

**JOINT COMMITTEE ON OFFICES
OF PROFIT**

**SIXTH REPORT
(SEVENTH LOK SABHA)**



Presented to Lok Sabha on 2 August, 1983

Laid in Rajya Sabha on 2 August, 1983

**LOK SABHA SECRETARIAT
NEW DELHI.**

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CORRIGENDA
TO

THE SIXTH REPORT OF THE JOINT COMMITTEE
ON OFFICES OF PROFIT (SEVENTH LOK SABHA)

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

COMPOSITION OF THE JOINT COMMITTEE

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

- *2. Shri Ajitsinh Dabhi
3. Shri Harish Kumar Gangwar
4. Shri Krishna Chandra Halder
5. Shri Virdhi Chander Jain
6. Shri Jamilur Rahman
7. Shri Rashid Masood
8. Shri S.A. Dorai Sebastian
9. Shri N. K. Shejwalkar
10. Shri Nandi Yellaiah

Rajya Sabha

11. Shri Syed Rahmat Ali
12. Shri Dinesh Goswami
13. Shri Robin Kakati
14. Shri Lakhan Singh
- **15. Shri Ram Bhagat Paswan

SECRETARIAT

1. Shri H.G. Paranjpe—*Joint Secretary*
2. Shri S.D. Kaura—*Chief Legislative Committee Officer.*
3. Shri S.S. Chawla—*Senior Legislative Committee Officer*

*Elected by Lok Sabha on 21 July, 1982, vice Shri Jagan Nath Kaushal resigned from the Committee.

**Elected by Rajya Sabha on 11 August, 1982 vice Prof. N. M. Kamble ceased to be member of Joint Committee on his retirement from that House.

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 Sixth Report of the Committee.

1.2 The matters covered by the Report were considered by the Committee at their sittings held on 18 November and 2 December, 1982, 24 January, 1983 and 15 July, 1983. Minutes of these sittings form part of the Report and are at Appendix I.

1.3 The Committee considered the composition, character, functions *etc.* of 18 Committees/Boards/Councils/Corporations *etc.* constituted by the Central Government, State Governments and the Union Territory Administrations and the emoluments and allowances payable to their members.

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, State Governments and the Union Territory Administrations.

1.5 The Committee considered and adopted the Report on 15 July, 1983.

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/COUNCILS/CORPORATIONS ETC.
CONSTITUTED BY THE CENTRAL AND STATE
GOVERNMENTS AND THE UNION TERRITORY
ADMINISTRATIONS

Board of Directors of the National Textile Corporation Limited--
(Ministry of Commerce)

2.1 The Committee note that the National Textile Corporation had been earlier examined by the Joint Committee on Offices of Profit (Fourth Lok Sabha). In paragraph 7 of their Fourth Report (Fourth Lok Sabha), the Committee held *inter alia* as follows :

“The Committee also note that under similar circumstances the Joint Committee on Offices of Profit (Third Lok Sabha) had recommended that the Chairmanship of the National Shipping Board and Oil India Limited ought not to disqualify. The Committee feel that on the same analogy, the Chairmanship of the National Textile Corporation Limited ought to be exempted from disqualification; but the Managing Director who is the Chief Executive Officer of the Corporation ought not to be exempted from disqualification.”

Since there is a material change both in regard to payment of sitting fee, incidentals etc. to the Chairman and other non-official part-time Directors of the Board and in the capital structure etc. of the Company, the matter has been examined by the present Joint Committee.

The Committee have taken into consideration the following points in regard to the present Board of Directors of the National Textile Corporation :

- (i) that the Chairman is now entitled to payment of actual expenses for travel by air, train, bus etc. and for board and lodging while on tour. One-fourth of D.A. is also payable to him at the same rate as is admissible to the highest grade officer in the National Textile Corporation.
- (ii) that the other non-official Directors are entitled to T.A. @ actual Air/Rail fare plus reimbursement of actual expenditure

subject to a maximum of Rs. 100/- per day on board and lodging for extra days, on account of the peculiar timings of trains or air service.

- (iii) that the Chairman and other non-official Directors are entitled to a sitting fee of Rs. 100/- per Board meeting.

Payment, thus admissible to the non-official Directors (including the Chairman) are more than the 'compensatory allowance'. Besides, the Board of Directors exercise executive and financial powers as over-all management, control and supervision of the affairs of the National Textile Corporation Limited are vested in the Board of Directors. The Board is also empowered to sanction capital expenditure upto Rs. 5 crores in each case. As such, the Committee do not agree with the recommendations made by the previous Joint Committee (*vide* their Fourth Report, Fourth Lok Sabha, paragraph 7) and recommend that the Chairman and the other non-official Directors of the National Textile Corporation Limited *ought not to be exempt* from disqualification.

*Board of Directors of the Tea Trading Corporation of India Limited—
(Ministry of Commerce)*

2.2 The Committee note that the Chairman-cum-Managing Director of the Tea Trading Corporation of India Limited is a non-official and is entitled to scale of pay of Rs. 3000-3500/- plus allowances as admissible to the Central Government officials. The payment of salary is not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. He is also entitled to payment of D.A. @ Rs. 100/- per day which exceeds the 'compensatory allowance'. Besides, the Board of the Directors exercise executive and financial powers. As such, the Committee feel that the Chairman-cum-Managing Director *ought not to be exempt* from disqualification. In this connection, the Committee also note that all other Directors of the Board are officials.

*Jute Manufacturers Development Council, Calcutta
(Ministry of Commerce)*

2.3 The Committee note that the non-official members of the Jute Manufacturers Development Council are entitled to actual Air/Rail fare and D.A. at the rate of Rs. 65/- per day. The payment, thus, admissible to them is more than the 'compensatory allowance'. The members of the Council also exercise executive and financial powers. As such, the Committee feel that the non-official members of the Development Council *ought not to be exempt* from disqualification.

Tobacco Board, Guntur-(Ministry of Commerce)

2.4 The Committee note that the Chairman of the Tobacco Board draws pay in the scale of Rs. 2000-2500 plus allowances as are admissible to Central Government Officers. The payment made by way of salary does not come within the ambit of 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. Other members of the Board draw T.A. and D.A. at the highest rates admissible to Central Government servants of the first grade *i.e.* Rs. 49/- as maximum D.A.) which are less than the 'compensatory allowance'. The Board, however, exercises executive and financial powers.

The Committee, however, note that the Bhargava Committee on Offices of Profit had examined similar commodity Boards and recommended that the members of such Boards should be saved from incurring disqualification by making necessary provision in the relevant Acts themselves. In the case of certain commodity Boards such as Coffee Board, Rubber Board and Tea Board, such provision already existed *vide* Section 4(5) of the Coffee Act, 1942, Section 4(8) of the Rubber Act, 1947 and Section 4(3A) of the Tea Act, 1953, respectively.

