

JOINT COMMITTEE ON OFFICES OF PROFIT

(ELEVENTH LOK SABHA)

THIRD REPORT



Presented to Speaker, Lok Sabha on 3.12.1997
Laid in Lok Sabha on 2.12.1998
Laid in Rajya Sabha on 2.12.1998

**LOK SABHA SECRETARIAT
NEW DELHI**

December, 1997/Agrahayana, 1919 (S)

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

COMPOSITION OF THE COMMITTEE

Shrimati Geeta Mukherjee—Chairperson

MEMBERS

Lok Sabha

2. Shri Bhimrao Vishnuji Badade
3. Shri Pankaj Chaudhary
4. Shri P. Namgyal
5. Shri Prahlad Singh Patel
6. Shri A. Raja
7. Shri I.G. Sanadi
8. Rajkumari Ratna Singh
9. Shri Lal Babu Yadav
10. Shri Mahaboob Zahedi

Rajya Sabha

11. Shri Gaya Singh
12. Shri Bhagaban Majhi
13. Shri Sitaram Kesari
14. Dr. Naunihal Singh
15. Shri Virendra Kataria

SECRETARIAT

- | | | |
|------------------------|---|-----------------------------|
| 1. Shri G.C. Malhotra | — | <i>Additional Secretary</i> |
| 2. Shri P.D.T. Achary | — | <i>Joint Secretary</i> |
| 3. Shri Ravi Anand Ram | — | <i>Director</i> |

REPORT OF THE JOINT COMMITTEE

INTRODUCTION

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

2. The matters covered by the Report were considered by the Committee at their 3 sittings held on 28 July, 6 August and 16 September, 1997.

3. The Committee examined the Composition, Character, functions, etc. of Committees/Boards constituted by the State Governments and the emoluments and allowances payable to their members and non-official Directors, Chairmen etc. with a view to consider whether holders of offices of these bodies would incur disqualification under Article 102 of the Constitution of India.

4. The detailed information regarding the composition, character, functions, emoluments and allowances payable to the Members of these bodies was furnished by the concerned State Governments. The Committee wish to express their thanks to the Ministries/Departments of State Governments for furnishing the information desired by the Committee.

5. The Committee considered and adopted this Report at their sitting held on 3 December, 1997.

NEW DELHI;

December, 1997

GEETA MUKHERJEE

Chairperson

Joint Committee on Offices of Profit

Agrahayana, 1919 (Saka)

CHAPTER I

NOMINATION OF MEMBERS OF PARLIAMENT TO STATE BODY

Himachal Pradesh State Level Committee on Prohibition Proposal to nominate Maj. Genl. (Retd.) Bikram Singh, Member, Lok Sabha and Shri Sushil Barongpa, Member, Rajya Sabha as members thereof.

1.1 The Committee considered the requests of the State Government of Himachal Pradesh seeking approval of Hon'ble Speaker, Lok Sabha/Chairman, Rajya Sabha for nomination of Maj. Genl. (Retd.) Bikram Singh, Member, Lok Sabha and Shri Sushil Barongpa, Member, Rajya Sabha as non-official members of Himachal Pradesh State Level Committee on Prohibition.

1.2 The Committee note from the information furnished by the Government of Himachal Pradesh that the non-official members (including Member of Parliament) of State Level Committee on Prohibition are paid TA/DA as admissible under the Salary, Allowances and Pensions of Members of Parliament Act, 1954 which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

1.3 The Committee also note that the main function of the Committee is to chalk out strategy for creating awareness amongst the masses and finalisation of programmes on Prohibition. Thus, the Committee find that the Committee seems to be an advisory body.

1.4 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act. The Committee recommend to exempt non-official members (including Members of Parliament, if nominated) of the State Level Committee from disqualification for being chosen as or for being, Members of Parliament.

CHAPTER II

INCURRING OF DISQUALIFICATION BY NON-OFFICIAL MEMBERS OF STATE BODIES

West Bengal Dairy and Poultry Development Corporation Limited

2.1 The Committee note from the information furnished by the State Government of West Bengal that the non-official members (including Members of Parliament) of the West Bengal Dairy and Poultry Development Corporation Limited are paid sitting fee of Rs. 100/- for attending each Board meeting which is covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.2 The Committee further note that the Directors of the Corporation have the powers to acquire property, works of capital nature, to pay for property in debentures, to secure contracts by mortgage, to appoint officers etc., to appoint trustees, to bring and defend action etc., to invest money, to execute mortgages by way of indemnity, to give percentage, to make bye-laws, to establish Local Board, to make contracts and to delegate powers etc. The Committee find that the corporation exercise both executive and financial powers.

