, 366B, 372, 373, 498B, and 498C of Indian Penal Code;

(3) Prisoners who are habitual criminals, meaning thereby having three or more convictions, all of which are of such a nature as to justify their classification as habitual criminals;

(4) Prisoners detained under any Preventive Detention Law;

(5). Prisoners convicted under Terrorist and Disruptive Activities (Prevention) Act, 1987 (Central Act 28 of 1987);

(6). Prisoners convicted under Narcotic Drugs and Psychotropic Substances Act 1985 (Central Act 61 of 1985); and

(7) Prisoners convicted under the Prevention of Terrorism Act, 2002 (Central Act 15 of 2002).

10. Procedure. - In order that all necessary information might be placed before the Advisory Board, the following procedure shall be adopted:-

(i) The Secretary of the Advisory Board shall collect full particulars regarding each prisoner eligible for consideration by the Board before the date appointed for the meeting of the Board and shall place full accurate details regarding the prisoner's previous history and character, judgment of the sentencing court depicting circumstances in which the offence or offences were committed and sentences were awarded, his prison record together with the report of the District magistrate and the District Superintendent of Police of the district containing information whether the prisoner is considered fit for premature release etc, before the Board. Any other information required by the Advisory Board shall also be made available from the records of the prison.

(ii) Before coming to a decision in each case whether a prisoner is fit for release without any danger to himself and the community at large, the Advisory Board shall carefully scrutinize and consider the judgment of the court, reports of the police and the District Magistrate concerned on the conduct and character of the prisoner recommended for release, any conditions to be prescribed in case of release and the prisoner's conduct and behavior in the prison. Only the prisoner whose conduct has been exemplary in the prison should deserve the consideration of the Advisory Board.

(iii) Report about physical and mental conditions of prisoner fit for release shall be obtained by the secretary of the Advisory Board from the Medical Officer in-charge of the prison concerned and the same be placed before the Board for consideration for final recommendation is made to the Government.

(iv) The Advisory Board shall then submit its recommendations with full history of each case along with relevant papers in form-1 to the Government.

(v) In case of a prisoner convicted by Court-Martial the prisoner's antecedents need not ordinarily be inquired into and it will be sufficient to enquire about his behavior in prison.

11. Conditions for release. - The Advisory board may recommend release of a prisoner conditionally or unconditionally whenever a prisoner is to be released prematurely. Stringent conditions shall be imposed on a prisoner recommended to be released conditionally if so accepted by the Government, and the prisoner so recommended for release shall be made to enter into a bond in Form-2.

12. Consideration by Government. - (1) On receipt of the proceedings of the Advisory Board, and any other relevant paper the Government may order release of a prisoner in cases for which, having regard to all the circumstances of the case, it considers that the prisoner may be released without any harm or danger to the society and the victim and his family. The Government may, if so advised seek more information from any other source it deems fit in order to reach a considered decision.

(2) Government may accept or reject of a recommendation for the release a prisoner

Provided that while issuing an Order of rejection in respect of a recommendation of premature release by an Advisory Board, it shall be sufficient for the Government to state in the said Order, that the matter has been considered in detail and the Order has been passed after taking all the relevant aspects into account.

(3) In case of a prisoner sentenced by Court-Martial the Government shall forward its recommendations to the Government of India for necessary orders.

13. Overriding effect. - In case of an inconsistency between these Rules and provisions in any other Rules made under the Act, the provisions these Rules shall prevail and have overriding effect.

14. Repeal and savings.- The Rajasthan Prisons (Shortening of Sentences) Rules-1958; and rule 135 of Part XXV and rules 136-152 of Part XXVI of the Prison Rules, 1951 are hereby repealed. All action taken under the said rules shall so far as they are consistent with these Rules, be deemed to have been passed or taken under these Rules.