Since the functions of all commodity Boards were substantially of a similar nature, the Committee recommend in the case of Tobacco Board that a uniform policy ought to be followed for exemption from disqualification of members of Parliament by making the following provision in the Tobacco Board Act, 1975 (4 of 1975) :

"It is hereby declared that 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."

The Committee find that the Ministry of Commerce to whom the matter was referred, have intimated that they have no objection to amend the Tobacco Board Act with a view to incorporate the above provision.

The Committee feel that the above provision when incorporated in the Act, will exempt Members of Parliament from incurring disqualification on their appointment as members of the Tobacco Board. The Committee, however, recommend that the Chairman of the Board *ought not to be exempt* from disqualification.

***Defence Research and Development Organisation Cash Award
Committee-(Ministry of Defence)***

2.5 The Committee note that the Cash Award Committee consists

of 9 officials and 1 non-official member. According to the information that have been received in the matter, the lone non-official member is entitled to payment of T.A. and D.A. (equivalent to Class I officers of the Central Government, i.e., Rs. 49/- as maximum D.A.) which is less than the 'compensatory allowance'. The scope of functions of this Committee is very limited, namely, to examine lists of persons submitted by the Director of Personnel (Research and Development and to decide Cash Awards on the basis of recommendations made by the Heads of Establishments/Laboratories.

Though the function of the Cash Award Committee, namely, to decide eligibility of officers and personnel for cash awards enables members to wield influence or power by way of patronage to some extent, but after considering the character and composition etc. of the Cash Award Committee in question the Joint Committee are of the view that the extent of the said influence wielding power does not appear to be such as to attract disqualification of the non-official member under Article 102(1) (e) of the Constitution.

Advisory Council for the Technical Institutions of the Army and Navy—(Ministry of Defence)

2.6 The Committee note that payment of TA/DA to non-official members is regulated in accordance with the Ministry of Finance O.M. No. 19020/2/75-E-IV(B) dated 17.3.76, i.e. they are entitled to travel by First Class or II Class ACC Sleeper and the highest rate of D.A. applicable to the First Grade Officers of the Central Government. In exceptional circumstances, where a non-official member is required to devote far greater time and energy, D.A. may be increased to maximum of Rs. 50.00 a day. In case any of the members is a resident at a place where meeting of the Council is being held, he is not entitled to any TA and DA but is allowed only the actual conveyance, subject to a maximum of Rs. 20.00 per day.

The non-official members are thus entitled to TA and DA which are less than the 'compensatory allowance'. Besides, as the name of the Council denotes, the functions of the Council are mainly advisory in nature. As such, the Committee feel that membership of the Advisory Council for the Technical Institutions of the Army and Navy ought to be exempt from disqualification.

Governing Council of Tool Room, Ludhiana—(Ministry of Industry, Department of Industrial Development)

2.7 The Committee note that the non-official members of the

Governing Council of the Central Tool Room, Ludhiana are entitled to TA and DA as are admissible to the Grade I Officers of the Government of India (*i.e.* Rs. 49/- as maximum D.A.) which are less than the 'compensatory allowance'. However, the Governing Council manages all the affairs and funds of the Society and thus exercises executive and financial powers. As such, the Committee recommend that the non-official members of the Council *ought not to be exempt* from disqualification.

*Governing Council of Small Industry Extension Training
Institute, Hyderabad—Ministry of Industry—Department
of Industrial Development)*

2.8 The Committee note that the non-official members of the Governing Council of Small Industry Extension Training Institute, Hyderabad are entitled to TA and DA as are admissible to Grade I Officers of the Government of India (*i.e.*, Rs. 49/- as maximum D.A.) which are less than the 'compensatory allowance'. However, the Governing Council exercises executive and financial powers. As such, the Committee recommend that the non-official members of the Council *ought not to be exempt* from disqualification.

*Governing Council of Central Tool Room and Training Centre
Calcutta (Ministry of Industry—Department of Industrial
Development)*

2.9 The Committee note that the non-official members of the Governing Council of Central Tool Room & Training Centre, Calcutta are entitled to T.A. and D.A. as are admissible to Grade I Officers of the Government of India (*i.e.*, Rs. 49/- as maximum D.A.) which are less than the 'compensatory allowance'. However, the Governing Council manages all the affairs and funds of the Society and thus exercises executive and financial powers. As such, the Committee feel that the non-official members of the Council *ought not to be exempt* from disqualification.

*Board of Directors of Cycle Corporation of India Limited, Calcutta
(Ministry of Industry—Department of Industrial Development)*

2.10 The Committee note that the Chairman-cum-Managing Director who is a non-official, draws salary of Rs. 3000/- in the scale pay of Rs. 2500-100-3000 plus D.A. of Rs. 800/- p.m. He is also entitled to other perks like reimbursement of medical fees, free telephone at residence, use of motor car, accommodation *etc.* These sums do not come within the ambit of 'compensatory allowance'.

The Committee also learn that other Directors of the Corporation are all officials of the Government of India and they draw pay, allowances etc. as per Government rules.

The Committee also note that the business of the Corporation, a public undertaking, is managed by the Board of Directors *i.e.*, the Board of Directors has powers to appoint officers and has financial powers as per the Companies Act, 1956. Thus the Board of Directors exercises/executive and financial powers. Hence, the Committee recommend that the non-official Directors appointed on the Board of Directors of the Cycle Corporation of India *ought not to be exempt* from disqualification.

*Board of Directors of National Bicycle Corporation of India Ltd.
Bombay—(Ministry of Industry, Department of Industrial
Development)*

2.11 The Committee note that the Chairman-cum-Managing Director of the National Bicycle Corporation of India Ltd., Bombay who is a non-official, draws salary of Rs. 3000/- in the scale of pay of Rs. 2500-100-3000 plus personal pay of Rs. 425/- p.m. He is also entitled to other perks like re-imbusement of medical fees, free telephone at residence, use of motor car, accommodation etc. These sums do not come within the ambit of 'compensatory allowance'. Other Directors of the Corporation are officials of the Government of India and they draw pay, allowances etc. as per Government Rules.

The Committee also note that the business of the Corporation which is a public undertaking, is managed by the Board of Directors, *i.e.*, the Board of Directors has powers to appoint officers and has financial powers as per the Companies Act, 1956. Thus, the Board of Directors exercises executive and financial powers. Hence, the Committee feel that the non-official Directors appointed on the Board of Directors of the National Bicycle Corporation of India Ltd., Bombay *ought not to be exempt* from disqualification.

*Repatriates Co-operative Finance and Development Bank Ltd.,
Madras—(Ministry of Supply and Rehabilitation—Department
of Rehabilitation)*

2.12 The Committee note that the Repatriates Bank is a Government of India Undertaking registered under the Multi-Unit Co-operative Societies Act, 1961 of Tamil Nadu. The main object of Bank is to help promote the rehabilitation of Repatriates from Sri Lanka, Burma, Vietnam and other countries.