2.3 In this connection, attention of the Committee are drawn to its own recommendations made in the Tenth Report (Seventh Lok Sabha) presented to Lok Sabha on 7 May, 1984, recommended that if the Body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarship, etc. then the office in question will entail disqualification.

2.4 The Committee, keeping in view the above, recommend that the non-official members (including Members of Parliament) of the said Corporation should not be exempted from disqualification for being, chosen as, or for being, Members of Parliament.

2.5 The Committee also note that Shri Asim Bala, M.P. (Lok Sabha) is the non-official Director of the Corporation. The Committee are of the view that the member may be advised that the Corporation in question constitutes an office of profit under the Government which would disqualify the member for being chosen as, or for being, Member of Parliament.

State Planning Board, West Bengal

2.6 The Committee note from the information furnished by the State Government of West Bengal that the non-official members (including Members of Parliament) of State Planning Board, West Bengal are paid TA/DA as admissible under the Salary, Allowances and Pensions of Members of Parliament Act, 1954 which are covered by the 'Compensatory

Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.7 The Committee also note that the main functions of the State Planning Board are to formulate a comprehensive plan for the State and for this purpose co-ordinate and help in the formulation of individual departmental plans, both five-year and annual plans, District Plans and devise means for monitoring and follow up actions. The Board will also conduct studies and surveys and take action on other relevant matters in this connection. Thus the Committee find that the functions of the Board are advisory in nature.

2.8 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2 (a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament) of the State Planning Board from disqualification for being chosen as, or for being, Members of Parliament.

District Planning Committees, West Bengal

2.9 The Committee note from the information furnished by the State Government of West Bengal that the TA/DA payable to non-official members of the Committee are not specified by the State Government.

2.10 The Committee further note that the main functions of the District Planning Committees are to consolidate the plans prepared by the Panchayats and Municipalities in the District and preparation of draft development plan for the district as a whole. As such, the functions of the Board are advisory in nature.

2.11 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2 (a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament) of the District Planning Committees from disqualification for being chosen as, or for being, Members of Parliament.

Jhargram Development Board, West Bengal

2.12 The Committee note from the information furnished by the State Government of West Bengal that the non-official members (including one Member of Parliament) of Jhargram Development Board, West Bengal are not paid any remuneration.

The Committee further note that the main functions of the Board are to formulate and implement the comprehensive plans and programmes, including coordination and supervision, for the tribal people of Jhargram Area which is one of the most backward areas of the State. The Committee feel that the functions of the Committee are advisory in nature.

2.14 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2 (a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament) of the Jhargram Development Board from disqualification for being chosen as, or for being, Members of Parliament.

*National Informatics Centre (NIC)—State Coordination Committee (NSCC),
West Bengal*

2.15 The Committee note from the information furnished by the State Government of West Bengal that non-official members (including Member of Parliament) of National Informatics Centre, West Bengal are not getting any remuneration.

2.16 The Committee also note that the main function of the Committee is to formulate and implement the comprehensive plan for extending the NIC Computer facilities in the State. Thus, the Committee find that the function of the Committee is advisory in nature.

2.17 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament) of the State Coordination Committee from disqualification for being chosen as, or for being, Members of Parliament.

State Land Use Board, West Bengal

2.18 The Committee note from the information furnished by the State Government of West Bengal that non-official members of the Board are not paid any remuneration.

2.19 The Committee also note that the main function of the State Land Use Board, West Bengal is to study different factors which affect adversely the land and soil resources of the State and suggest remedial measures. Thus, the Committee find that the function of the Board is advisory in nature.

2.20 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the Non-official members of the Committee should not exceed the 'Compensatory Allowance' as defined in Section 2(a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament) of the State Land Use Board from disqualification for being chosen as, or for being, Members of Parliament.

West Bengal Comprehensive Area Development Corporation

2.21 The Committee note from the information furnished by the State Government of West Bengal that non-official members of the Corporation are not paid any remuneration.