F.No.17(2)/2019-Leg.III
Government of India
Ministry of Law and Justice
Legislative Department

Shastri Bhawan, New Delhi
Dated the 14th May, 2019

OFFICE MEMORANDUM

Subject: Appointment/nomination of Member of Parliament to the Committees, Boards and District Level Committees constituted for Central/District jails by the State Government of Rajasthan.

The undersigned is directed to refer to the Lok Sabha Secretariat OM. No. 21/2/2(13)/2015/C.II dated the 4th April, 2019 on the subject mentioned above and to forward herewith the written opinion of the Legislative Department in the above mentioned case.

Encl:A/a


(R.S. Jayakrishnan)
Deputy Legislative Counsel
Ph: 2338 1588

The Lok Sabha Secretariat
Committee Branch-II
{Joint Committee on Offices of Profit }
[Kind Attn: Smt. Maya Lingi, Additional Director]
Room No. 13, PHA Extension Building
New Delhi. 110 001

Received
14/5/19

Comments of the Legislative Department

Subject: Appointment/nomination of Member of Parliament to the Committees, Boards and District Level Committees constituted for Central/District jails by the State Government of Rajasthan.

Lok Sabha Secretariat *vide* OM. No. 21/2/2(13)/2015/CII dated the 4th April, 2019 has forwarded copies of letter dated 18.8.2015 received from Senior Deputy Secretary to the State Government of Rajasthan and reply to the list of points and other documents received *vide* letter dated the 20th September, 2018 in connection with examination of appointment/nomination of Member of Parliament to the Committees, Boards and District Level Committees constituted for Central/District Jails by the State Government of Rajasthan from the angle of office of profit.

2. The question under consideration is whether the appointment/nomination of Member of Parliament to the Committees, Boards and District Level Committees constituted for Central/District Jails by the State Government of Rajasthan would attract disqualification from membership of the House under 'office of profit' under sub-clause (a) of clause (1) of article 102 of the Constitution.

3. On going through the documents received from Lok Sabha Secretariat, it is seen that the Advisory Board of Central District Jails of Bikaner, Udaipur, Chittorgarh and Jhunjhunu is a standing body constituted under rule 3 of the Rajasthan Prisons (Shortening of Sentences) Rules, 2006. As per sub-section (1) of rule 3 of the said rules, Advisory Board shall be constituted for every Central Jail and District Jail to recommend to the Government for shortening of sentences and premature release of eligible prisoners in accordance with the rules. Further clause (c) of sub-rule (2) of rule 3 of the said rules provides that the Board shall consist of two non-officials, preferably members of the State Legislature or Parliament nominated by the Government.

4. As per the reply given to the list of points issued by the Lok Sabha Secretariat, to the query at serial number 4 regarding the functions of the Advisory Board, the State Government has replied that the functions are purely advisory in nature.

5. With regard to the query at serial number 5 (A) in the list points regarding the term of members of Parliament in the Advisory Board, the State Government has replied that as per rule 4 of the Rajasthan Prisons (Shortening of Sentences) Rules, 2006, a non-official member of an Advisory Board shall be appointed for a period of two years. However as per the said rule, the State Government may extend the period by one year or less. Against the query at serial number 5 (B) of the list of points as to whether the Government exercises control over the appointment to and removal of the members from the office and over the performance and functions of the office, the reply of the State Government is affirmative. Further with regard to the query at serial number 5 (D) in the list of points with regard to the role of the Member of Parliament in the Advisory Board, the State Government has replied that the role of a Member of Parliament is advisory in nature.

6. Further, with regard to the query at serial number 6 (A) in the list of points as to whether the Advisory Board exercise executive, legislative or judicial powers, the State Government has replied that the Advisory Board exercise executive powers. Against the queries at serial numbers 6(B), (C) and (D) in the list of points regarding the power of disbursement of funds, powers of appointment/ removal and as to whether the Advisory Board would influence power by way of patronage, the Government of Rajasthan has replied in negative.