The Committee also note that the Directors are entitled to the following T.A./D.A. and sitting fees :-

T.A. : Air fare or 1st Class Rail fare for the out-station Directors
Mileage allowance @ Re. 1/- per Km. for local Directors.

D.A. : Central rates of D.A. as applicable to the Grade I Officers plus 25% as sanctioned by the Board.

Sitting : Rs. 50/- per day of the meeting for out-station non-official Directors and Rs. 15/- per day of the meetings for local non-official Directors.

The amount of payments by way of TA/DA and sitting fee admissible to out-station non-official Directors, thus, exceeds the 'compensatory allowance' whereas in the case of local non-official Directors payments received by them are less than the 'compensatory allowance'. Since the functions of the Board of Directors are of executive and financial nature, the Committee recommend that the non-official Directors of the Bank *ought not to be exempt* from disqualification.

Sub-Committees on Evaluation of Plan Schemes in Himachal Pradesh—(Himachal Pradesh)

2.13 The Committee note that the Members of Parliament nominated as non-official members of the Sub-Committee on the evaluation of plan Scheme in Himachal Pradesh are eligible for T.A. and D.A. at the rate admissible to them as M.Ps. under the Salary, Allowances and Pension of Members of the Parliament Act, 1954. Thus, the payment admissible to Members of Parliament does not exceed the 'compensatory allowance'. The other non-official members of the Sub-Committees draw TA/DA at the highest rates (rates not given) admissible to Grade I Officers of the Government of Himachal Pradesh. The functions of the Sub-Committees are mainly advisory in nature. As such, the Committee feel that all non-official members including the Chairman of the Sub-Committees *ought to be exempt* from disqualification provided that they do not draw T.A. and D.A. more than the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of disqualification Act, 1959).

Whether holding the post of the Professor of the Panjab University, Chandigarh constitutes an office of profit—Enquiry made by Shri V.N. Tiwari, M.P. (Rajya Sabha)

2.14 Shri V.N. Tiwari, Member of Parliament (Rajya Sabha) in his letter dated 13 October, 1982 (See Appendix II) addressed to the

Secretary-General, Rajya Sabha (which was subsequently forwarded to the Lok Sabha Secretariat for placing the matter before the Joint Committee on Offices of Profit), wanted to know whether the post of Professor of the Panjab University, Chandigarh would constitute an 'Office of Profit'.

As Shri V.N. Tiwari, Member of Parliament (Rajya Sabha) was concurrently holding the substantive post of Professor in the Panjab University, Chandigarh, the matter was referred to the Registrar, Panjab University for further elucidation. The Committee note that the Registrar, Panjab University, in his letter dated 24 November 1982, stated as under :—

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- (ii) The Panjab University is an autonomous body incorporated under the Panjab University Act VII of 1947. The Panjab University receives Maintenance Grant as determined by the Ministry of Education, Government of India, in the ratio of 40:60, from the Panjab Government and the Union Territory Administration, Chandigarh, respectively. The payment of the grant is done in pursuance of the provisions of Section 72 of the Panjab Re-organisation Act, 1966. The University Grants Commission furnishes to the University the grants for developmental purposes and schemes.
- (iii) The Senate of the Panjab University is the competent appointing authority in the case of a Professor and it is in this body that the power of removal is vested. The power of appointment and removal does not rest with the Government.
- (iv) The University rules permit a member of the Faculty to be elected etc. as a member of a legislative body. The relevant rules as obtaining in the Panjab University Calendar, Volume III, 1981, at page 128, are given below :—
 - '1 .A member of the teaching staff shall apply for permission to seek election to a Legislature or a Municipal Body, as the case may be, through the Head of the Department and the Dean of University Instruction within a week of the announcement of the date by the Election Commission or any other competent authority. The Syndicate shall be the authority to grant permission. The same will ordinarily be granted.

2. A member of the University teaching staff who is permitted by the Syndicate to seek election to a Legislature or a Municipal Body and whose nomination papers have been accepted, shall proceed on leave of the kind due.
 3. A member of the University teaching staff if elected to a Legislature of a Municipal Body, shall proceed on extraordinary Leave (leave without pay) for the term of election.'
- (v) Dr. V.N. Tiwari is holding a substantive post of professor, Bhai Vir Singh Chair in the University and at present he is heading the School of Panjabi Studies. The present salary drawn by him is Rs. 3080/- p.m, in the pay-scale of Rs. 1500-60-1800-100-2000-125/2-2500. It may be added that the Panjab University has welcomed the nomination of Dr. V.N. Tiwari to the Rajya Sabha and he teaches when the Rajya Sabha is not in session."

The Committee, after perusing a number of judicial decisions having a bearing on the term 'office of profit' note in particular, the following decisions given by the Election Tribunals, Himachal Pradesh and Nagpur in this regard :—

- (i) In Hari Das v. Hira Singh Pal and others, the Election Tribunal, Himachal Pradesh held :—

The Panjab University constituted under the East Panjab University Act, 1947, is not a "Corporation in which the Government has any financial interest" within the meaning of Section 7 (e) of the Representation of the People Act, 1951, even though it receives a substantial annual grant from the Government, its accounts are examined and audited by the Government, it uses service postage stamps, its funds are deposited in Banks approved by Government, the Governor is the Chancellor and the Vice-Chancellor is also appointed by the Governor; a person who holds an office of profit under the University is not, therefore disqualified from standing for election under Section 7 (e) of the Act.

A resolution passed by the Syndicate of the University that full time employees of the University could not contest Assembly elections cannot impose any statutory disqualification on such employees.

[E.L.R. Vol. IV, p. 468]

- (ii) In the case of **Krishnappa vs. Narayan Singh and others**, the Election Tribunal, Nagpur, held :—

A person serving as a teacher in a grant-in-aid school does not hold any office of profit under the Government merely because the school receives grants from the Government for payment of a portion of the dearness allowance and the pay of the teachers.

The most important test for determining whether an office is held under the Government is whether the power of appointment and dismissal vests in the Government.

[E.L.R. Vol. VII, p. 294]

The Committee have also taken note of the following recommendations made in a similar case by the Joint Committee on Offices of Profit (Fourth Lok Sabha) :—

“In connection with the enquiry made by Shri A.K. Kisku, M.P. whether he would incur any disqualification by continuing as Principal of the Union Christian Training College, Berhampore, District Murshidabad (West Bengal) after his election as a Member of Parliament, the Committee noted that the above College was a private institution managed by a Board of Governors under a special constitution and sponsored by the Bengal Christian Council and it received grant-in-aid from the West Bengal Government and the University Grants Commission. Shri A.K. Kisku, as Principal of the College, received salaries in the U.G.C. scale and the usual college and Government D.A. and also enjoyed the benefit of provident fund.

