

JOINT COMMITTEE ON OFFICES OF PROFIT

FIFTH REPORT

(EIGHTH LOK SABHA)



सत्यमेव जयते

Presented to Lok Sabha on 27th August, 1987

Laid in Rajya Sabha on 26th August, 1987

**LOK SABHA SECRETARIAT
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CORRIGENDA TO THE FIFTH REPORT OF THE
JOINT COMMITTEE ON OFFICES OF PROFIT
(EIGHTH LOK SABHA)

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

COMPOSITION OF COMMITTEE

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Appayya Dora Hanumantu
6. Shri Mahendra Singh
7. Shri Sriballav Panigrahi
8. Shri P. M. Sayeed
9. Shri S. B. Sidnal
10. Shri Balram Singh Yadav

Rajya Sabha

11. Shri Sohan Lal Dhusiya
- *12. Shrimati Sudha Vijay Joshi
- **13. Shri K. Gopalan
14. Shri Puttapaga Radhakrishna
- *15. Dr. H. P. Sharma

SECRETARIAT

1. Shri K. C. Rastogi—*Joint Secretary*
2. Shri G. S. Bhasin—*Chief Legislative Committee Officer*
3. Shri S. P. Gaiind—*Senior Legislative Committee Officer*

*Elected by Rajya Sabha on the 26th November, 1986 vice Smt. Monika Das and Shri B. Krishna Mohan ceased to be members of the Joint Committee on their retirement from that House.

**Elected by Rajya Sabha on the 13th March, 1986 vice Shri Amar Prosad Chakraborty, M.P. died.

REPORT OF THE JOINT COMMITTEE ON OFFICES OF PROFIT

I

INTRODUCTION

I, the Chairman of the Joint Committee on Offices of Profit, having been authorised by the Committee to present the Report on their behalf, present this their Fifth Report of the Committee.

1.2 The matters covered by the Report were considered by the Committee at their sittings held on 11th and 12th September and 7th and 8th October, 1986 and 6th and 7th January, 1987. Minutes of these sittings form part of the Report and are at Appendix.

1.3 The Committee examined the composition, character, functions etc. of 28 Committees/Boards/Corporations etc. constituted by the Central and State Governments and the emoluments and allowances payable to their members, non-official Directors, Chairman etc. with a view to consider whether holders of offices on these bodies would incur disqualification under article 102 of the Constitution of India.

1.4 The detailed information regarding the composition, character, functions, emoluments and allowances payable to the members of these bodies was furnished by the concerned Ministries/Departments of the Central Government and the State Governments.

1.5 The Committee considered and adopted the Report on the 21st August, 1987.

1.6 The observations/recommendations of the Committee in respect of the matters considered by them are given in the succeeding paragraphs.

II

COMMITTEES/BOARDS ETC. CONSTITUTED BY THE CENTRAL AND STATE GOVERNMENTS

*Tea Trading Corporation of India Ltd. (Ministry of
Commerce)*

2.1 The Committee note that the non-official Directors of the Tea Trading Corporation of India Ltd. are paid only actual TA which is covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Corporation are to purchase, sell and dispose of tea grown in India besides undertaking marketing arrangements for exports or internal trade of tea in all its forms. The Corporation has also power to borrow or, lend or advance money to customers having dealings with the company. As such, the Corporation exercises both executive and financial powers. Hence, the Committee feel that the non-official Directors *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Textile Committee (Ministry of Commerce)

2.2 The Committee note that the non-official members of the Textile Committee are paid actual TA and DA @ Rs. 50/- per day which are covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee being to ensure supply of standard qualities of textiles for domestic consumption, promotion of export of textiles and textile machinery and to borrow money from the Central Government for developmental purposes, are executive and financial in nature. As such, the Committee feel that the non-official members of the Textile Committee *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Hindustan Vegetable Oils Corporation Ltd. (Ministry of Food and
Civil Supplies—Department of Civil Supplies)*

2.3 The Committee note that the non-official Directors of the Hindustan Vegetable Oils Corporation Ltd. are paid actual TA, besides free board and lodging. The functions of the Corporation are to carry on the business of manufacturing and marketing of vegetable oil and other ancilliary oil products and in this process it exercises both executive and financial powers. As such the Committee feel that the non-official Directors of the Corporations *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

**Sanskrit Programme Advisory Committee (Ministry of
Information and Broadcasting)**

2.4 The Committee note that the non-official members of the Sanskrit Programme Advisory Committee are entitled to TA and a consultancy fee of Rs. 75/- per meeting. Consultancy fee was strictly speaking not a "fee" but meant to recoup the expenditure incurred towards incidental expenses for attending the meeting of the Advisory Committee. As such it is to be treated as equivalent to daily allowance, the payment of which is covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Advisory Committee are to advise AIR in matters relating to broadcast of Sanskrit News bulletins and Sanskrit lessons, recording of vedic recitations etc. The functions are thus purely advisory in nature. Hence the Committee recommend that the non-official members of the Advisory Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

**Urdu Programme Advisory Committee (Ministry of
Informaion and Broadcasting)**

2.5 The Committee note that the non-official members of the Urdu Programme Advisory Committee are entitled to TA and Consultancy fee of Rs. 75/- for attending each meeting. The Committee after considering the matter at length, have concluded that the payment of Rs. 75/- for attending each meeting is strictly speaking not a "fee" but the amount actually paid to recoup expenditure incurred towards incidental expenses for attending the meeting of the Advisory Committee. As such, it is to be treated equivalent to daily allowance, the payment of which is covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee are merely to advise AIR and Doordarshan in matters pertaining to Urdu Programmes and listeners' reactions. The functions are thus purely advisory in nature. As such, the Committee recommend that the non-official members of the Advisory Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

**National Children's Board (Ministry of Social and
Women's Welfare)**

2.6 The Committee note that the non-official members of the National Children's Board are paid TA and DA as admissible to Grade 'A' Officers of the Government of India (Maximum DA Rs. 75/-)

which are covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Board are to review and supervise implementation of the programmes connected with the activities for the welfare of the children. The functions are thus advisory in nature. As such the Committee recommend that non-official members (including members of Parliament, if nominated) of the Board *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Hotel Corporation of India Limited (Ministry of Transport—
Department of Civil Aviation)*

2.7 The Committee note that the non-official Directors of the Board of Hotel Corporation of India Limited are not paid any remuneration. They are however provided with free board and lodging in the Company's Hotel. The functions of the Directors of the Board are both executive and financial in nature, as management of the hotels with a view to promote business of Air India, is vested with the Corporation and the Board of Directors are responsible for the overall performance of the Company. Hence, the Committee feel that the non-official Directors of the Board of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Whether holding of the membership of the Municipal Corporation,
Hyderabad constitutes an office of profit under the Government—
clarification sought by Smt. Renuka Chowdhury, M.P.
(Rajya Sabha)*

2.8 Shrimati Renuka Chowdhury, M.P. (Rajya Sabha) in her letter dated the 23rd August, 1986 addressed to the Chairman, Rajya Sabha had stated that at the time of her election to Rajya Sabha, she was a member, Municipal Corporation, Hyderabad and she continued to serve as a member of the Corporation. She wanted to seek clarification whether her membership of the Municipal Corporation, Hyderabad was in keeping with the Rules and Regulations governing Members of Parliament of the Rajya Sabha.

