

COMMITTEE ON OFFICES OF PROFIT

(FOURTH LOK SABHA)

FIFTH REPORT

(Presented on the 27th April, 1970)



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1970/Vaisakha, 1892 (Saka)

Price : Rs. 0.45 P.

MEMBERS*Lok Sabha*

2. Shri Nathu Ram Aherwar
3. Shri Srinibas Mishra
4. Shri Dwaipayan Sen
5. Shri Ramshekhar Prasad Singh
6. Shri Maddi Sudarsanam

Rajya Sabha

7. Shri Sunder Singh Bhandari
8. Shri Lokanath Misra
9. Shri Narayan Patra
10. Shri Biren Roy.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of Shri S. R. Rane, Chairman of the Committee, Shri H. V. Tripathi was elected Chairman for the sitting.

3. The Committee took up consideration of Memoranda Nos. 181 to 186 and 77A relating to the various Committees/bodies constituted by the Central and State Governments.

4. The Committee were of the opinion that the composition and character of the following Committees/bodies were such that the Chairmanship or Secretaryship or Membership thereof ought not to disqualify:—

1. Gandak Control Board (Ministry of Irrigation and Power).
2. National Railway Users' Consultative Council (Ministry of Railways—Railway Board).
3. Advisory Committee for the Government Sales Emporia (West Bengal).
4. Andhra Pradesh State Electricity Consultative Council.
5. Central Advisory Committee for the Territorial Army (Ministry of Defence).

5. The Committee noted that the State Sales Emporia Committee of the Government Sales Emporia at Calcutta and Howrah, West Bengal (Memo. No. 183) exercised executive powers inasmuch as it arranged for sale at reduced price of articles, could write off 5 per cent of the total value of stock in each financial year and also fixed the selling price of goods on commercial principles. As such, the Committee felt that even membership of this body ought to disqualify.

6. As regards the Board of Review of Publications, West Bengal (Memo No. 77A), the Committee noted that the Board had only advisory functions. But as the Chairman and the other member of the Board got monthly honorarium which was more than 'compensatory allowance', even membership of the Board ought to disqualify.

7. The Committee then adjourned to meet again at 11.00 hours on Saturday, the 21st June, 1969.

III

Twenty-Second Sitting

The Committee met on Saturday, the 21st June, 1969 from 11.00 to 12.00 hours.

PRESENT

Shri H. V. Tripathi—*in the Chair*.

MEMBERS

Lok Sabha

2. Shri Nathu Ram ~~Aherwar~~
3. Shri Srinibas Mishra
4. Shri Dwaipayan Sen
5. Shri Ramshekhar Prasad Singh

Rajya Sabha

6. Shri Sunder Singh Bhandari
7. Shri Lokanath Misra
8. Shri Narayan Patra
9. Shri Biren Roy.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. In the absence of Shri S. R. Rane, Chairman of the Committee, Shri H. V. Tripathi was elected Chairman for the sitting.

3. The Committee took up consideration of Memoranda Nos. 187 to 192 relating to the various Committees/bodies constituted by the Central and State Governments.

4. The Committee were of the opinion that the composition and character of the following Committees were such that the Chairmanship or Secretaryship or Membership thereof ought not to disqualify:

- (1) Standing Farms Committee (Uttar Pradesh).
- (2) Local Advisory Committees of U.P. State Electricity Board.
- (3) State Advisory Committee for Rehabilitation of Goldsmiths (Uttar Pradesh).

5. The Committee noted that the Panel of the Structural Fabricating Industry (Memo. No. 187) wielded influence and exercised powers inasmuch as it determined and recommended issue of import licences for steel spares for machinery and balancing equipment for the structural and fabricating industry. As such, even membership of the Panel ought to disqualify.

The Committee also observed that the term of office of members of the Panel had not been fixed. The Committee desired that some term, say 2 or 3 years, as might be considered appropriate, should be fixed in case of not only this body but all such Committees/bodies set up by Government, so that the element of *perpetuity* of membership was eliminated to ensure the effective working of such Committees.

6. As regards Zila Harijan Vikas Samiti, Uttar Pradesh (Memo. No. 189), the Committee deferred its consideration after discussing at length the various implications arising out of its composition and character *vis-a-vis* the functions assigned to it. The Committee decided that enquiries should be made from all other State Governments regarding the functions and powers—both financial and executive—of such District Committees in their States.