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In the light of the various judicial decisions, the Committee feel that in his capacity as the Principal of the Training College, Shri A.K. Kisku is not holding an ‘Office of Profit under the Government’ and he does not, therefore, incur any disqualification by continuing simultaneously as a Member of Parliament.”

[1R (JCOP-4LS), para 11. pp. 2-4]

From the above, the Committee conclude that in his capacity as the Professor of the Panjab University, Shri V.N. Tiwari, M.P. is not holding an ‘office of profit under the Government’ as according to the Panjab University, the Senate of the Punjab University is the competent

authority to appoint and remove a Professor and the power of appointment and removal does not rest with the Government. Moreover, the University rules permit a member of the Faculty to be elected etc. as a member of a legislative body.

The Committee, however, note that under Article 103 of the Constitution, it is provided that "if any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of Article 102, the question shall be referred to the decision of the President and his decision shall be final and that before giving any decision on any such question the President shall obtain the opinion of the Election Commission and shall act according to such opinion" and consequently, the opinion of the Election Commission is effective and crucial in such matters.

Tripura Housing Board —(Tripura)

2.15 The Committee learn that the non-official members of the Tripura Housing Board are entitled to T.A. as admissible to a First Grade Officer of the State Government and D.A. @ Rs. 50/- per day for attending the meeting of the Board which are less than the 'compensatory allowance'. However, the Board exercises executive and financial powers. Hence, the Committee recommend that the non-official members of the Board ought not to be exempt from disqualification.

In this connection, the Committee note that in the case of the Himachal Pradesh Housing Board, the Joint Committee on Offices of Profit (Fifth Lok Sabha) have recommended similarly as follows :—

"The Committee note that the Chairman of the Himachal Pradesh Housing Board, if a non-official, is entitled to a pay not exceeding Rs. 1800/- per mensem which does not come within the ambit of 'compensatory allowance'. The other non-official members are entitled to TA/DA, which is less than the 'compensatory allowance'. However, as the Board exercises executive and financial powers, the Committee feel that the membership of the Board (including Chairmanship) ought not to be exempt from disqualification."

[17R(5LS) para 28, p. 7]

Board of Directors of the Tripura Forest Development and Plantation Corporation Limited—(Tripura)

2.16 The Committee note that the non-official Directors are paid TA/DA at the rate applicable to Class I Officers (actual rate not given) and actual cost of conveyance subject to a maximum of Rs. 15/- per day. Directors residing beyond 8 Kms. are entitled to D.A. @Rs. 23.50

per day. Further, the Board exercises executive and financial powers and also wields influence. As such, the Committee recommend that the non-official Directors of the Corporation *ought not to be exempt* from incurring disqualification, even if the payment made to them by way of TA/DA does not exceed the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention from Disqualification) Act, 1950.

*Advisory Board for Minimum rate of Wages for Union Territory of
Dadra and Nagar Haveli (Dadra and Nagar Haveli)*

2.17 The Committee note that the payment admissible to the non-official members of the Board is less than the 'compensatory allowance'. The functions of the Board are also advisory in nature. As such, the Committee recommend that the non-official members of the Advisory Board for Minimum rate of Wages for Union Territory of Dadra and Nagar Haveli *ought to be exempt* from disqualification.

*State Board of Adult Education, Dadra and Nagar Haveli-
(Dadra and Nagar Haveli)*

2.18 The Committee note that the non-official members of the State Board of Adult Education, Dadra and Nagar Haveli are not entitled to any remuneration. The functions of the Board are also mainly advisory in nature. As such, the Committee feel that the non-official members of the Board *out to be exempt* from disqualification.

NEW DELHI ;
July 15, 1983
Asadha 24, 1905(S).

GULSHER AHMED
Chairman,
Joint Committee on Offices of Profit.



APPENDIX I

(Vide para 1.2 of the Report)

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

XXVIII

(TWENTY-EIGHTH SITTING)

The Committee met on Thursday, 18 November, 1982 from 11.00 hrs. to 11.45 hrs.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Harish Kumar Gangwar
4. Shri Krishna Chandra Halder
5. Shri Virldhi Chander Jain
6. Shri Rashid Masood
7. Shri S.A. Dorai Sebastian
8. Shri N.K. Shejwalkar
9. Shri Nandi Yellaiah

Rajya Sabha

10. Shri Dinesh Goswami
11. Shri Robin Kakati
12. Shri Lakhan Singh
13. Shri Ram Bhagat Paswan

SECRETARIAT

Shri S.D. Kaura—*Chief Legislative Committee Officer*

Shri T.E. Jagannathan—*Senior Legislative Committee Officer*

The Committee took up for consideration Memoranda Nos. 103 to 109 relating to the following Committees/Boards etc. constituted by the Central Government and the Union Territory Administration.

Advisory Board for Minimum rate of Wages for Union Territory of Dadra and Nagar Haveli—(Memorandum No. 103)

3. The Committee noted that the payment admissible to the non-official members of the Board was less than the 'compensatory allowance'. The functions of the Board were also advisory in nature. As such, the Committee recommended that the non-official members of the Advisory Board for Minimum rate of Wages for Union Territory of Dadra and Nagar Haveli *ought to be exempt* from disqualification.

State Board of Adult Education, Dadra and Nagar Haveli—(Memorandum No. 104)

4. The Committee noted that the non-official members of the State Board of Adult Education, Dadra and Nagar Haveli were not entitled to any remuneration. The functions of the Board were also mainly advisory in nature. As such, the Committee felt that the non-official members of the Board *ought to be exempt* from disqualification.

Governing Council of Central Tool Room, Ludhiana (Ministry of Industry, Department of Industrial Development)—(Memorandum No. 105)

5. The Committee learnt that the non-official members of the Governing Council of Central Tool Room, Ludhiana were entitled to TA and DA as were admissible to the Grade I Officers of the Government of India (*i. e.* Rs. 28/- as maximum D.A.) which were less than the 'compensatory allowance'. However, the Governing Council managed all the affairs and funds of the Society and thus exercised executive and financial powers. As such, the Committee recommended that the non-official members of the Council *ought not to be exempt* from disqualification.

Governing Council of Small Industry Extension Training Institute, Hyderabad (Ministry of Industry—Department of Industrial Development)—Memorandum No. 106

6. The Committee noted that the non-official members of the Governing Council of Small Industry Extension Training Institute, Hyderabad were entitled to TA and DA as were admissible to Grade I Officers of the Government of India (*i.e.* Rs. 28/- as maximum D.A.)

which were less than the 'compensatory allowance'. However, the Governing Council exercised executive and financial powers. As such the Committee recommended that the non-official members of the Council *ought not to be exempt* from disqualification.