7. Besides these, with regard to the query at serial number 7(A) of the list of points regarding allowances, honorarium etc., 7(B) regarding facilities, remuneration given or proposed to be given to the Member of Parliament as a member of the Advisory Board and query at 7 (C) in the list of points as to whether the allowances payable to the Member of Parliament as member of the Advisory Board are covered under the compensatory allowance defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959), the reply of the State Government to those queries is in negative. Besides these, against query at serial number 8 in the list of points requesting the State Government to furnish any information on the subject, it is stated that the same is considered at the Government level.

8. In the light of the above mentioned reply to the list of points given against serial number 5 (D) and going through the Rajasthan Prisons (Shortening of Sentences) Rules, 2006 under which the Advisory Board is constituted, it is clear that the functions of the said Board are purely advisory in nature. However, with regard to the powers of the Advisory Board are concerned, the State Government has specifically replied that the Advisory Board exercise executive powers. Further, the State Government of Rajasthan in its reply to the list of points at serial number 5 (B) has also admitted that the State Government exercise control over the appointment and removal of the member from the office and over the performance and functions of the office. In this regard, it is noteworthy to mention that rule 4 of the Rajasthan Prisons (Shortening of Sentences) Rules, 2006 also empowers the State Government to extend the period of a non-official member for a period of one year or less. However, on going through the reply to the list of points and the Rajasthan Prisons (Shortening of Sentences) Rules, 2006, it is clear that a non-official member of the Advisory Board is not entitled to any remuneration, allowances, honorarium etc.

9. In this regard, it may be mentioned that in order to determine whether an office held by a person is an office of profit under the Government, the Joint Committee on Offices of Profit, in their Tenth Report (Seventh Lok Sabha), presented to Lok Sabha on 7th May, 1984 laid down the following guiding principles (copy at flag 'X'):-

"The broad criteria for the determination of the question whether an office held by a person is an office of profit have 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 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."

Keeping the above position in view, the Joint Committee on Offices of Profit have been following the under noted 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 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 disqualification]

(ii) whether the body in which an office is held, exercises executive, legislative or judicial powers or confers power of disbursement of funds, allotment of lands, issue of licences etc., or gives powers of appointment, grant of scholarships, etc. ; and

(iii) whether the body in which an office is held wields influence by way of patronage.

If reply to any of the above is in affirmative then the offices in question will entail disqualification.

10. In this context, it may be mentioned that for determining such question, which has come up before the Supreme Court in umpteen cases, the Apex Court has lay down the following tests in the case of Shivamurthy Swami Inamdar Vs. Sanganna Andanappa (1971) 3 SCC 870:-

(a) whether the Government makes the appointment;

(b) whether the Government has the right to remove or dismiss the holder;

(c) whether the Government pays the remuneration;

(d) whether the functions of the holder are and does he perform them for the Government; and

(e) whether the Government exercises any control over the performance of those functions.

The above tests have been reiterated by the Supreme Court in series of cases decided by it subsequently. While applying the above mentioned test on the instant case to determine as to whether the nomination of a Member of Parliament as member to the Advisory Board constituted under rule 3 of the Rajasthan Prisons (Shortening of Sentences) Rules, 2006, it is evident the instant case may attract clauses (a), (b) and (e) of the tests laid down by the Apex Court. Further, it may also attract the guidelines followed by the Committee mentioned at paragraph 9 above.

11. Having considered all aspects of the matter, this Department is of the view that the nomination of a Member of Parliament to the Advisory Board constituted for Central/District Jails of the State Government of Rajasthan may attract disqualification from the angle of 'office of profit'.

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Flag 'x'

ANNEXURE

CP-II No. 54

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))

X

GENERAL RECOMMENDATIONS/GUIDELINES

10.1 The Joint Committee on Offices of Profit on 26th October, 1981 heard the views of representatives of the Ministry of Law, Justice and Company Affairs (Legislative Department as well as Department of Legal Affairs) on the question whether the principles followed by the Joint Committee on Offices of Profit for deciding various offices for granting exemption from disqualification or excluding them from such exemption, could be incorporated in the Parliament (Prevention of Disqualification) Act, 1959 through an amending Bill.