2.9 The aforesaid letter in original was forwarded by the Rajya Sabha Secretariat to the Lok Sabha Secretariat for placing the matter before the Joint Committee on Offices of Profit for advice.

2.10 As full particulars of the Municipal Corporation, Hyderabad had not been furnished by the Member, the matter was referred to

the Commissioner of Municipal Corporation of Hyderabad who furnished the following information:—

- “(i) There is no provision in the Hyderabad Municipal Corporations Act, 1955 barring the Member of Parliament or M.L.A. to continue his/her membership of the Municipal Corporation.
- (ii) The election of Councillor is final and no outside (Government) approval is necessary.
- (iii) Under the H.M.C. Act, there is no provision under which Government can remove the elected members of the Corporation.
- (iv) Every Councillor of Municipal Corporation, Hyderabad is entitled for payment of fixed conveyance allowance of Rs. 250/ p.m. and another sum of Rs. 100/- p.m. also is paid if he happens to be a member of Standing Committee, Ad hoc Committee and Special Committee. They are not given any free accommodation and no conveyance is provided.
- (v) The Municipal Corporation, Hyderabad has got the powers of allotment of lands, issue of licences, powers of appointment of certain categories of posts. The Municipal Corporation, Hyderabad is not giving any Scholarships. After the approval of Budget estimates by the Corporation the funds are spent for the purpose for which they are allotted for.
- (vi) The functions of the Councillors are to attend the meetings of the General Body and if they happen to be members of the Committee to attend Standing Committee and Special Committees as the case may be. They can ask questions eliciting any information connected with the MCH. They got the voting power.
- (vii) The Councillors are paid out of the revenue of the Corporation.”

2.11 In terms of Article 102(1) (a) of the Constitution, a person shall be disqualified for being chosen as or 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.

2.12 The expression "holds any office of profit under the Government" occurring in the above article of the Constitution has nowhere been defined precisely. Its scope has, therefore, to be gathered from the pronouncements from time-to-time, of the courts; election tribunals and other authorities on what constitutes "office under the Government".

2.13 The point at issue is, therefore, whether the office of a member of the Municipal Corporation, Hyderabad is an office of profit under the Government of Andhra Pradesh. The guidelines of the Committee to determine an office of profit under Government are: "(i), whether the Government makes the appointment for that office, (ii) whether the Government has the right to remove or dismiss the holder, (iii) whether the Government pays any remuneration like sitting fee, honorarium, salary etc., (iv) the functions of the holder and whether the body in which an office is held, exercises executive, financial or judicial powers or powers of disbursement of funds, allotment of lands issue of licences etc. or gives powers of appointment, grant of scholarships etc. and (v) whether the Government exercises any control over the performance of those functions."

2.14 Applying the above tests, the Committee feel that although the functions of the Corporation include *inter alia* the powers of allotment of lands, disbursement of approved funds, issue of licences, powers of appointment to certain posts, yet Shrimati Renuka Chowdhury, M.P. would not be holding any office under the Government in view of the following facts:—

- (i) Municipal councillor is elected by the citizens and election is final and does not require the approval or concurrence of the Government;
- (ii) There is no provision in the Hyderabad Municipal Corporation Act under which Government could remove the elected member of the Corporation; and
- (iii) The conveyance allowance of Rs. 250/- p.m. is not paid by the Government but is paid from out of the revenue of the Corporation.

2.15 Even if the office of membership of Municipal Corporation, Hyderabad is capable of being regarded as an office of profit by virtue of the executive and financial powers exercised by the Corporation and the allowance attached to it, the Committee feel that it could not be regarded as an Office of profit under the Government.

2.16 The above recommendation also corroborates with the opinion of the Election Commission of India tendered on the 15th April, 1984 in the case of Shri Edouart Goubert, a member of the Legislative Assembly of Pondicherry, who was also subsequently elected as member of the Pondicherry Municipal Council and a few days later as Mayor of Pondicherry. The question whether Shri Goubert became disqualified for being a member of the Legislative Assembly of Pondicherry, had been raised before the President of India in a petition addressed to him by Shri V. Narayanaswamy, another member of the same Assembly and the Election Commission had been asked by the President to give its opinion on the question. Shri K. V. K. Sundaram, the then Chief Election Commissioner opined that even if the office of Mayor of Pondicherry was capable of being regarded as an office of profit by virtue of the allowance attached to it, it could not be regarded as an office under the Government. The Mayor was not indebted to the Government in any way for securing the office but was elected by a body of municipal councillors. In order to become effective, the election did not require the approval or concurrence of the Government. Furthermore, no power of control over the Mayor vested in the Government and the power of dismissal which could be exercised only in extreme cases for good and sufficient reason would not be sufficient to make an elective office of this type an office of profit within the meaning of Article 191 (1) (a).

2.17 The Election Commission accordingly tendered the opinion that Shri Edouart Goubert was not disqualified for being a member of the Legislative Assembly of Pondicherry by reason of his holding the office of Mayor of Pondicherry. Even if it was capable of being regarded as an office of profit by virtue of the allowance attached to it, it could not be regarded as an office under the Government. [ELR. Vol. XXVI, p. 297]

2.18 Similar views were also expressed by the Parliamentary Committee on offices of profit in the year 1955, (known as Bhargava Committee), who in para 57 of their Report expressed their opinion in respect of local bodies as under:

"The disqualification cannot obviously apply to Presidents, Chairman or members of Municipalities, District Boards, Cantonment Boards, Notified Area Boards, Town Area Boards, Corporations or like bodies as these functionaries are not salaried officers of these bodies".

The Kurukshetra Development Board (Haryana)

2.19 The Committee note that the non-official members of the Kurukshetra Development Board are paid TA & DA at the rate of Rs. 51/- per day which are covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Board being general superintendence, direction and control of the affairs of the Board including its income and property, are executive and financial in nature. As such, the Committee feel that the non-official members of the Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Haryana Land Reclamation and Development Corporation
(Haryana)*

2.20 The Committee note that the non-official directors of the Haryana Land Reclamation Development Corporation are paid TA & DA @ Rs. 51/- per day which are covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Besides TA and DA @ Rs. 75/- per day, the Chairman of the Corporation is entitled to a salary of Rs. 1000/- and House Allowance of Rs. 500/- p.m. which are not covered by the 'compensatory allowance'. The functions of the Corporation being to implement construction programme relating to land reclamation and development of the area and to appoint experts and consultants for the development of the schemes of the Corporation, getting subsidy, loan compensation, grants licences, concessions from Central Government and State Government are executive and financial in nature. As such, the Committee feel that the non-official Directors and the Chairman of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Board of Directors of the Mysore Chrome Tanning Company Ltd.
(Karnataka)*

2.21. The Committee note that the non-official Directors of the Mysore Chrome Tanning Company are paid actual boarding and lodging charges, besides payment of actual TA. A sitting fee of Rs. 50/- per Board meeting is also admissible to all non-official Directors, which is not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Board of Directors exercise executive and financial powers in as much as they have the power to borrow money, invest funds and manage the affairs of the Company. As such, the

Committee feel that the non-official Directors of the Company should not be exempted from disqualification for being chosen as, or for being a member of Parliament.