*Governing Council of Central Tool Room & Training Centre,
Calcutta (Ministry of Industry—Department of Industrial
Development—(Memorandum No. 107)*

7. The Committee noted that the non-official members of the Governing Council of Central Tool Room & Training Centre, Calcutta were entitled to T.A. and D.A. as were admissible to Grade I Officers of the Government of India (*i.e.* Rs. 28/- as maximum D.A.) which were less than the 'compensatory allowance'. However, the Governing Council managed all the affairs and funds of the Society and thus exercised executive and financial powers. As such the Committee felt that the non-official members of the Council *ought not to be exempt* from disqualification.

*Board of Directors of Cycle Corporation of India Limited, Calcutta
(Ministry of Industry—Department of Industrial Development
(Memorandum No. 108)*

8. The Committee noted that the Chairman-cum-Managing Director who was a non-official, drew salary of Rs. 3000/- in the pay scale of Rs. 2500-100-3000 plus D.A. of Rs. 800/- p.m. He was also entitled for other perks like re-imbusement of medical fees, free telephone at residence, use of motor car, accommodation etc. These sums did not come within the ambit of 'compensatory allowance'.

The Committee also learnt that other Directors of the Corporation were all officials of the Government of India and they drew pay, allowances etc. as per Government rules.

The Committee also noted that the business of the Corporation a public undertaking, was managed by the Board of Directors, *i.e.*, the Board of Directors had powers to appoint officers and had financial powers as per the Companies, Act, 1956. Thus, the Board of Directors exercise executive and financial powers. Hence, the Committee felt that the non-official Directors appointed on the Board of Directors of the Cycle Corporation of India *ought not to be exempt* from disqualification.

*Board of Directors of National Bicycle Corporation of India Ltd.,
Bombay (Ministry of Industry, Department of Industrial
Development—(Memorandum No. 109)*

9. The Committee noted that the Chairman-cum-Managing Director of the National Bicycle Corporation of India Ltd., Bombay who was a non-official, drew salary of Rs. 3000/- in the scale of pay of Rs. 2500-100-3000 plus p.p. Rs. 425/- p.m. He was also entitled for other perks like re-imbusement of medical fees, free telephone at residence, use of motor car, accommodation etc. These sums did not come within the ambit of 'compensatory allowance'. Other Directors of the Corporation were officials of the Government of India and they drew pay, allowances etc. as per Government Rules.

The Committee also noted that the business of the Corporation, which was a public undertaking, was managed by the Board of Directors, *i.e.* the Board of Directors had powers to appoint officers and had financial powers as per the Companies Act., 1956. Thus, the Board of Directors exercised executive and financial powers. Hence the Committee felt that the non-official Directors appointed on the Board of Directors of National Bicycle Corporation of India Ltd. *ought not to be exempt* from disqualification.

10. The Committee, thereafter, considered their future programme of work and decided to hold their next sitting on 2 December, 1982.

11. The Chairman also apprised the Committee that he proposed to call a meeting of the sub-Committee on 27 November, 1982 to consider Memorandum No. 110 regrading envolving of uniform. Principles in regard to disqualification for membership under Article 102 (i) (a) of the constitution.

The Committee then adjourned

XXIX

TWENTY-NINTH SITTING

The Committee met on Thursday, 2 December, 1982 from 12.30 hours to 13.20 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Krishna Chandra Halder
4. Shri Virdhi Chander Jain
5. Shri Jamilur Rehman
6. Shri Rashid Masood
7. Shri S.A. Dorai Sebastian
8. Shri N.K. Shejwalkar

Rajya Sabha

9. Shri Syed Rahmat Ali
10. Shri Robin Kakati
11. Shri Lakhan Singh
12. Shri Ram Bhagat Paswan

SECRETARIAT

Shri S.D. Kaura—*Chief Legislative Committee Officer.*

2. The Committee took up for consideration 7 Memoranda (Nos. 111 to 117) relating to the following Committees/Boards etc. constituted by the Central and State Governments.

Hindi Salahkar Samiti for the Ministry of Commerce—(Memorandum No. 111)

3. The Committee desired that before they could consider the

matter in depth, clarification might be obtained from the Ministry of Commerce about the exact amount of T.A. and D.A. that was payable to the non-official members of the Samiti for attending the meetings.

*Board of Directors of the National Textile Corporation Limited
(Ministry of Commerce—Memorandum No. 112)*

4. The Committee noted that that National Textile Corporation was earlier examined by the Joint Committee on the Offices of Profit (4LS). In paragraph 7 of their Fourth Report (4LS), the Committee held *inter alia* as follows :

“The Committee also note that under similar circumstances the Joint Committee on Offices of Profit (Third Lok Sabha) had recommended that the Chairmanship of the National Shipping Board and Oil India Ltd. ought not to disqualify. The Committee feel that on the same analogy, the Chairmanship of the National Textile Corporation Ltd. ought to be exempt from disqualification ; but the Managing Director who is the Chief executive Officer of the Corporation ought not to be exempted from disqualification.”

Since there was a material change both in regard to payment in sitting fee, incidentals etc. to the Chairman and other non-official part-time Directors of the Board and in the capital structure etc. of the Company the matter was being examined by the present Joint Committee.

The Committee then took into consideration the following points in regard to present Board of Directors of the National Textile Corporation :

- (i) that the Chairman was now entitled to payment of actual expenses for travel by air, train, bus etc., and for board and lodging while on tour. One-fourth of D.A. was also payable to him at the same rate as was admissible to the highest grade officer in the National Textile Corporation.
- (ii) that the other non-official Directors were entitled to T.A. @ actual Air/Rail fare plus reimbursement of actual expenditure subject to a maximum of Rs. 100/- per day on board and lodging for extra days, on account of the peculiar timings of trains or air service.
- (iii) that the Chairman and other non-official Directors were entitled to a sitting fee of Rs. 100/- per Board meeting.

Payments, thus, admissible to the non-official Directors (including the Chairman) were more than the 'compensatory allowance'. Besides, the Board of Directors exercised executive and financial powers as overall management, control and supervision of the affairs of the National Textile Corporation Ltd. were vested in the Board of Directors. The Board was also empowered to sanction capital expenditure upto Rs. 5 crores in each case. As such, the Committee did not agree with the recommendations made by the previous Joint Committee (in their Fourth Report, 4LS, para 7) and recommended that the Chairman and the other non-official Directors of the National Textile Corporation Limited *ought not to be exempt* from disqualification.

In this connection, the Committee also noted the recommendations made by the Joint Committee (3LS) to the effect that the Chairmanship of the National Shipping Board and Oil India Ltd. ought not to disqualify. The Committee desired that the requisite detailed particulars in respect of these two bodies might be obtained and placed before them for examination.