7. The Committee noted that the State Loans and Grants Committee, Uttar Pradesh (Memo. No. 191) wielded influence and exercised both executive and financial powers inasmuch as it sanctioned loans and grants to the parties who applied for loans and grants upto Rs. 15,000 and Rs. 6,000 respectively. As such, the Committee were of the opinion that even membership of the Committee ought to disqualify.

8. The Committee then adjourned.

Twenty-third Sitting

The Committee met on Thursday, the 21st August, 1969 from 16.00 to 17.00 hours.

PRESENT

Shri S. R. Rane—*Chairman*.

MEMBERS*Lok Sabha*

2. Shri Nathu Ram Aherwar
3. Shri Jagannathrao Joshi
4. Shri Dwaipayan Sen
5. Shri Ramavatar Shastri
6. Shri Ramshekhar Prasad Singh

Rajya Sabha

7. Shri Sunder Singh Bhandari
8. Shri Lokanath Misra
9. Shri Narayan Patra
10. Shri Biren Roy.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. The Committee took up consideration of Memoranda Nos. 194 to 197 and 149A relating to the various Committees/bodies constituted by the Central and State Governments.

3. The Committee were of the opinion that the composition and character of the following Committees/Bodies were such that the Chairmanship or Secretaryship or Membership thereof ought not to disqualify:—

- (1) State Labour Advisory Board, Orissa.
- (2) District Committee on Employment for the area covered by the Employment Exchange, Balasore (Orissa).
- (3) State Committee on Employment, Orissa.

- (4) Central Advisory Committee for Agricultural Production (Ministry of Food, Agriculture, Community Development and Cooperation).
- (5) Governing Body for the management of the affairs of the Bengal Veterinary College (West Bengal).

4. The Committee deferred consideration of Memoranda Nos. 193 and 165A to their next sitting.

5. The Committee then adjourned to meet again at 14.00 hours daily on Monday and Tuesday, the 29th and 30th September, 1969, respectively.

V

Twenty-fourth Sitting

The Committee met on Monday, the 29th September, 1969 from 14.00 to 15.00 hours.

PRESENT

Shri S. R. Rane—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar
3. Shri Jagannathrao Joshi
4. Shri Srinibas Mishra
5. Shri Ramavatar Shastri
6. Shri Ramshekhar Prasad Singh

Rajya Sabha

7. Shri Lokanath Misra
8. Shri Narayan Patra
9. Shri Biren Roy
10. Shri H. V. Tripathi.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. At the outset, the Committee noted with concern the unusual delay being caused in finalising the draft Bill based on the recommendations of the Committee made in their various reports from

time to time. The Committee emphasised that the Ministry of Law should once again be urged to introduce the Bill in question in Parliament during the next session.

3. The Committee then took up consideration of Memoranda Nos. 193 and 165A relating to the character and composition of the Madhya Pradesh Housing Board and Delhi Thermal Project Control Board, respectively which were left over at the last sitting.

The Committee felt that as these Boards exercised executive and financial powers, even Membership of the Boards ought to disqualify.

4. The Committee then took up consideration of Memoranda Nos. 198 to 207 relating to the various Committees/Bodies constituted by the Central and State Governments.

5. The Committee were of the opinion that the composition and character of the following Committees/Bodies were such that the Chairmanship or Secretaryship or Membership thereof ought not to disqualify:—

- (1) District Committee on Employment, Eluru (Andhra Pradesh).
- (2) Irrigation Commission (Ministry of Irrigation and Power).
- (3) Uneconomic Branch Lines Committee, 1969 (Ministry of Railways—Railway Board).
- (4) Zonal Railway Users' Consultative Committee (Ministry of Railways).
- (5) Regional/Divisional Railway Users' Consultative Committees (Ministry of Railways).
- (6) Bhartiya Sahitya Mala Prakashan Samiti (Ministry of Education and Youth Services).
- (7) Committee of Writers (Ministry of Education and Youth Services).
- (8) Experts Advisory Committee to advise the Central Institute of Indian Languages, Mysore (Ministry of Education and Youth Services).

6. As regards the character and composition of the Tea Board (Memorandum No. 203), the Committee noted that though the Tea Board exercised both executive and financial powers, it ought to be exempted from disqualification in view of the specific provision made in the Tea Act, 1958 [Section 4(3A)], according to which the office

of member of the Board shall not disqualify its holder for being chosen as, or for being a member of either House of Parliament.

7. Regarding the character and composition of the Export Credit and Guarantee Corporation Limited (Memorandum No. 207), the Committee noted that the Board of Directors exercised both executive and financial powers and wielded influence and patronage. As such, it ought to be included in Part I of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959.