Board of Directors of Vikrant Tyres Limited (Karnataka)

2.22 The Committee note that the non-official Directors of the Vikrant Tyres Ltd. are paid boarding, lodging charges etc. besides payment of TA. A sitting fee of Rs. 250/- per sitting is also admissible to them which is not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Board of Directors exercise executive and financial powers in as much as they have the powers to borrow money, invest funds besides managing the affairs of the Company. Hence the Committee feel that the non-official Directors of the Company should not be exempted from disqualification for being chosen as, or for being a member of Parliament.

Karnataka Gazetteer Advisory Committee (Karnataka)

2.23 At their sitting held on 4th July, 1985, the Joint Committee on Offices of Profit (Eighth Lok Sabha), while examining the functions of the Karnataka Gazetteer Advisory Committee desired that the State Government might be requested in the first instance to clarify whether the "sitting fee" of Rs. 40/- in the instant case meant only "daily allowance" and if so whether they would amend the rules and change the nomenclature of 'sitting fee' to 'daily allowance' to enable M.Ps. to be associated with the Gazetteer Advisory Committee.

2.24 The Government of Karnataka, in their reply dated the 6th May, 1986 stated as follows:—

"Non-official members of the Committee have been given an option to draw daily allowance in lieu of the sitting fee at the rates applicable to the government servants belonging to category—I to enable them to recoup the expenditure incurred by them for attending any meeting of the Committee *vide* Rule 514 of the Karnataka Civil Services Rules as modified from time to time. This payment of daily allowance or sitting fee is to enable them to recoup any expenditure incurred by them in attending any meeting of a Committee or for performing any other function as a member of a Committee.

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Regarding amendment of the State Act to have uniformity with the Central Act, the matter is under consideration of this State Government".

2.25 The Committee note that the functions of the Gazetteer Advisory Committee are to scrutinise the compilation of District Gazetteer of the State and to tender advice regarding its revision. The functions are thus advisory in nature.

2.26 In view of the position explained by the State Government that the non-official members of the Karnataka Gazetteer Advisory Committee are entitled to a D.A. @ Rs. 40/- only which is covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959 and the fact that the functions of the Committee are also advisory in nature, the Committee recommend that the non-official members of the Karnataka Advisory Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Board of Directors of the Karnataka State Tobacco Marketing and Processing Cooperative Ltd. (Karnataka)

2.27 The Committee note that the non-official Directors of the Karnataka State Tobacco Marketing and Processing Cooperative Limited, Belgaum are paid TA at the rate admissible to grade I officers of the Karnataka State and sitting fee @ Rs. 40/- within the State and Rs. 60/- outside the State for each Board meeting. However under the revised order No. FD 35 SRS 84 dated 28-9-1984 of the State of Karnataka, the non-official members have been given an option to draw DA @ Rs. 40/- or 60/- per diem which is covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. However the Board of Directors exercises executive and financial powers as the Board could raise loan from Commercial Banks, sanction working expenses and also arrange for the purchase of agricultural requisites and sale of such goods. The Committee feel that in view of the aforesaid functions of the Board, non-official Directors of the said Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Kerala Toddy Workers' Welfare Fund Board (Kerala)

2.28 The Committee note that the non-official Directors other than MPs and MLAs of the Kerala Toddy Workers Welfare Fund Board are paid TA and DA at the maximum rate of Rs. 50/- per day except Members of Parliament and State Legislatures who are paid TA and DA as per TA/DA Rules of M.Ps and M.LAs respectively, Besides they are all paid sitting fee of Rs. 50/- for each sitting which is not covered by the 'compensatory allowance' as defined in section 2(a)

of the Parliament (Prevention of Disqualification) Act, 1959. Moreover, the functions of the Board are to lay down general policies regarding deposit of the amounts to the fund, to administer the fund, and sanction advances and collection of contributions to the fund. Hence, the Board exercises both executive and financial powers. As such, the Committee feel that the non-official Directors of the Board should not be exempted from disqualification for being chosen as, or for being a member of Parliament.

Kerala Labour Welfare Fund Board (Kerala)

2.29 The Committee note that the non-official members of the Kerala Labour Welfare Fund Board are paid TA and DA @ Rs. 50/- per day which are covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Board are administration of the Welfare Fund, to pay the salaries and allowances of the staff appointed, to promote the welfare of labour and to take decision for the implementation of all welfare schemes involving financial implications. Hence the Board exercises both executive and financial powers. As such, the Committee recommend that the non-official members of the said Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Overseas Development and Employment, Promotion Consultants Ltd., Trivandrum, (Kerala)

2.30 The Committee note that the non-official Directors of the Overseas Development and Employment, Promotion Consultants Ltd. are paid a sitting fee of Rs. 75/- and Chairman is paid an honorarium of Rs. 750/- p.m. which are not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Overseas Development and Employment Promotion Consultants Ltd. are to raise financial resources for the Company, to appoint agents and to take steps to promote employment in foreign countries by participation in joint ventures with financial collaboration from abroad. As such the Company exercises both executive and financial powers. Hence, the Committee feel that the non-official Directors including Chairman *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Maharashtra Rajya Sahakari Duddh Mahasangh Ltd., Bombay (Maharashtra)

2.31 The Committee note that the non-official Directors of the Maharashtra Rajya Sahakari Duddh Mahasangh Limited are not paid.

any remuneration for attending the meetings of the Corporation. The function of the Mahasangh is to develop the dairy industry in the State of Maharashtra. The Mahasangh has also powers to purchase or sell land for building sites, erect buildings and set up plant, machinery etc. in relation to the industry, involving both executive and financial powers. As such, the Committee feel that the non-official Directors of the Mahasangh *should not be exempted* from disqualification for being chosen as, or for being a Member of Parliament.

*The Maharashtra Fisheries Development Corporation Limited
(Maharashtra)*

2.32 The Committee note that the non-official Directors of the Maharashtra Fisheries Development Corporation Limited are paid a sitting fee of Rs. 60/- besides the usual TA and DA at Rs. 55/- per day. The Sitting fee is not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Corporation has powers to acquire, maintain and operate fishing vessels and also engage in the marketing of fish products. Thus while discharging its functions, it exercises both executive and financial powers. As such, the Committee feel that the non-official Directors including Chairman *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Maharashtra Mendhi Va Sheli Vikas Mahamandal Ltd., Gokhale Nagar,
Pune. (Maharashtra)*

2.33 The Committee are informed that the Chairman of Maharashtra Mendhi Va Sheli Vikas Mahamandal is entitled to a monthly honorarium of Rs. 1500/- and a house rent of Rs. 225/- p.m. Non-official Directors of the Mahamandal are entitled to travelling allowance by rail in first class and Rs. 30/- as DA plus sitting fee of Rs. 60/- per sitting. The payment of "sitting fee" and honorarium are not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Mahamandal are to develop the sheep breeding industry in the State of Maharashtra by financing, promoting, establishing and administering sheep breeding institutions. Hence it exercises both executive and financial powers while discharging its functions. As such, the Committee feel that the non-official Directors and Chairman of the Mahamandal *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Rajasthan Wild Life Advisory Board (Rajasthan)—Proposal to nominate Shri Vishnu Modi, M.P. as Wild Life Conservator (Non-official member)

2.34 The Committee note that the non-official members of the Rajasthan Wild Life Advisory Board are not paid any remuneration and the main functions of the Board are to advise, assist & suggest schemes for protection of the Wild Life. The Board thus does not exercise any executive or financial powers and its functions are advisory in nature. As such, the Committee recommend that the non-official members (including the proposed nomination of Shri Vishnu Modi, M.P. as Wild Life Conservator) of the Rajasthan Wild Life Advisory Board *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