10.2 On being asked in that regard, the Secretary of the Department of Legal Affairs stated that it might not be permissible under Article 102 (1) (a) of the Constitution to enumerate the principles and the guidelines on the basis of which an office of profit was to be determined in the Act. However, technically it would be open to Parliament to lay down principles and guidelines by saying that "if a person is found to be holding an office which satisfies certain principles and guidelines, then the holder of that particular office will stand disqualified". But that might give rise to many practical complications and difficulties. First, that might open flood gates of disputes because the determination of the fact as to whether the holder of any particular office other than the office of profit would fall within the guidelines or principles, would itself be a point of dispute or form part of that dispute. Secondly, there would be an increase in the references under Article 103 of the Constitution virtually leading to an enormous rise in the election petitions to be decided by the President and Election Commission, because any number of election petitions could be filed then on the basis that a particular person was not disqualified as his case was not covered by the guidelines which were proposed to be laid down. The Secretary, Legislative Department also submitted that leaving aside the case of purely advisory bodies, there were bound to be some powers of an executive nature whenever a member became a member of the Executive Committee of a body however insignificant the nature of powers might be. If a provision to that effect was made in any amending Bill, the exemption itself which was the

purpose behind enacting the Act, the task of determining whether a member would be disqualified would be uncertain and would be the case with legislation. The exact type of such exemption would be the issue fairly clothed. The exemption of the member of the Committee on Offices of Profit would be accepted an office of profit. With regard to disqualification, if he held an office which distributed patronage, it would be a matter of judicial decision. In terms of pecuniary interest, it would not disqualify.

10.3 The Committee of disqualification as per the Constitution is that a Government by accepting an office of profit, compromise his independence as the executive so that they are not able to discharge their duties to their electors. They are not interested in the public interest.

10.4 The broad criteria for an office held by a person is that it should be a position of trust and confidence. If the office is of a permanent nature and if the office is of a permanent nature, it should be held to be an office of profit. If the office is of a temporary nature, it should be held to be an office of profit. If the office is of a permanent nature, it should be held to be an office of profit. If the office is of a permanent nature, it should be held to be an office of profit.

10.5 Keeping the provisions of the Act, the offices of Profit have been

GUIDELINES

profit on 26th October, 1959. Ministry of Law, Justice and Legal Affairs Department of Legal Affairs followed by the Joint Committees for granting exemption from disqualification. Act, 1959 through

Secretary of the Department of Law under Article 102(1)(a) laid down the guidelines on the basis of the principles and guidelines contained in the Act. However, the principles and guidelines to be holding an office which the holder of that particular office give rise to many practical problems or the holder of any particular office fall within the guidelines or form part of that disqualification under Article 102(1)(a) a rise in the election petition, because any number of persons on the basis that a particular person by the guidelines which the Legislative Department also advisory bodies there whenever a member of the body however insignificant that effect was made to exemption itself which

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 assets in terms of pecuniary gain. Mere patronage under Article 102(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 be in 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 of the office is actually receiving such remuneration or gain or not, the office should be held to be an office of profit under the Government. Otherwise, the subject 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 should have been following the undernoted criteria to test the Ministers, Members of Legislative Councils, Members of Legislative Assemblies, etc. for deciding the question as to which of the offices

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should disqualify and which should not disqualify a person for being chosen as and for being a Member of Parliament :-

- (i) 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.)

- (ii) 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 scholarships, etc. ; and

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

10.6 If reply to any of the above criteria is in affirmative then the offices in question will entail disqualification.

The Joint Commission might revise the Amendment Bill Committee as early as possible and should be introduced before the Parliament as was the fact.