8. The Committee then adjourned to meet again at 14.00 hours on Tuesday, the 30th September, 1969 to consider the character and composition of the Central Social Welfare Board in the context of its recent set-up.

VI

Twenty-fifth Sitting

The Committee met on Tuesday, the 30th September, 1969 from 14.00 to 15.00 hours.

PRESENT

Shri S. R. Rane—*Chairman*

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar
3. Shri Jagannathrao Joshi
4. Shri Srinibas Mishra
5. Shri K. Narayana Rao
6. Shri Ramavatar Shastri
7. Shri Ramshekhar Prasad Singh

Rajya Sabha

8. Shri Sunder Singh Bhandari
9. Shri Lokanath Misra
10. Shri Biren Roy.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee discussed at considerable length the character and composition of the Central Social Welfare Board in the light of its latest set-up.

3. The Committee noted that the erstwhile Social Welfare Board had been dissolved and later on registered under Section 25 of the Companies Act, 1956 under the name of "The Central Social Welfare Board" with effect from the 1st April, 1969. The Executive Committee of the Company was vested with executive and financial powers and had the entire control and management of the Company.

4. On the question whether the Chairmanship of the Company or membership of its Executive Committee would disqualify its holder for being chosen as a Member of Parliament, the Committee referred to the Supreme Court pronouncements in the earlier two cases, namely, (i) G. Basu Vs. Shankari Prasad Ghosal and Others, and (ii) D. R. Gurushanthappa Vs. Abdul Khuddus Anwar and Others.

In the former case the Supreme Court held that a partner in a firm of auditors appointed by the Central Government as auditor of Durgapur Project Ltd. and the Hindustan Steel Ltd. (hundred per cent Government Companies) held an office of profit under the Government. The Court observed that for holding an office of profit under the Government, one need not be in the service of Government and there need be no relationship of master and servant between them.

In the latter case, the Supreme Court held that a person working as Superintendent in the Safety Engineering Department of a Government Company did not hold an office of profit and, therefore, he was not disqualified from being chosen as a member of the Assembly. The Court observed that indirect control exercisable by the Government because of its power to appoint the Directors and to give general directions to the Company could not be held to make the post of Superintendent, Safety Engineering Department, an office of profit under the Government.

5. As the Committee felt somewhat sceptical about the scope of the executive and financial powers exercised by the Board which might operate as a disqualification so far as an M.P. appointed to the Board was concerned, they decided to examine the Secretary, Department of Social Welfare and the Chairman, Central Social Welfare Board on the various implications of such powers exercised by the Board, sometime during the next session and seek further clarification on the various issues involved.

6. The Committee then adjourned.

VII

Twenty-sixth Sitting

The Committee met on Tuesday, the 23rd December, 1969 from 10.00 to 11.00 hours.

PRESENT

Shri Biren Roy—*In the Chair*

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar
3. Shri Jagannath Rao Joshi
4. Shri Ramavatar Shastri
5. Shri Maddi Sudarsanam

Rajya Sabha

6. Shri Sunder Singh Bhandari
7. Shri Lokanath Misra
8. Shri Narayan Patra

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES

1. Shrimati Neera Dogra, *Chairman, Central Social Welfare Board.*
2. Shri P. P. I. Vaidyanathan, *Additional Secretary, Department of Social Welfare.*

2. In the absence of Shri S. R. Rane, the Chairman of the Committee, Shri Biren Roy was elected Chairman for the sitting in pursuance of the provisions of Rule 258 (3).

3. At the outset, the Chairman made an obituary reference to the passing away of Shri D. C. Sharma, a sitting member of Lok Sabha. The Committee passed the following condolence resolution and thereafter stood in silence as a mark of respect to the memory of the departed soul:

“The Committee place on record their profound sense of sorrow over the passing away of their esteemed colleague, Prof.

D. C. Sharma, today and send their heartfelt condolences to the members of the bereaved family.”

4. The Committee then took up consideration of Memorandum No. 135A regarding the constitution and functioning of the Central Social Welfare Board.

5. On being asked to explain the extent of the executive and financial powers exercised by the Central Social Welfare Board, Shri P. P. I. Vaidyanathan, Additional Secretary, Department of Social Welfare stated that the Board was a Company registered under the Companies Act and as such it exercised all the powers of the Company—both executive and financial. Under the Articles of Association, all the executive powers were vested in the Executive Committee. The Executive Committee had powers to take all the decisions and it could also delegate to the various officers such administrative and financial powers, as it might deem fit.