District Agriculture, Horticulture and Agriculture Marketing Advisory Committee in each district of Uttar Pradesh—Proposal to nominate all members of Lok Sabha from Uttar Pradesh in the Committee

2.35 The Committee note that the non-official members of the District Agriculture, Horticulture and Agriculture Marketing Advisory Committee, Uttar Pradesh are not paid any remuneration. The functions of the Committee are to review and make suggestions for effective implementation of the projects and programme relating to agriculture, horticulture and agriculture marketing Departments which are advisory in nature. Hence, the Committee feel that the non-official members (including members of Parliament, if nominated) of the Advisory Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Uttar Pradesh Brassware Corporation Ltd. (Uttar Pradesh)

2.36 The Committee note that the non-official members of the Uttar Pradesh State Brassware Corporation Ltd. are paid only TA & DA at the rate applicable to Class I Officers of the State Government which are covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Uttar Pradesh State Brassware Corporation Ltd. are to assist, finance, protect and promote Brassware industries in the State of Uttar Pradesh besides providing them with capital, credit, resources and raw material in order to enable them to develop and improve their methods of manufacture, management, marketing and technique of production. Thus the Corporation exercises both executive and financial powers. As such, the

Committee feel that the non-official members including the Chairman of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Uttar Pradesh (Ruhelkhand-Terai) Sugarcane Seed and Development Corporation Ltd., Bareilly (Uttar Pradesh)

2.37 The Committee note that the non-official Directors of Uttar Pradesh (Ruhelkhand-Terai) Sugarcane Seed and Development Corporation Ltd. are paid actual TA and DA @ Rs. 25 per sitting which are covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporations being to establish sugarcane nurseries for production of quality seeds and for that purpose to invest funds and deal with finances of the Company, are executive and financial in nature. Hence, the Committee feel that the non-official directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Uttar Pradesh (West) Sugarcane Seed and Development Corporation Ltd. (Uttar Pradesh)

2.38 The Committee note that the non-official Directors of the Uttar Pradesh (West) Sugarcane Seeds and Development Corporation Ltd. are paid TA & incidentals equivalent to three actual fares, which are not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporation being to establish sugarcane seed nurseries for production of quality seeds and in that connection to invest funds and deal with finances of the company, are executive and financial in nature. Hence, the Committee feel that the non-official Directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Uttar Pradesh (Central) Sugarcane Seed and Development Corporation Ltd. (Uttar Pradesh)

2.39 The Committee note that the non-official Directors of the Uttar Pradesh (Central) Sugarcane Seed and Development Corporation Ltd. are paid actual TA only which are covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporation being to promote and establish Sugarcane nurseries for production of quality seeds and for that purpose to invest and deal with finances of the Company are executive and financial in nature.

Hence, the Committee feel that the non-official directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Uttar Pradesh (Eastern) Sugarcane Seed and Development Corporation Ltd. (Uttar Pradesh)

2.40 The Committee note that the non-official directors of the Uttar Pradesh (Eastern) Sugarcane Seed & Development Corporation Ltd. are paid actual TA and DA @ Rs. 35/- per day which are covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporation being to promote and establish sugarcane nurseries for production of quality seeds and for that purpose to invest and deal with finances of the Company, are executive and financial in nature. Hence the Committee feel that the non-official directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

District Road Development Committee (constituted in each district of U.P.)—Proposal to nominate Members of Parliament from the concerned district

2.41 The Committee note that the non-official members of the District Road Development Committee, Uttar Pradesh are not paid any remuneration. The functions of the Committee are primarily to bring about coordination among various departments in the constructions of roads and bridges and to review the progress. The functions are thus advisory in nature. As such the Committee recommend that the non-official members (including proposed nomination of M.Ps from the concerned district of U.P.) of the said District Road Development Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

NEW DELHI;
August 21, 1987.
Sravana 30, 1909 (*Saka*)

KUMARI KAMLA KUMARI
Chairman,
Joint Committee on Offices of Profit.

APPENDIX

(Vide para 1.2 of the Report)

MINUTES OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (EIGHTH LOK SABHA)

XXII

Twenty-second Sitting

The Committee met on Thursday, the 11th September, 1986
from 16.00 to 16.30 hours.

PRESENT

Kumari Kamla Kumari

—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Appayya Dora Hanumantu
6. Shri Mahendra Singh
7. Shri Sriballav Panigrahi
8. Shri S. B. Sidnal
9. Shri Balram Singh Yadav

Rajya Sabha

10. Shri Sohan Lal Dhusiya
11. Shri K. Gopalan

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee took up for consideration 5 memoranda (Nos. 89 to 93) relating to the following corporations/Committees etc. constituted by the Central and State Governments:—

*Maharashtra Rajya Sahakari Dudh Mahasangh Ltd. Bombay
(Maharashtra) (Memorandum No. 89)*

3. The Committee noted that the non-official Directors of the Maharashtra Rajya Sahakari Dudh Mahasangh limited were not paid any remuneration for attending the meetings of the Corporation. The function of the Mahasangh was to develop the dairy industry in the State of Maharashtra. The Mahasangh had also powers to purchase or sell land for building sites, erect buildings, and

set up plant, machinery etc. in relation to the industry. This involved both executive and financial powers. As such, the Committee felt that the non-official Directors of the Mahasangh *should not be exempted* from disqualification for being chosen as, or for being a Member of Parliament.

*The Maharashtra Fisheries Development Corporation Limited
(Maharashtra) (Memorandum No. 90)*

4. The Committee noted that the non-official Directors of the Maharashtra Fisheries Development Corporation Limited were paid a sitting fee of Rs. 60 besides the usual TA and DA at Rs. 55 per day. The Sitting fee was not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Corporation had powers to acquire, maintain and operate fishing vessels and also engaged in the marketing of fish products. Thus while discharging its functions, it exercised both executive and financial powers. As such, the Committee felt that the non-official Directors including Chairman *should not be exempted* from disqualification for being chosen as, or for being a Member of Parliament.

*Maharashtra Mendhi Va Sheli Vikas Mahamandal Ltd., Kokhale
Nagar, Pune. (Maharashtra) (Memorandum No. 91)*

5. The Committee were informed that the Chairman of Maharashtra Mendhi Va Sheli Vikas Mahamandal was entitled to a monthly honorarium of Rs. 1500 and a house rent of Rs. 225 p.m. Non-official Directors of the Mahamandal were entitled to travelling allowance by rail in first class and Rs. 30 as D.A. plus sitting fee of Rs. 60 per sitting. The payment of "sitting fee" and honorarium were not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Mahamandal were to develop the sheep breeding industry in the State by financing, promoting, establishing and administering sheep breeding institutions. Hence it exercised both executive and financial powers while discharging its functions. As such, the Committee felt that the non-official Directors and Chairman of the Mahamandal *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Urdu Programme Advisory Committee (Ministry of Information and Broadcasting) (Memorandum No. 92)

6. The Committee noted that the non-official members of the Urdu Programme Advisory Committee were entitled to T.A. and Consultancy fee of Rs. 75 for attending each meeting. The Committee after considering the matter at length, concluded that the payment of Rs. 75 for attending each meeting was strictly speaking not a "fee" but actually paid to recoup expenditure incurred towards incidental expenses for attending the meeting of the Advisory Committee. As such, it was to be treated equivalent to daily allowance, the payment of which was covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were merely to advise AIR and Doordarshan in matter pertaining to Urdu Programmes and listeners' reactions. The functions were also thus purely advisory in nature. As such, the Committee felt that the non-official members of the Advisory Committee should be exempted from disqualification for being chosen as, or for being a member of Parliament.