2.22 The Committee also note that the main function of the Corporation are to provide for development of State of West Bengal through area based development programme with a view to increasing agricultural and allied production and ensuing maximum benefits of such production to the cultivators. The Corporation have the power to acquire, hold and dispose of movable and immovable property, to borrow money, to advance loans and to write off loans for the purpose of carrying out its functions. The Committee feel that the Corporation exercises executive and financial powers.

2.23 In this connection, attention of the Committee are drawn to its own recommendations made in the Tenth Report (Seventh Lok Sabha) presented to Lok Sabha on 7 May, 1984, recommended that if the Body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarship, etc. then the office in question will entail disqualification.

2.24 The Committee, keeping in view the above, recommend that the non-official members (including Members of Parliament) of the West Bengal Comprehensive Area Development Corporation should not be exempted from disqualification for being chosen as, or for being, Member of Parliament.

The Sales Tax Advisory Committee, Goa

2.25 The Committee note from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of Sales Tax Advisory Committee are paid TA/DA as admissible to Grade-I officers which are covered under the Parliament (Prevention of Disqualification) Act, 1959.

2.26 The Committee further note that the main functions of the Sales Tax Advisory Committee are to assist/advise the Government for smooth and efficient administration of the Sales Tax Law in the State. Thus, the Committee find that it is a purely an Advisory Committee.

2.27 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament) of the Sales Tax Advisory Committee from disqualification for being chosen as, or for being, Members of Parliament.

*Free Legal Aid & Advice Board, Law Department (Legal Affairs),
Government of Goa*

2.28 The Committee note from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of the Free Legal Aid and Advice Board, Goa are entitled to draw TA/DA as admissible to Grade-I officers at the higher rate which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.29 The Committee further note that the main functions of the Board are to administer the scheme for Free Legal Aid and Advice to economically and socially backward sections of the society as approved by the Government, to assist cases where the decision of the Court may affect weaker sections and also to render Free Legal Aid and Advice to the needy. The Committee are of the view that the functions of the Board are advisory in nature.

2.30 Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommend to exempt non-official members (including Members of Parliament, if nominated) of Free Legal Aid and Advice Board from disqualification for being chosen as, or for being, Members of Parliament.

Toddy Tappers Welfare Fund Board, Goa

2.31 The Committee note from the information furnished by the State Government of Goa that the non-official members (including members of Parliament, if nominated) of the Toddy Tappers Welfare Fund Board Goa are entitled to TA/DA as admissible to Grade-I officers of the State Government. The Payment of TA/DA are covered by the 'Compensatory Allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.32 The Committee also note that the main functions of the Board are to determine the cause of accident and death of the registered beneficiary to fix the compensation, to fix and collect the contribution from the beneficiaries and prepare accounts for obtaining the equal matching contribution from the Government and to maintain the full accounts of the fund. The Committee feel that the Board exercises both executive and financial powers.

2.33 In this connection, attention of the Committee are drawn to its own recommendations made in the Tenth Report (Seventh Lok Sabha) presented to Lok Sabha on 7 May, 1984, recommended that if the Body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarship, etc. then the office in question will entail disqualification.

2.34 The Committee, keeping in view of the above, recommend that the non-official members (including Members of Parliament, if nominated) of the Toddy Tappers Welfare Board should not be exempted from disqualification for being chosen as, or for being, Members of Parliament.

Rajasthan State Social Welfare Advisory Board, Jaipur

2.35 The Committee note from the information furnished by the State Government of Rajasthan that non-official members (including Members of Parliament, if nominated) of Rajasthan State Social Welfare Advisory Board, Jaipur are paid TA/DA at the rate admissible to highest Grade Class-I officers of the State Government, which is less than the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.35 The Committee also note that as regards the Chairperson of the Board, the State Government may provide certain facilities, if they so desire to her in terms of Honorarium, Secretarial facilities or Status of Ministerial rank etc. in addition to TA/DA as mentioned above. The facilities and honorarium being provided to the Chairperson do not come under the purview of the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.37 The Committee further note that the main functions of the Board are to undertake social welfare activities in the State. To achieve this purpose, the Board act as media for exchange of information between the field and the Centre and to invite, receive, examine and recommend to the Central Social Welfare Board applications for grant-in-aid from voluntary welfare institutions, under different programmes. Thus, the Board exercises both executive and financial powers.