*Board of Directors Tea of the Trading Corporation of India Ltd.
(Ministry of Commerce—Memorandum No. 113)*

5. The Committee noted that the Chairman-cum-Managing Director of the Tea Trading Corporation of India Ltd. was a non-official and was entitled to scale of pay of Rs. 3000-3500/- plus allowances as admissible to the Central Government officials. The payment of salary was not covered by the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. He was also entitled to payment of D.A. @ Rs. 100/- per day which exceeded the 'compensatory allowance'. Besides, the Board of Directors exercised executive and financial powers. As such, the Committee felt that the Chairman-cum-Managing Director *ought not to be exempt* from disqualification. In this connection, the Committee also noted that all other Directors of the Board were officials.

*Jute Manufacturers Development Council, Calcutta (Ministry of
Commerce)—(Memorandum No. 114)*

6. The Committee noted that the non-official members of the Jute Manufacturers Development Council were entitled to actual Air/Train fare and D.A. at the rate of Rs. 65/- per day. The payment, thus, admissible to them was more than the 'compensatory allowance'. The members of the Council also exercised executive and financial powers. As such the Committee felt that the non-official members of the Development Council *ought not to be exempt* from disqualification.

Sub-Committees on Evaluation of Plan Schemes in Himachal Pradesh—(Memorandum No. 115)

7. The Committee noted that the Members of Parliament nominated as non-official members of the sub-Committees on the evaluation of plan Schemes in Himachal Pradesh were eligible for TA & DA at the rate admissible to them as M.Ps. under the Salary, Allowances and Pension of Members of Parliament Act, 1954. Thus, the payment admissible to Members of Parliament did not exceed the 'compensatory allowance'. The other non-official members of the sub-Committee drew TA/DA at the highest rates (rates not given) admissible to Grade I Officers of the Government of Himachal Pradesh. The function of the Sub-Committees were mainly advisory in nature. As such, the Committee felt that all non-official members including the Chairman of the Sub-Committees *ought to be exempt* from disqualification provided that they did not draw T.A. and D.A. more than the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959.

Repatriates Co-operative Finance & Development Bank Ltd., Madras (Ministry of Supply & Rehabilitation—Department of Rehabilitation—(Memorandum No. 116)

8. The Committee noted that the Repatriates Bank was a Government of India undertaking registered under the Multi-Unit Co-operative Societies Act, 1961 of Tamil Nadu. The main object of the Bank was to help promote the rehabilitation of Repatriates from Sri Lanka, Burma, Vietnam and other countries.

The Committee also noted that the Directors were entitled to the following T.A./D.A. and sitting fees :—

T.A. : Air fare or 1st Class train fare for the out station Directors. Mileage allowance @ Re. 1/- per Km. for local Directors.

D.A. : Central rates of D.A. as applicable to the Grade I Officers plus 25% as sanctioned by the Board.

Sitting fees : Rs. 50/- for out station non-official Directors per day of the meeting and Rs. 15/- for local non-official Directors.

The amount of payments by way of T.A./D.A. and sitting fee admissible to out-station non-official Directors, thus, exceeded the

'compensatory allowance', whereas in the case of local non-official Directors payment, thus, received by them were less than the 'compensatory allowance'. Since the functions of the Board of Directors were of executive and financial nature, the Committee felt that the non-official Directors of the Bank *ought not to be exempt* from disqualification.

Defence Research and Development Organisation Cash Award Committee (Ministry of Defence)-(Memorandum No. 117)

9. At their sitting held on 16 June, 1982, the Joint Committee on Offices of Profit had deferred consideration of Memorandum No. 73 regarding the Defence Research and Development Organisation Cash Award Committee pending receipt of further information on the following points :—

"Whether any list of officers and personnel of Defence Research and Development Organisation was maintained and submitted to the Cash Award Committee for examining each and every case of the personnel of the Organisation for cash awards or the Committee was required simply to lay down guidelines for the purpose of making selection for such cash awards."

The Ministry of Defence, *vide* their communication dated 11 August, 1982, had furnished the requisite information as follows :—

"(i) The recommendations for Cash Awards received from Heads of Establishments/Laboratories are put up to the DCAC (Defence Research and Development Organisation Cash Award Committee) for their consideration. The DCAC is to decide on the award after consideration of each case.

(ii) Guidelines are already laid down as here under :—
Scope of the Scheme

The Scientific Adviser to Defence Minister is empowered to make one Cash Award of Rs. 10,000/- each year, and several other awards of Rs. 5000 each and Rs. 500 each.

Criteria

The awards are meant for outstanding and meritorious performance and will be given, based on the following criteria :—

(i) In recognition of significant contribution to the advance-

ment of scientific knowledge in any discipline, leading to better understanding of problems of present and futuristic Defence needs and their solution.

- (ii) In recognition of an idea or special efforts towards development of a new or improved equipment, machine, material, process, or device, which meets the users requirements and/or brings credit to Defence Research and Development Organisation; and
- (iii) In recognition of constructive ideas and suggestion for better utilisation of men, material, processes, devices, time etc., thus resulting in significant financial saving to the Government.

Defence Research and Development Organisation Cash Award Committee (DCAC)

The Committee will be constituted as under :—

- (i) Scientific Adviser to Defence Minister — *Chairman*
- (ii) All Chief Controllers (Research & Development) — *Members*
- (iii) Not exceeding four outside Experts to be co-opted by the Chairman in the appropriate field of Specialisation. — *Members*
- (iv) Director of Personnel (R & D) — *Member Secretary*

The quantum of Cash Award to be given to the Awardee will depend upon the importance of the contribution as judged by the 'DRDO' Cash Award Committee and its decision shall be final.

The recommendation for awards under the powers of 'DRDO' Cash Awards Committee shall be made by the Heads of Establishments/Laboratories. The Recommendations should reach Director of Personnel (R&D) before the end of the month of May and November every year. Director of Personnel (R&D) will collate and consolidate these and put up to the 'DRDO' Cash Award Committee for their consideration."

The Committee noted that the Cash Award Committee consisted of 9 officials and 1 non-official member. According to the informa-

tion already received in the matter, the lone non-official member was entitled to payment of T.A. and D.A. (equivalent to Class I officers of the Central Government, *i.e.*, Rs. 28/- as maximum D.A.) which was less than the 'compensatory allowance'. The scope of functions of this Committee was very limited *i.e.* to examine lists of persons submitted by the Director of Personnel (Research and Development) and to decide Cash Awards on the basis of recommendations made by the Heads of Establishments/Laboratories.

The Joint Committee felt that the function of the Cash Award Committee, namely, to decide eligibility of officers and personnel for cash awards was such that it might enable members to wield influence or power by way of patronage to some extent. But after considering the character and composition etc. of the Cash Award Committee in question, the Joint Committee concluded that the extent of the said influence wielding power did not appear to be such as to attract disqualification of the non-official member under Articles 102 (1) (e) of the Constitution.