Sanskrit Programme Advisory Committee (Ministry of Information and Broadcasting) (Memorandum No. 93)

7. The Committee noted that the non-official members of the Sanskrit Programme Advisory Committee were entitled to T.A. and a consultancy fee of Rs. 75 for attending each meeting. The Committee considered the matter at length and concluded that the payment of Rs. 75 as consultancy fee was strictly speaking not a "fee" but meant to recoup the expenditure incurred towards incidental expenses for attending the meeting of the Advisory Committee. As such it was to be treated equivalent to daily allowance, the payment of which was covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Advisory Committee were to advise A.I.R. in matters relating to broadcast of Sanskrit News bulletins and Sanskrit lessons, recording of vedic recitations etc. The functions were purely advisory in nature. Hence the Committee felt that the non-official members of the Advisory Committee should be exempted from disqualification for being chosen as, or for being a member of Parliament.

The Committee then adjourned to meet again at 12.00 hours on Friday, the 12th September, 1986.

XXIII

TWENTY-THIRD SITTING

The Committee met on Friday, the 12th September, 1986 from 12.00 to 12.30 hours.

PRESENT

Kumari Kamla Kumari—Chairman

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Appayya Dora Hanumantu
6. Shri Mahendra Singh
7. Shri Sriballav Panigrahi
8. Shri S. B. Sidnal
9. Shri Balram Singh Yadav

Rajya Sabha

10. Shri Sohan Lal Dhusiya
11. Shri K. Gopalan

SECRETARIAT

Shri M. K. Mathur—Joint Secretary

Shri R. S. Mani—Senior Legislative Committee Officer

2. The Committee took up for consideration Memoranda Nos. 94 to 98 relating to the following Corporation/Companies Committees etc. constituted by the Central Government and State Governments.

District Agriculture, Horticulture and Agriculture Marketing Advisory Committee in each district of Uttar Pradesh—Proposal to nominate all members of Lok Sabha from Uttar Pradesh in the Committee (Memorandum No. 94)

3. The Committee noted that the non-official members of the District Agriculture, Horticulture and Agriculture Marketing Advisory Committee, Uttar Pradesh were not paid any remuneration.

The functions of the Committee were to review and make suggestions for effective implementation of the projects and programme relating to agriculture, horticulture and agriculture marketing Departments which were advisory in nature. Hence, the Committee felt that the non-official members (including members of Parliament, if nominated) on the Advisory Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Hotel Corporation of India Limited (Ministry of Transport-Department of Civil Aviation) (Memorandum No. 95)

4. The Committee noted that the non-official Directors of the Board of Hotel Corporation of India Limited were not paid any remuneration. They were however provided with free board and lodging in the Company's Hotel. The functions of the Directors of the Board were executive and financial in nature, as management of the hotels with a view to promote business of Air India, was vested with the Corporation and the Board of Directors were responsible for the overall performance of the Company. As such, the Committee felt that the non-official Directors of the Board of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Board of Directors of the Mysore Chrome Tanning Company Ltd. (Karnataka) (Memorandum No. 96)

5. The Committee noted that the non-official Directors of the Mysore Chrome Tanning Company were paid actual boarding and lodging charges, besides payment of actual T.A. A sitting fee of Rs. 50/- per Board meeting was also admissible to all non-official Directors, which was not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Board of Directors exercised executive and financial powers in as much as they had the power to borrow money, invest funds and manage the affairs of the Company. As such, the Committee felt that the non-official Directors of the Company *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Board of Directors of Vikrant Tyres Limited (Karnataka) (Memorandum No. 97)

6. The Committee noted that the non-official Directors of the Vikrant Tyres Ltd. were paid boarding, lodging charges etc. besides payment of T.A. A sitting fee of Rs. 250/- per sitting was also admissible to them which was not covered by the 'compensatory

allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Board of Directors exercised executive and financial powers in as much as they had the powers to borrow money, invest funds besides managing the affairs of the Company. Hence the Committee felt that the non-official Directors of the Company *should not be exempted* from disqualification for being chosen as, of for being a member of Parliament.

Chambal Irrigated Area Development Authority (Rajasthan proposal to nominate Prof. Nirmala Kumari Shaktawat and Shri Shanti Kumar Dhariwal, M.Ps as members thereof. (Memorandum No. 98)

7. The Committee examined the proposal of Rajasthan Government to nominate Prof. Nirmala Kumari Shaktawat and Shri Shanti Kumar Dhariwal, M.Ps as members of the Chambal Irrigated Area Development Authority. While scrutinising the particulars, the Committee desired that further information on the following points in respect of the Chambal Irrigated Area Development Authority might be called for from the State Government for their consideration:—

- (1) Actual rates of T.A. and D.A. admissible to the non-official members of the above Authority (including that admissible to members of Parliament, if nominated).
- (2) A copy of Order No. F. 10(37) CAD/83 dated 29-10-1983 under which the Authority has been constituted.
- (3) Detailed functions of the Authority in regard to execution of Development Programme and in regard to proper utilisation of the fund.
- (4) Whether any guidelines have been issued by the Government for the members of the above Committee for ensuring effective implementation of the Irrigated Area Development Programme; and
- (5) Whether the State Government has the discretionary powers to approve or reject the recommendations of the Authority and whether their recommendations are binding on the Government.

The Committee then discussed their future programme and decided to meet again at 16.00 hours on Tuesday, the 7th October, 1986 and at 12.00 hours on Wednesday, the 8th October, 1986 respectively.

The Committee then adjourned.

XXIV

TWENTY-FOURTH SITTING

The Committee met on Tuesday, the 7th October, 1986 from 16.00 to 16.30 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Sriballav Panigrahi
6. Shri Balram Singh Yadav

Rajya Sabha

7. Shri Sohan Lal Dhusiya
8. Shri K. Gopalan

SECRETARIAT

Shri R. S. Mani—*Senior Legislative Committee Officer.*

The Committee took up for consideration Memoranda Nos. 99 to 103 relating to the following Boards/Corporations etc. constituted by the Central Government and the State Government.

Hindustan Vegetable Oils Corporation Ltd. Ministry of Food and Civil Supplies (Department of Civil Supplies)
(Memorandum No. 99)

3. The Committee noted that the non-official Directors of the Hindustan Vegetable Oils Corporation Ltd. were paid actual TA besides free board and lodging. The functions of the Corporation were to carry on the business of manufacturing and marketing Oils and other ancillary oil products and in this process it exercised both executive and financial powers. As such the Committee felt

that the non-official Directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Maharashtra State Land Use Board (Maharashtra) ;
(Memorandum No. 100)

4. The Committee examined the functions of the Maharashtra State Land Use Board and desired that detailed functions of the Board might be obtained and placed before them at a subsequent sitting in order to enable them to examine the matter in details before arriving at a final decision.