6. When asked whether non-official members were also having the same powers, Shri Vaidyanathan stated that no powers had been delegated to the Chairman, Central Social Welfare Board in the Articles of Association. Under the Articles of Association, the executive powers of the Company vested in the Executive Committee. The Executive Committee in turn had delegated powers to the Chairman. Elucidating the point further, he stated that the Chairman of the Board was the principal officer of the Board. Under the present set-up of the Board, the Executive Committee delegated the same powers to the present Chairman. So far as Members were concerned, neither previously nor now any powers had been delegated. The Executive Committee he added, was the supreme body. Everything had to be placed before the Executive Committee.

In reply to a question, Shri Vaidyanathan stated that the Chairman herself could not delegate any powers further.

7. After some discussion, the Committee felt that as things existed, the Chairman of the Board was a non-official and was drawing a salary which was more than ‘Compensatory Allowance’ as defined in the Parliament (Prevention of Disqualification) Act, 1959. She was, therefore, subject to disqualification and this office should be included in Part II of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959. In case, however, any non-official member was delegated with any financial and executive powers at a subsequent date, he would also incur such a disqualification.

The witnesses then withdrew

8. The Committee then adjourned to meet again at 13.30 hours on Tuesday and Wednesday, the 27th and 28th January, 1970.

VIII

Twenty-seventh Sitting

The Committee met on Tuesday, the 27th January, 1970 from 13.30 to 13.45 hours.

PRESENT

Shri H. V. Tripathi—*in the Chair*

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar
3. Shri Jagannath Rao Joshi
4. Shri Ramshekhar Prasad Singh

Rajya Sabha

5. Shri Sunder Singh Bhandari
6. Shri Lokanath Misra
7. Shri Narayan Patra
8. Shri Biren Roy.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of the Chairman of the Committee, Shri H. V. Tripathi was elected Chairman for the sitting in pursuance of the provisions of Rule 258 (3).

3. At the outset, the Chairman made an obituary reference to the passing away of Shri S. R. Rane, Chairman of the Committee. The Committee passed the following condolence resolution:

“The Committee place on record their profound sense of sorrow over the passing away of their most esteemed Chairman, Shri S. R. Rane, and send their heartfelt condolences to members of the bereaved family.”

The members then stood in silence for a short while.

4. The Committee then adjourned to meet again at 13.30 hours on Wednesday, the 28th January, 1970 as a mark of respect to the memory of the deceased Chairman.

Twenty-eighth Sitting

The Committee met on Wednesday, the 28th January, 1970 from 13.30 to 15.00 hours.

PRESENT

Shri H. V. Tripathi—*In the Chair.*

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar
3. Shri Jagannath Rao Joshi
4. Shri Ramavatar Shastri

Rajya Sabha

5. Shri Sunder Singh Bhandari
6. Shri Biren Roy

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of the Chairman of the Committee, Shri H. V. Tripathi was elected Chairman for the sitting in pursuance of the provisions of Rule 258 (3).

3. The Committee took up consideration of Memoranda Nos. 202 to 224 and 178A relating to the various Committees/bodies constituted by the Central and State Governments.

4. The Committee were of the opinion that the composition and character of the following Committees/bodies were such that the Chairmanship or Secretaryship or Membership thereof ought not to disqualify:—

- (1) District Committee on Employment, Anantapur.
- (2) High Level All Party Committee to tackle the problem of un-employment.
- (3) Implementation and Evaluation Committee.
- (4) Management Committee for Bhatkhande College of Hindustani Music, Lucknow.
- (5) Advisory Committee for Government College of Arts & Crafts, Lucknow.

- (6) Advisory Committee for Archaeology.
- (7) State Agricultural Board.
- (8) Exhibits Purchase Committee for Museums.
- (9) Uttar Pradesh Coin Committee.
- (10) Advisory Committee for the U.P. State Observatory, Nainital.
- (11) U.P. Museums Advisory Board.
- (12) U.P. Regional Records Survey Committee and Purchase Committee.
- (13) State Council of Scientific and Industrial Research.
- (14) U.P. Molasses Advisory Committee.
- (15) State Lalit Kala Akademi, Uttar Pradesh.