2.38 In this connection, the Joint Committee on Offices of Profit in its Tenth Report (Seventh Lok Sabha) presented to Lok Sabha on 7 May, 1984, recommend that if the Body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement

of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarship, etc. then the office in question will entail disqualification.

2.39 The Committee, keeping in view the above, recommend that the non-official members (including Members of Parliament, if nominated) of the Rajasthan State Social Welfare Advisory Board, Jaipur should not be exempted from disqualification for being chosen as, or for being, Members of Parliament.

NEW DELHI;
December, 1997

Agrahayana, 1919 (S)

GEETA MUKHERJEE,
Chairperson,
Joint Committee on Offices of Profit.

APPENDIX

(Vide Para 2 of the Report)

VIII

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

The Committee met on Monday, 28 July, 1997 from 1600 hours to 1730 hours in Chairperson's Room No. 145, Third Floor, Parliament House, New Delhi.

PRESENT

Smt. Geeta Mukherjee — *Chairperson*

MEMBERS

Lok Sabha

2. Shri P. Namgyal
3. Rajkumari Ratna Singh
4. Shri Mahaboob Zahedi

Rajya Sabha

5. Shri Gaya Singh
6. Shri Bhagaban Majhi
7. Dr. Naunihal Singh

SECRETARIAT

1. ~~Shri Ram~~ Autar Ram — *Director*
2. Shri P.L. Chawla — *Assistant Director*

At the outset, the Chairperson made an obituary reference about the passing away of wife of Dr. Naunihal Singh, M.P., a Member of the Committee belonging to Rajya Sabha and conveyed their heart felt condolences to the Member of the Committee.

2. Thereafter, the Committee took up for consideration their 2nd Report and adopted it *in toto*.

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

4. The Committee also authorised Dr. Naunihal Singh, M.P. and in his absence Shri Gaya Singh, M.P. to lay the Report on the Table of Rajya Sabha.

Himachal Pradesh, State Level Committee on prohibition— Proposal to nominate Maj. Genl. (Retd.) Bikram Singh, Member, Lok Sabha and Shri Sushil Barongpa, Member, Rajya Sabha as members thereof, (Memorandum No. 21)

5. The Committee then took up for consideration Memorandum No. 21 and noted from the information furnished by the State Government of Himachal Pradesh that the non-official members (including Members of Parliament) of State Level Committee on Prohibition were paid TA/DA as admissible under the Salary, Allowances and Pensions of Members of Parliament Act, 1954 which are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

6. The Committee also noted that the main function of the Committee is to chalk out strategy for creating awareness amongst the masses and finalisation of Programme on Prohibition. Thus the Committee found that the Committee seems to be an advisory body.

7. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament) of the State Level Committee from disqualification for being chosen as, or for being, Members of Parliament.

West Bengal Dairy & Poultry Development Corporation Limited (Memorandum No. 22)

8. The Committee considered Memorandum No. 22 and noted from the information furnished by the State Government of West Bengal that the non-official members (including Members of Parliament) of the West Bengal Dairy and Poultry Development Corporation Limited are paid sitting fee of Rs. 100/- for attending each Board meeting which is covered by the 'Compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959 which reads as under:

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

9. The Committee further noted that the Directors of the Corporation have the powers to acquire property, works of capital nature, to pay for property in debentures, to secure contracts by mortgage, to appoint officers etc., to appoint trustees, to bring and defend action etc., to invest

money to execute mortgages by way of indemnity, to give percentage, to make byelaws, to establish Local Board, to make contracts, etc., to delegate powers etc. As such the corporation exercised both executive and financial powers.

10. The Joint Committee on Offices of Profit in its Tenth Report (Seventh Lok Sabha) presented to Lok Sabha on 7 May, 1984, recommended that if the Body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarship, etc. then the office in question will entail disqualification.

11. The Committee keeping in view the above, recommended that the non-official members (including Members of Parliament) of the said Corporation should not be exempted from disqualification for being chosen as, or for being, Member of Parliament.

12. The Committee also noted that Shri Asim Bala, M.P. (Lok Sabha) is the non-official Director of the Corporation. The Committee were of the view that the members may be advised that the Corporation in question constitutes an office of profit under the Government which would disqualify the member for being a Member of Parliament.