Uttar Pradesh Brassware Corporation Ltd. (Uttar Pradesh)
(Memorandum No. 101)

5. The Committee noted that the Non-official members of the Uttar Pradesh State Brassware Corporation Ltd. were paid only TA & DA at the rate applicable to Class I Officers of the State Government which were covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Uttar Pradesh State Brassware Corporation Ltd. were to assist, finance, protect and promote Brass industries in the State of Uttar Pradesh besides providing them with capital, credit, resources and raw material in order to enable them to develop and improve their methods of manufacture, management and marketing and technique of production. Thus the Corporation exercised both executive and financial powers. As such, the Committee felt that the non-official members including the Chairman of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

National Children's Board (Ministry of Social and Women's Welfare) (Memorandum No. 102)

6. The Committee noted that the non-official members of the National Children's Board were paid TA and DA as admissible to Grade 'A' Officers of the Government of India (Maximum DA Rs. 49/-) which were covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Board were to review and supervise implementation of the programmes connected with the activities for the welfare of the children. The functions were

thus advisory in nature. As such the Committee felt that non-official members (including members of Parliament, if nominated) of the Board *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Uttar Pradesh (Ruhelkhand-Terai) Sugarcane Seeds and
Development Corporation Ltd., Bareilly (Uttar Pradesh)
(Memorandum No. 103)*

7. The Committee noted that the non-official Directors of Uttar Pradesh (Ruhelkhand-Terai) Sugarcane Seed and Development Corporation Ltd. were paid actual TA and DA @ Rs. 25 per sitting which were covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporations being to establish sugarcane nurseries for production of quality seeds and to invest and deal with finances of the Company were executive and financial in nature. Hence, the Committee felt that the non-official directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

The Committee then adjourned to meet again on Wednesday, the 8th October, 1986.

XXV

TWENTY-FIFTH SITTING

The Committee met on Wednesday, the 8th October, 1986 from 12.00 to 13.00 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Sharad Dighe
4. Shri Mahendra Singh
5. Shri Sriballav Panigrahi
6. Shri Balram Singh Yadav

Rajya Sabha

7. Shri Sohan Lal Dhusiya
8. Shri K. Gopalan
9. Shri Puttapaga Radhakrishna

SECRETARIAT

Shri R. S. Mani—*Legislative Committee Officer.*

2. The Committee took up for consideration Memoranda Nos. 104 to 108 relating to the following Committees/Corporations etc. constituted by the Central Government and the State Governments:—

Uttar Pradesh (West) Sugarcane Seeds and Development Corporation Ltd. (Uttar Pradesh) (Memorandum No. 104)

3. The Committee noted that the non-official Directors of the Uttar Pradesh (West) Sugarcane Seeds and Development Corporation Ltd. were paid TA and incidentals equal to three actual fares which were not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification)

Act, 1959. The functions of the Corporation being to establish sugarcane seed nurseries for production of quality seeds and to invest and deal with finances of the company, were executive and financial in nature. Hence, the Committee felt that the non-official Directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Karnataka Gazetteer Advisory Committee (Karnataka)
(Memorandum No. 105)

3. At their sitting held on 4th July, 1985, the Joint Committee on Offices of Profit (Eighth Lok Sabha), while examining the functions of the Karnataka Gazetteer Advisory Committee (Memorandum No. 9 of Eighth Lok Sabha) had desired that the State Government might be requested in the first instance to clarify whether the "sitting fee" of Rs. 40/- in the instant case meant only "daily allowance" and if so whether they would amend the rules and change the nomenclature of 'sitting fee' to 'daily allowance' to enable M.Ps to be associated with the Gazetteer Advisory Committee.

2. The Government of Karnataka, in their reply dated the 6th May, 1986 stated as follows:—

"Non-official members of the Committee have been given an option to draw daily allowance in lieu of the sitting fee at the rates applicable to the government servants belonging to category-I to enable them to re-coup the expenditure incurred by them for attending any meeting of the Committee *vide* Rule 514 of the Karnataka Civil Services Rules as modified from time to time. This payment of daily allowance or sitting fee is to enable them to recoup any expenditure incurred by them in attending any meeting of a Committee or for performing any other function as a member of a Committee.

* * * * *

Regarding amendment of the State Act to have uniformity with the Central Act, the matter is under consideration of this State Government".

The Committee noted that the functions of the Gazetteer Advisory Committee were to scrutinise the compilation of District Gazetteer of the State and to tender advice regarding its revision. The functions were thus advisory in nature.

In view of the position explained by the State Government, the Committee felt that the non-official members of the Karnataka Gazetteer Advisory Committee who were entitled to a DA @ Rs. 40/- only which was covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959 and the fact that the functions of the Committee were also Advisory in nature, *should be exempted* from disqualification for being chosen as or for being a member of Parliament.

Tea Trading Corporation of India Ltd. (Ministry of Commerce)
(Memorandum No. 106)

4. The Committee noted that the non-official Directors of the Tea Trading Corporation of India Ltd. were paid only actual TA which was covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Corporation were to purchase, sell and dispose of tea grown in India besides undertaking arrangements for exports or Internal trade of tea in all its forms. The Corporation had also power to borrow or, lend and advance money to customers. As such, the Corporation exercised both executive and financial powers. Hence, the Committee felt that the non-official Directors *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Textile Committee (Ministry of Commerce) (Memorandum No. 107)

5. The Committee noted that the non-official members of the Textile Committee were paid actual TA and DA @ Rs. 50/- per day which were covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee being to ensure supply of standard qualities of textiles for domestic consumption, promotion of export of textiles and textile machinery and borrow money from the Central Government for Development works were executive and financial in nature. As such, the Committee felt that the non-official members of the Textile Committee *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Uttar Pradesh (Central) Sugarcane Seed and Development Corporation Ltd. (Uttar Pradesh) (Memorandum No. 108)

6. The Committee noted that the non-official Directors of the Uttar Pradesh (Central) Sugarcane Seeds and Development Corporation Ltd. were paid actual TA only which were covered by the

'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporation being to promote and establish Sugarcane nurseries for production of quality seeds and for this purpose to invest and deal with finances of the Company were executive and financial in nature. Hence, the Committee felt that the non-official directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

The Committee then adjourned.

XXVI

TWENTY-SIXTH SITTING

The Committee met on Tuesday, the 6th January, 1987 from 15.00 to 15.30 hours.