*The Committee then adjourned to meet again on Friday,
17 December, 1982*

XXXI

THIRTY-FIRST SITTING

The Committee met on Monday, 24 January, 1983 from 15.00 to 15.40 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Virdhi Chander Jain
4. Shri Rashid Masood
5. Shri S.A. Dorai Sebastian
6. Shri N.K. Shejwalkar

Rajya Sabha

7. Shri Dinesh Goswami
8. Shri Robin Kakati
9. Shri Lakhon Singh
10. Shri Ram Bhagat Paswan

SECRETARIAT

Shri K. C. Gupta—*Legislative Committee Officer*

Shri K. K. Ganguly—*Legislative Committee Officer*

2. The Committee first took up consideration of Memorandum No. 118 regarding the enquiry made by Shri V.N. Tiwari, M.P. (R.S.) as to whether holding the post of Professor of the Panjab University, Chandigarh constituted an office of profit.

The Committee noted that Shri V.N. Tiwari, Member of Parliament (Rajya Sabha), who was also holding a substantive post of Professor

2. A member of the University teaching staff who is permitted by the Syndicate to seek election to a Legislature or a Municipal Body and whose nomination papers have been accepted, shall proceed on leave of the kind due.
 3. A member of the University teaching staff, if elected to a Legislature or a Municipal Body, shall proceed on extraordinary Leave (leave without pay) for the term of election.
- (v) Dr. V. N. Tiwari is holding a substantive post of professor, Bhai Vir Singh Chair in the University and at present he is heading the School of Panjabi Studies. The Present Salary drawn by him is Rs. 3080/- p.m. In the pay-scale of Rs. 1500-60-1800-100-2000-125/2-2500. It may be added that the Panjab University has welcomed the nomination of Dr. V.N. Tiwari to the Rajya Sabha and he teaches when the Rajya Sabha is not in Session."

4. The Committee also examined a number of judicial decisions having a bearing on the term 'office of profit'. The Committee noted in particular the following decisions given by the Election Tribunals, Himachal Pradesh and Nagpur respectively :

(i) In Hari Das v. Hira Singh Pal and others the Election Tribunal, Himachal Pradesh held :—

The Panjab University constituted under the East Panjab University Act, 1947, is not a "Corporation in which the Government has any financial interest" within the meaning of section 7(E) of the Representation of the People Act, 1951 even though it receives a substantial annual grant from the Government, its accounts are examined and audited by the Government, it uses service postage stamps, its funds are deposited in Banks approved by the Government, the Governor is the Chancellor and the Vice-Chancellor is also appointed by the Governor ; a person who holds an office of profit under the University is not, therefore, disqualified from standing for election under Section 7(e) of the Act.

A resolution passed by the Syndicate of the University that full time employees of the University could not contest Assembly elections cannot impose any statutory disqualification on such employees. [E.L.R. Vol. IV, p. 461]

- (ii) In the case of **Krishnappa vs Narayan Singh and others**, the election Tribunal, Nagpur, held as follows :-

A person serving as a teacher in a grant-in-aid school does not hold an office of profit under the Government merely because the school receives grants from the Government for payment of portion of the dearness allowance and the pay of the teachers.

The most important test for determining whether an office is held under the Government is whether the power of appointment and dismissal vests in the Government.

[E.L.R. Vol. VII, p. 294]

5. The Committee also took note of the following recommendations made in a similar case by the Joint Committee on Offices of Profit (Fourth Lok Sabha) :-

"In connection with the enquiry made by Shri A.K. Kisku, M.P., whether he would incur any disqualification by continuing as Principal of the Union Christian Training College, Berhampur, District Murshidabad (West Bengal) after his election as a member of Parliament, the Committee noted that the above College was a private institution managed by a Board of Governors under a special constitution and sponsored by the Bengal Christian Council and it received grant-in-aid from the West Bengal Government and the University Grants Commission. Shri A.K. Kisku, as principal of the College, received salaries in the U.G.C. scale and the usual college and Government D.A. and also enjoyed the benefit of provident fund.

In the light of the various judicial decisions, the committee feel that in his capacity as the Principal of the Training College, Shri A.K. Kisku is not holding an 'Office of Profit under the Government' and he does not, therefore, incur any disqualification by continuing simultaneously as a Member of Parliament"

[I.R. (JCOP-4LS), para 11. pp. 2—4]

6. From the above, the Committee concluded that in his capacity as the Professor of the Panjab University, Shri V.N. Tiwari, M.P. was not holding an 'office of profit under the Government' as according to the Panjab University, the Senate of the Panjab University was the competent authority to appoint and remove a Professor and the power of appointment and the removal did not rest with the Government.

Moreover, the University rules permitted "a member of the Faculty to be elected etc. as a member of a legislative body.

7. The Committee, however, noted that under Article 103 of the constitution, it is provided that if any question arises as to whether a member of either House of Parliament had become subject to any of the disqualifications mentioned in clause (1) of Article 102, the question shall be referred to the decision of the President and his decision shall be final and that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion and consequently the opinion of the Election Commission was effective and crucial in such matters.

8. The Committee thereafter took up consideration of Memoranda Nos. 119-122 relating to the various Committees/Boards etc. constituted by the Central and State Governments.

(i) Tobacco Board, Guntur (Ministry of Commerce)
(Memorandum No. 119)

9. The Committee noted that the Chairman of the Tobacco Board drew pay in the scale of pay of Rs. 2000-2500 plus allowances as were admissible to Central Government Officers. The payment made by way of salary did not come within the ambit of 'Compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. Other members of the Board drew T.A. and D.A. at the highest rates admissible to Central Government servants of the first grade (i.e. Rs. 28/- as maximum D.A.) which were less than the 'compensatory allowance'. The Board, however, exercised executive and financial powers.

10. The Committee However noted that the Bhargava Committee on offices of Profit had examined similar commodity committees and recommended that the members of such committees should be saved from incurring disqualification by making necessary provision in the relevant Acts themselves. In the case of certain commodity committees such as Coffee Board, Rubber Board and Tea Board, such Provision already existed *vide* Section 4(5) of the Coffee Act, 1942, Section 4(8) of the Rubber Act, 1947 and Section 43(A) of the Tea Act, 1953 respectively.

11. Since the functions of all commodity committees were substantially of a similar nature, the committee recommended in the case of the Tobacco Board that the uniform policy ought to be

followed for exemption from disqualification of members of Parliament by including provision in the Tobacco Board Act, 1975 (4 of 1975) ;

"It is hereby declared that 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."

12. The Committee learnt that the Ministry of Commerce whom the matter was referred, had intimated that they had no objection to amend the Tobacco Board Act to incorporate the above provision.

13. The Committee therefore, decided to recommend that the above provision when incorporated in the Act, would exempt Members of Parliament from incurring, disqualification on their appointment as as members of the Tobacco Board. However, the Chairman of the Board *ought not to be exempt* from disqualification.