NEW DELHI:

27th April, 1984

Vaisakha 7, 1906-85

F.No.17(2)/2019- Leg.III
Government of India
Ministry of Law and Justice
Legislative Department

Shastri Bhawan, New Delhi
Dated the 29th November, 2019

OFFICE MEMORANDUM

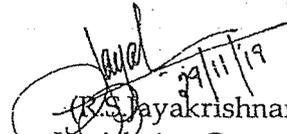
Subject: Appointment/nomination of Member of Parliament to the Committees, Boards and District Level Committees constituted for Central/District jails by the State Government of Rajasthan-reg

The undersigned is directed to refer to the Lok Sabha Secretariat OM NO. 21/2/2(13)/2015/CII dated the 25th November, 2019 on the subject cited above requesting this Department to give a comprehensive opinion/advice on the matter.

2. In this regard, it may be mentioned that the matter has been re-examined in this Department in the light of extant legal provisions. In this regard, clause (i) of section 3 of the Parliament Prevention of Disqualification Act, 1959 (10 of 1959) exempts 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. This exemption is not available to the chairman of bodies specified in Part I of the Schedule to the Act and chairman and secretary to the bodies specified in Part II of the Schedule to the Act. Further, the District Level Committee constituted for Central/District Jail by the State Government of Rajasthan is not specified in the Schedule to the Act.

3. In the light of the above provisions, the nomination of a Member of Parliament to the District Level Committee constituted for Central/District Jails of the State Government of Rajasthan may not attract disqualification from the angle of "office of profit".

4. This issues with the approval of the competent authority.


(R.S. Jayakrishnan)
Deputy Legislative Counsel
Ph: 2338 1588

The Lok Sabha Secretariat
Committee Branch-II
{Joint Committee on Offices of Profit }
[Attn: Shri Munish Kumar Rewari, Additional Director]
G-013, Parliament House Annexe Extension Building
New Delhi. 110 001

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

MEMBERSLOK 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. XX XX XX XX

4. XX XX XX XX.

5. The Committee, thereafter, took up Memorandum No.3, the third agenda regarding appointment/nomination of Members of Parliament to the Committees, Boards and District Level Committees constituted for Central/District Jails by the State Government of Rajasthan. The representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) have stated that these Boards/Committees have been constituted under Rule 3 of the Rajasthan Prisons (Shortening of Sentences) Rules, 2006 which were framed under the provisions of the Prison Act, 1894. Since basically the role of the Member of Parliament in these Committees is of advisory nature and the Committees only recommend to the Government for shortening of jail sentences and premature release of eligible prisoners, therefore, nomination of Hon'ble Members of Parliament would not attract disqualification.

The Committee unanimously concurred with the opinion furnished by the Ministry of Law and Justice and approved the draft Memorandum No. 3.

6. XX XX XX XX

The Committee then adjourned.

CONFIDENTIALEXTRACTS OF THE MINUTES OF THE SEVENTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT
(SEVENTEENTH LOK SABHA) HELD ON 24 JUNE, 2021

The Committee met on Thursday, 24th June, 2021 from 1100 hrs. to 1130 hrs. in Committee Room '1', Block 'A', Ground Floor, Parliament House Annexe Extension Building, New Delhi.

PRESENT

Dr. Satya Pal Singh - Chairperson

MEMBERSLOK SABHA

2. Shri Behanan Benny
3. Dr. Manoj Rajoria
4. Shri Shyam Singh Yadav

RAJYA SABHA

5. Dr.Sasmit Patra
6. Shri V. Vijayasai Reddy
7. Ms. Dola Sen
8. Shri Hardwar Dubey

SECRETARIAT

1. Smt. Suman Arora - Joint Secretary
2. Shri Munish Kumar Rewari - Additional Director

3. Smt. ManjinderPubbi - Under Secretary
4. Shri Kundan Kumar - Committee Officer

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee and apprised them about the agenda i.e. consideration and adoption of the draft Report regarding "Appointment / nomination of Members of Parliament to the Committee, Boards and District Level Committees constituted for Central / District Jails by the State Government of Rajasthan".

3. The Committee considered and adopted the draft Report unanimously without any modification.

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4. The Committee then adjourned.