PRESENT

Shri Sharad Dighe—*in the chair*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Mahendra Singh
5. Shri P. M. Sayeed
6. Shri Balram Singh Yadav

Rajya Sabha

7. Shri Sohan Lal Dhusiya
8. Shrimati Sudha Vijay Joshi
9. Dr. H. P. Sharma

SECRETARIAT

1. Shri N. N. Mehra—*Joint Secretary.*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

In the absence of the Chairman, Shri Sharad Dighe, M.P. was chosen by the Committee to act as Chairman for the sitting in terms of the provisions of Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

2. The Committee took up for consideration Memoranda Nos. 109 to 113 relating to the following Boards/Committees/Corporation etc. constituted by the State Governments:—

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Uttar Pradesh (Eastern) Sugarcane Seed and Development Corporation Ltd. (Uttar Pradesh)
(Memorandum No. 109)

3. The Committee noted that the non-official directors of the Uttar Pradesh (Eastern) Sugarcane Seed & Development Corporation Ltd. were paid actual TA and DA @ Rs. 35/- per day which were covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporation being to promote and establish sugarcane nurseries for production of quality seeds and for that purpose to invest and deal with finances of the Company, were executive and financial in nature. Hence the Committee felt that the non-official directors of the Corporation *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Rajasthan Wild Life Advisory Board (Rajasthan)—Proposal to nominate Shri Vishnu Modi, M.P. as Wild Life Conservator (Non-official member)

(Memorandum No. 110)

4. The Committee noted that the non-official members of the Rajasthan Wild Life Advisory Board were not paid any remuneration and the main functions of the Board were to advise, assist & suggest schemes for protection of the Wild Life. The Board thus did not exercise any executive or financial powers and its functions were advisory in nature. As such, the Committee felt that the non-official members (including the proposed nomination of Shri Vishnu Modi, M.P. as Wild Life Conservator) of the Rajasthan Wild Life Advisory Board *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

District Road Development Committee (constituted in each district of U.P.)—Proposal to nominate Members of Parliament from the concerned district

(Memorandum No. 111)

5. The Committee noted that the non-official members of the District Road Development Committee, Uttar Pradesh were not paid any remuneration. The functions of the Committee were primarily to bring about coordination among various departments in the constructions of roads and bridges and review the progress. The functions were thus advisory in nature. As such the Committee felt that the non-official members (including proposed

nomination of M.Ps from the concerned district) of the said District Road Development Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Kerala Toddy Workers' Welfare Fund Board (Kerala)
(Memorandum No. 112)

6. The Committee noted that the non-official Directors other than MPs and M.L.As of the Kerala Toddy Workers Welfare Fund Board were paid TA & DA @ maximum rate of Rs. 50/- per day and Members of Parliament and MLAs were paid as per TA & DA Rules of members of Parliament and State Legislatures respectively. Besides, they were all paid sitting fee of Rs. 50/- for each sitting which was not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Moreover, the functions of the Board were to lay down general policies regarding deposit of the amounts to the fund, administer the fund, sanction advances and collection of contributions to the fund. Hence, the Board exercised both executive and financial powers. As such, the Committee felt that the non-official Directors of the Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Kerala Labour Welfare Fund Board (Kerala)
(Memorandum No. 113)

7. The Committee noted that the non-official members of the Kerala Labour Welfare Fund Board were paid TA & DA @Rs. 50/- per day which were covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Board were administration of the Welfare Fund, to pay for the salaries and allowances of the staff appointed; to promote the welfare of labour and to take decision for the implementation of all welfare schemes including financial matters. Hence the Board exercised both executive and financial powers. As such, the Committee felt that the non-official members of the said Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

The Committee then adjourned to meet again on Wednesday, the 7th January, 1987.

XXVII

TWENTY SEVENTH SITTING

The Committee met on Wednesday, the 7th January, 1987 from 11.00 to 11.50 hours.

PRESENT

Shri Sharad Dighe—*in the chair*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Mahendra Singh
4. Shri Sriballav Panigrahi
5. Shri P. M. Sayeed
6. Shri Balram Singh Yadav

Rajya Sabha

7. Shrimati Sudha Vijay Joshi
8. Dr. H. P. Sharma

SECRETARIAT

1. Shri N. N. Mehra—*Joint Secretary.*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

2. In the absence of the Chairman, Shri Sharad Dighe, M.P. was chosen by the Committee to act as Chairman for the sitting in terms of the provisions of Rule 256(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3 At the outset, some members raised a point whether with a view to enable members of Parliament to have more effective participation in the implementation of the socio-economic programmes of Government, would it not perhaps be imperative for the Committee to review their approach with regard to the existing guidelines followed by the Committee for exemption/non exemption of offices of profit held in public undertakings and other bodies constituted by Government carrying executive, financial or judicial powers. After discussion at length, the Committee decided that this

matter might be discussed in detail at a separate sitting and the members would give their suggestions and points in writing to enable the Committee to examine the matter thoroughly.

4. The Committee then took up for consideration Memoranda Nos. 114 to 118 relating to the following Board/Corporations etc. constituted by the State Governments:—

*Overseas Development and Employment Promotion Consultants
Ltd., Trivandrum, (Kerala)
(Memorandum No. 114)*

5. The Committee noted that the non-official Directors of the Overseas Development and Employment Promotion Consultants Ltd. were paid a sitting fee of Rs. 75/- and Chairman was paid an honorarium of Rs. 750/- p.m. which were not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Overseas Development and Employment Promotion Consultants Ltd. were to raise financial resources, to appoint agents and to take steps to promote employment in foreign countries and to promote joint ventures with financial collaboration from abroad. As such the Company exercised both executive and financial powers. Hence, the Committee felt that the non-official Directors including Chairman *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament

*The Kurukshetra Development Board (Haryana)
(Memorandum No. 115)*

6. The Committee noted that the non-official members of the Kurukshetra Development Board were paid TA and DA at the rate of Rs. 51/- per day which were covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Board being the general superintendence, direction and control of the affairs of the Board including its income and property, were executive and financial in nature. As such, the Committee felt that the non-official members of the Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Haryana Land Reclamation and Development
Corporation (Haryana)
(Memorandum No. 116)*

7. The Committee noted that the non-official directors of the Haryana Land Reclamation Development Corporation were paid TA and DA @ Rs. 51/- per day which were covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporation being the general superintendence, direction and control of the affairs of the Corporation including its income and property, were executive and financial in nature. As such, the Committee felt that the non-official directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

satory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Besides TA and DA @ Rs. 75/- per day, the Chairman of the Corporation was entitled to a salary of Rs. 1000/- and House Allowance of Rs. 500/- p.m. which were not covered by the 'compensatory allowance'. The functions of the Corporation being to implement construction programme relating to land reclamation and development of the area and to appoint experts and consultants for the development of the schemes of the Corporation, getting subsidy, loan compensation, grants, licences, concessions from Central Government and State Government were executive and financial in nature. As such, the Committee felt that the non-official Directors and the Chairman of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Board of Directors of the Karnataka State Tobacco Marketing and Processing Cooperative Limited, Belgaum (Karnataka)
(Memorandum No. 117)

8. The Committee noted that the non-official Directors of the Karnataka State Tobacco Marketing and Processing Cooperative Limited, Belgaum were paid TA at the rate of admissible to grade I officer of the Karnataka State and sitting fee @ Rs. 40/- within the state and Rs. 60/- outside the state for each Board meeting. However under the revised order No. FD 35 SRS 84 dated 28-9-1984 of the State of Karnataka, the non-official members had been given an option to draw DA @ Rs. 40/- or 60/- which was covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. However the Board of Directors exercised executive and financial powers as the Board could raise loan from Commercial Banks, sanction working expenses and also arrange for the purchase of agricultural requisites and sale of such goods. In view of the aforesaid functions of the Board, non-official Directors of the said Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Whether holding of the membership of the Municipal Corporation, Hyderabad constitutes an office of profit under Government
clarification sought by Smt. Renuka Chowdhury, M.P.
(Rajya Sabha) (Memorandum No. 118)

9. Shrimati Renuka Chowdhury, Member of Parliament (Rajya Sabha) in her letter dated the 23rd August, 1986 addressed to the Chairman, Rajya Sabha had stated as under:—

"I am writing this to seek clarification on a point on which there is divided opinion.