(ii) Tripura Housing Board (Tripura) (Memorandum No 120)

14. The Committee learnt that the non-official members of the Tripura Housing Board were entitled to T.A. as admissible to a First Grade Officer of the State Government and D.A. @ Rs. 50/- per day for attending the meeting of the Board which were less than the 'compensatory allowance'. However the Board exercised executive and financial powers as such the non-official members of Board *ought not so be exempt* from disqualification.

15. In this connection, the Committee noted that in the case of the Himachal Pradesh Housing Board, the Joint Committee on Offices of Profit (Fifth Lok Sabha) recommended similarly as follows :-

"The Committee note that the Chairman of the Himachal Pradesh Housing Board, if a non-official, is entitled to pay not exceeding Rs. 1800/- per mensem which does not come within the ambit of 'compensatory allowance'. The other non-official Members are entitled to TA/DA, which is less than the 'compensatory allowance'. However as the Board exercises executive and financial powers, the Committee feel that the membership of the Board (including Chairmanship) ought not to be exempt from disqualification."

(iii) Board of Directors of the Tripura Forest Development—and Plantation Corporation Limited. (Tripura) (Memorandum No. 121)

16. The Committee noted that the non-official Directors were paid TA/DA at the rate of applicable to Class I Officers (actual rate not given) and actual cost conveyance subject to a maximum of Rs. 15/- per day. Directors residing beyond 8 kms, were entitled to D.A. @ Rs. 23.50 per day. The Board exercised executive and financial powers and also wield influence. Thus, the non-official Directors of the Corporation *ought not to be exempt* from incurring disqualification, even of the payment made to them by way of TA/DA did not exceed the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention from Disqualification) Act, 1959.

(iv) Advisory Council for the Technical Institutions of the Army and Navy (Ministry of Defence) (Memorandum No. 122)

17. At their sitting held on 16 September, 1982, the Joint Committee on Offices of Profit had deferred consideration of Memorandum No. 87 regarding the Advisory Council for the Technical Institutions of the Army and Navy pending receipt of further information on the following points :-

- (i) whether recommendations made by the Advisory Council during the course of reviewing Budget Estimates were binding on Government or not ; and
- (ii) whether the Advisory Council had the power to increase/decrease the amount of grants to training institutions while periodically reviewing the functions of the training institutions and whether Government was bound to accept such recommendations of the Council.

18. The Ministry of Defence, whom the matter was referred, furnished *vide* their communication dated 30 November, 1982, the requisite information as follows :-

- “(i) the recommendations made by the Advisory Council while reviewing the Budget Estimates are purely advisory in nature and are, therefore, not binding on the Government.

- (ii) Advisory Council has no powers to increase/decrease the amount of grants to the training establishments but can only suggest changes. These suggestions are not binding on the Government."

19. The Committee also noted that payment of TA/DA to non-official members was regulated in accordance with Ministry of Finance O.M. No. 19020/2/75-E.IV (B) dated 17.3.76 i.e. they were entitled to travel by First Class or II Class ACC Sleeper and the highest rate of D.A. applicable to the First Grade Officers of the Central Government. In exceptional circumstances, where a non-official member was required to devote for greater time and energy, D.A. might be increased to maximum of Rs. 50.00 a day. In case any of the members was a resident at a place where meeting of the Council was being held, he was not entitled to any TA/DA but was allowed only the actual conveyance, subject to a maximum of Rs. 20.00 per day.

20. The non-official members were thus entitled to TA and DA which were less than the 'compensatory allowance'. Besides, as the name of council denoted, the functions of council were mainly advisory in nature. As such the Committee felt that membership of the Advisory Council for the Technical institutions of the Army and Navy *ought to be exempt* from disqualification.

21. The Committee then discussed the view points expressed by Shri Ajit Singh Dabhi, M.P. in his letter dated 16 December, 1982 addressed to the Chairman, Joint Committee on Offices of Profit and which had been circulated to all Members of Committee. The Committee expressed concern about certain State Governments making laws under Article 191(1) (a) of the Constitution exempting the Members of Legislatures from incurring disqualification for holding posts under certain Councils/Boards/Corporations etc. set up by the respective State Governments even though they were holding offices of profit'. As a result those Governments would have considerable hold on M.L.As. appointed/nominated by them on such bodies. Besides, such laws also created anomalies inasmuch as that a Member of Parliament holding such an 'Office' was disqualified because of principles and guidelines being followed in this regard by the Joint Committee on Offices of Profit whereas a Member of Legislature holding such an "office" would escape disqualification. In the circumstances, the Committee felt that some safeguards must be devised immediately to protect such anomalies.

22. The Committee, therefore, authorised the Chairman to approach the Speaker in this regard and to apprise him about the need of the Joint Committee to visit various States for eliciting views of M.L.As. etc. regarding the necessity of having such a Committee on Offices of Profit in all the States and make the M.L.As. aware of the concept of Office of Profit.

The Committee then adjourned

XXXVIII

THIRTY-EIGHTH SITTING

The Committee met on Friday, 15 July, 1983 from 15.00 to 16.00 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Krishna Chandra Halder
3. Shri Jamilur Rahman
4. Shri Rasid Masood •
5. Shri N.K. Shejwalkar
6. Shri Nandi Yellaiah

Rajya Sabha

7. Shri Syed Rahmat Ali
8. Shri Dinesh Goswami
9. Shri Robin Kakati
10. Shri Lakhan Singh
11. Shri Ram Bhagat Paswan

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislatiye Committee Officer*
2. Shri S. S. Chawla—*Senior Legislative Committee Officer*

2. At the outset, the Committee considered their draft Sixth Report and adopted it.

3. The Committee decided that the Sixth Report might be presented to Lok Sabha on 2 August, 1983. The Committee also decided that the Report might be laid on the Table of Rajya Sabha on the same day.

4. The Committee then authorised the Chairman and, in his absence, Shri N. K. Shejwalkar, M. P., to present the Report to Lok Sabha on their behalf. The Committee also authorised Shri Dinesh Goswami, M.P., and in his absence, Shri Ram Bhagat Paswan, M.P., to lay the Report on the Table of Rajya Sabha.

* * * *

APPENDIX II

(Vide para 2.14 of the Report)

EXTRACT FROM LETTER DATED 13 OCTOBER, 1982 FROM
SHRI V.N. TIWARI, M.P. (RAJYA SABHA) ADDRESSED TO
THE SECRETARY-GENERAL, RAJYA SABHA, NEW DELHI.

As you are aware I have been nominated by the President of India as Member of the Rajya Sabha and I took oath on October 4, 1982. I am working as a Professor at Punjab University, Chandigarh. I am drawing salary and allowance of that assignment and I understand that this is not treated as an Office of Profit. I shall be glad if you will kindly confirm it after seeing the precedence etc. As I understand that there has been a number of Members who were Professors/Vice-Chancellors of Universities. I would like to follow the practice.