5. The Committee noted that in respect of four bodies, viz. (1) High-Level All Party Committee to tackle the problem of un-employment; (2) Implementation and Evaluation Committee; (3) Management Committee for Bhatkhande College of Hindustani Music, Lucknow; and (4) Uttar Pradesh Coin Committee, the term of office of members had not been fixed. The Committee desired that some term, say 2 or 3 years, as might be considered appropriate, should be fixed in case of not only these Committees|bodies but all such Committees set up by Government, so that the element of perpetuity of membership was eliminated to ensure the effective working of such Committees.

6. In regard to the character and composition of the Central Board of Trustees and Regional Committees on Employees' Provident Fund (Memorandum No. 178A), the Committee noted that the Board wielded financial powers by way of patronage and as such even membership of the Board ought to disqualify. As for the Regional Committees, the Committee noted that these were purely advisory in character and the non-official members were drawing less than 'Compensatory Allowance'. As such, the Committee decided that these ought to be exempted from disqualification.

7. The Committee then took up consideration of Kerala State Coir Corporation Ltd. (Memorandum No. 223). After some discussion on the scope of its functions and powers—both executive and financial—, the Committee decided to take it up at their next sitting.

8. In regard to the character and composition of the Cochin Town: Planning Trust (Memorandum No. 224), the Committee noted that the Trust exercised both executive and financial powers and wielded influence and patronage and as such, even membership of the Trust ought to disqualify.

9. The Committee then adjourned.

X

Twenty-ninth Sitting

The Committee met on Friday, the 13th March, 1970 from 15.00 to 15.45 hours.

PRESENT

Shri K. Narayana Rao—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar
3. Shri Dwaipayan Sen
4. Shri Ramavatar Shastri

Rajya Sabha

5. Shri Lokanath Misra
6. Shri Biren Roy.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. At the outset, Shri K. Narayana Rao was felicitated by Members of the Committee on his appointment as Chairman.

3. The Committee then decided to meet again on Thursday, the 23rd April, 1970 at 15.00 hours to consider their Draft Report.

4. The Committee then adjourned.

XI

Thirtieth Sitting

The Committee met on Thursday, the 23rd April, 1970 from 15.00 to 15.50 hours.

PRESENT

Shri H. V. Tripathi—*In the Chair.*

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar

3. Shri Jagannathrao Joshi
4. Shri Dwaipayan Sen
5. Shri Ramavatar Shastri
6. Shri S. M. Solanki
7. Shri Maddi Sudarsanam

Rajya Sabha

8. Shri Sunder Singh Bhandari
9. Shri Lokanath Misra
10. Shri Biren Roy.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. In the absence of Shri K. Narayana Rao, Chairman of the Committee, Shri H. V. Tripathi was elected Chairman for the sitting under Rule 258(3).

3. The Committee took up consideration of Memorandum No. 223 relating to the Kerala State Coir Corporation Ltd.

The Committee observed that the Directors of the Corporation were entitled to draw T.A. |D.A. as admissible to the First Grade Officers of the State and a 'sitting fee' of Rs. 25 per sitting.

On the question whether payment of 'sitting fee' would constitute 'profit' the Committee examined a number of judicial decisions having a bearing on the term 'Office of Profit'. The Committee noted in particular the opinion tendered by the Election Commission, relevant extract reproduced below, in the case regarding Vindhya Pradesh Legislative Assembly Members, referred to it. (ELR. Vol. IV, p. 422):

- “(ii) If consideration is paid in the shape of a remuneration, 'sitting fee' or 'attendance fee', it becomes a 'profit', inasmuch as it does not even purport to cover any actual expenses. Such consideration or remuneration should be deemed to constitute 'profit' even though on detailed accounting, it may be found that no financial advantage has, in fact, been gained by the member in question.”

In the light of the above opinion of the Election Commission, the Committee felt that the payment of 'sitting fee' of Rs. 25 in addition to T.A. |D.A. would be deemed to constitute 'profit'. As such, the

Committee were of the opinion that even Directorship of the Corporation ought to disqualify.

4. The Committee then considered their Draft Fifth Report and adopted it without amendment.

5. The Committee decided that the Report might be presented to Lok Sabha on Monday, the 27th April, 1970 and laid on the Table of Rajya Sabha on the same day.

6. The Committee authorised the Chairman and, in his absence, Shri Ramavatar Shastri to present the Report to Lok Sabha on their behalf.

7. The Committee authorised Shri Biren Roy and, in his absence, Shri Lokanath Misra to lay the Report on the Table of Rajya Sabha.

8. The Committee then adjourned.

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