At the time of my election to Rajya Sabha, I was a member, Municipal Corporation, Hyderabad and I continue to serve as a Member.

It may kindly be clarified if my membership of the Municipal Corporation, Hyderabad is in keeping with the Rules and Regulations governing members of Parliament of the Rajya Sabha.

I shall appreciate knowing the correct position for my guidance".

10. The aforesaid letter in original was forwarded by the Rajya Sabha Secretariat to the Lok Sabha Secretariat for placing the matter before the Joint Committee on Offices of Profit for advice.

11. As full particulars of the Municipal Corporation, Hyderabad had not been furnished by the Member, the matter was referred to the Commissioner of Municipal Corporation of Hyderabad who furnished the following information:—

- (i) There is no provision in the Hyderabad Municipal Corporations Act, 1955 barring the Member of Parliament or M.L.A. to continue his/her membership of the Municipal Corporation.
- (ii) The election of Councillor is final and no outside (Government) approval is necessary.
- (iii) Under the H.M.C. Act, there is no provision under which Government can remove the elected members of the Corporation.
- (iv) Every Councillor of Municipal Corporation, Hyderabad is entitled for payment of fixed conveyance Allowance of Rs. 250/- p.m. and another sum of Rs. 100/- p.m. also is paid if he happens to be a member of Standing Committee, Adhoc Committee and Special Committee. They are not given any free accommodation and no conveyance also is provided.
- (v) The Municipal Corporation, Hyderabad has got the powers of allotment of lands, issue of licences, powers of appointment to certain categories of posts. The MCH is not giving any Scholarships. After the approval of Budget estimates by the Corporation the funds are spent for the purpose for which they are allotted for.

- (vi) The functions of the Councillors are to attend the meetings of the General Body and if they happen to be members of the Committee to attend Standing Committee and Special Committees as the case may be. They can ask questions eliciting any information connected with the MCH. They got the voting power.
- (vii) The Councillors are paid out of the revenue of the Corporation."

12. In terms of Article 102(1) (a) of the Constitution, a person shall be disqualified for being chosen as or 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.

13. The Expression "holds any office of profit under the Government" occurring in the above article of the Constitution has nowhere been defined precisely. Its scope has, therefore, to be gathered from the pronouncements made from time-to-time, of the courts, election tribunals and other authorities on what constitutes "office under the Government."

14. The point at issue was, therefore, whether the office of a member of the Municipal Corporation, Hyderabad was an office of profit under the Government of Andhra Pradesh. The guidelines of the Committee to determine an office of profit under Government were:

"(i) whether the Government makes the appointment for that office, (ii) whether the Government has the right to remove or dismiss the holder, (iii) whether the Government pays any remuneration like sitting fee, honorarium, salary etc. (iv) the functions of the holder and whether the body in which an office is held, exercises executive, financial or judicial powers or powers of disbursement of funds, allotment of lands issue of licences etc. or gives powers of appointment, grant of scholarships etc. and (v) whether the Government exercise any control over the performance of those functions."

15. Applying the above test, the Committee felt that although the functions of the Corporation included *inter alia* the powers of allotment of lands, disbursement of approved funds, issue of licences, powers appointment to certain posts, yet Shrimati Renuka

Chowdhury M.P. would not be holding any office under the Government in view of the following facts:—

- (i) Municipal councillor was elected by the citizens and election was final and did not require the approval or concurrence of the Government;
- (ii) There was no provision in the Hyderabad Municipal Corporation Act under which Government could remove the elected member of the Corporation.
- (iii) The conveyance allowance of Rs. 250/- p.m. was not paid by the Government but was paid from out of the revenue of the Corporation.

16. Even if the office of membership of Municipal Corporation, Hyderabad was capable of being regarded as an office of profit by virtue of the executive and financial powers exercised by the Corporation and the allowance attached to it, it was felt that it could not be regarded as an *office of profit under the Government*.

17. The proposed recommendation also corroborated with the opinion of the Election Commission of India tendered on the 15th April, 1984 in the case of Shri Edouart Goubert, a member of the Legislative Assembly of Pondicherry, who was also subsequently elected as member of the Pondicherry Municipal Council and a few days later as Mayor of Pondicherry. The question whether Shri Goubert became disqualified for being a member of the Legislative Assembly of Pondicherry, had been raised before the President of India in a petition addressed to him by Shri V. Narayanaswamy, another member of the same Assembly and the Election Commission had been asked by the President to give its opinion on the question. Shri K. V. K. Sundaram, the then Chief Election Commissioner opined that even if the office of Mayor of Pondicherry was capable of being regarded as an office of profit by virtue of the allowance attached to it, it could not be regarded as an office under the Government. The Mayor was not indebted to the Government in any way for securing the office but was elected by a body of municipal councillors. In order to become effective, the election did not require the approval or concurrence of the Government. Furthermore, no power of control over the Mayor vested in the Government and the power of dismissal which could be exercised only in extreme cases for good and sufficient reason would not be sufficient to make an elective office of this type an office of profit within the meaning of Art. 191(1)(a).

18. The Election Commission accordingly tendered the opinion that Shri Edouart Goubert was not disqualified for being a member of the Legislative Assembly of Pondicherry by reason of his holding the office of Mayor of Pondicherry even if it was capable of being regarded as an office under the Government.

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19. Similar views were also expressed by the Parliamentary Committee on Offices of Profit in the year 1955, (known as Bhargava Committee), who in para 57 of their Report expressed their opinion in respect of local bodies as under:

“The disqualification can not obviously apply to Presidents. Chairmen or Members of Municipalities, District Boards. Cantonment Boards, Notified Area Boards, Town Area Boards, Corporations or like bodies as these functionaries are not salaried officers of these bodies.”

20. The Committee then discussed their future programme and decided to meet again on Tuesday, the 27th January, 1987 at 15.00 hours and on Wednesday, the 28th January, 1987 at 11.00 hours respectively subject to the convenience of the Chairman, Joint Committee on Offices of Profit.

The Committee then adjourned.

XXXVI

THIRTY-SIXTH SITTING

The Committee met on Friday, the 21st August, 1987 from 15.00 to 15.30 hours.

PRESENT

Kumari Kamla Kumari—*Chairperson*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Sharad Dighe
4. Shri Appayya Dora Hanumantu
5. Shri Sriballav Panigrahi
6. Shri P. M. Sayeed
7. Shri Balram Singh Yadav

Rajya Sabha

8. Shrimati Sudha Vijay Joshi
9. Shri K. Gopalan

SECRETARIAT

1. Shri K. C. Rastogi—*Joint Secretary.*
2. Shri G. S. Bhasin—*Chief Legislative Committee Officer.*
3. Shri S. P. Gaiind—*Senior Legislative Committee Officer.*

The Committee took up for consideration their draft Fifth Report and adopted it.

2. The Committee decided that the Report might be presented to Lok Sabha on 27th August, 1987 and also laid on the Table of Rajya Sabha on the same day.

3. The Committee authorised the Chairperson and, in her absence, Shri Sharad Dighe, M.P. to present the Report to Lok Sabha on their behalf.

4. The Committee also authorised Shrimati Sudha Vijay Joshi M.P. and in her absence, Dr. H. P. Sharma, M.P. to lay the Report on the Table of Rajya Sabha.

5. The Committee then discussed their future programme and decided to meet again on 28th August, 1987.

The Committee then adjourned.