13. At the end, the Committee recalled that a booklet containing the detailed guidelines regarding 'Office of Profit' was distributed to all the Members of Parliament through their Party Leaders and found that no response is coming from the members regarding their nomination to any Government Committee/Body in regard to have the permission from Hon'ble Speaker, Lok Sabha and the Hon'ble Chairman Rajya Sabha as the case may be.

14. The Committee, therefore, decided that the Leaders might be reminded in the matter and the matter might also be placed before the Parliamentary Party Leaders Meeting for discussion.

The Committee then adjourned.

IX

MINUTES OF THE NINTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (ELEVENTH LOK SABHA)

The Committee met on Wednesday, 6 August, 1997 from 1430 hours to 1600 hours in Chairperson's Room No. 145, Third Floor, Parliament House, New Delhi.

PRESENT

Smt. Geeta Mukherjee — *Chairperson*

MEMBERS

Lok Sabha

2. Shri Bhimrao Vishnuji Badade
3. Shri P. Namgyal
4. Shri Prahlad Singh Patel
5. Shri A. Raja
6. Shri Mahaboob Zahedi

Rajya Sabha

7. Dr. Naunihal Singh

SECRETARIAT

1. Shri Ram Autar Ram — *Director*
2. Shri P.L. Chawla — *Assistant Director*

State Planning Board, West Bengal. (Memorandum No. 23)

2. The Committee took up for consideration Memorandum No. 23 and noted from the information furnished by the State Government of West Bengal that the non-official members (including Members of Parliament) of State Planning Board, West Bengal were paid TA/DA as admissible under the Salary, Allowances and Pensions of Members of Parliament Act, 1954 which are covered by the 'Compensatory Allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

3. The Committee also noted that the main functions of the State Planning Board are to formulate a comprehensive plan for the State and for this purpose co-ordinate and help in the formulation of individual departmental plans, both five-year and annual plans, District Plans and devise means for monitoring and follow up actions. The Board will also conduct studies and surveys and take action on other relevant matters in

this connection. Thus the Committee found that the functions of the Board are advisory in nature.

4. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2 (a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament) of the State Planning Board from disqualification for being chosen as, or for being, Members of Parliament.

District Planning Committees, West Bengal. (Memorandum No. 24)

5. The Committee also considered Memorandum No. 24 and noted from the information furnished by the State Government of West Bengal that the TA/DA payable to non-official members of the Committee are not specified by the State Government.

6. The Committee further noted that the main functions of the District Planning Committees are to consolidate the plans prepared by the Panchayats and Municipalities in the District and preparation of draft development plan for the district as a whole. As such, the functions of the Board are advisory in nature.

7. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a Member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament) of the District Planning Committees from disqualification for being chosen as, or for being, Members of Parliament.

Jhargram Development Board, West Bengal. (Memorandum No. 25)

8. The Committee then considered Memorandum No. 25 and noted from the information furnished by the State Government of West Bengal that the non-official members (including one Member of Parliament) of Jhargram Development Board, West Bengal are not paid any remuneration.

9. The Committee further noted that the main functions of the Board are to formulate and implement the comprehensive plans and programmes, including coordination and supervision, for the tribal people of Jhargram Area which is one of the most backward areas of the State. The Committee felt that the functions of the Committee are advisory in nature.

10. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2 (a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament) of the Jhargram Development Board from disqualification for being chosen as, or for being, Members of Parliament.

National Informatics Centre (NIC) — State Coordination Committee (NSCC), West Bengal. (Memorandum No. 26)

11. The Committee further considered Memorandum No. 26 and noted from the information furnished by the State Government of West Bengal that non-official members (including Members of Parliament) of National Informatics Centre, West Bengal are not getting any remuneration.

12. The Committee also noted that the main function of the Committee is to formulate and implement the comprehensive plan for extending the NIC Computer facilities in the State. Thus, the function of the Committee is advisory in nature.

13. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2 (a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament) of the State Coordination Committee from disqualification for being chosen as, or for being, Members of Parliament.

State Land Use Board, West Bengal. (Memorandum No. 27)

14. The Committee also considered Memorandum No. 27 and noted from the information furnished by the State Government of West Bengal that non-official members of the Board are not paid any remuneration.

15. The Committee further noted that the main function of the State Land Use Board, West Bengal is to study different factors which affect adversely the land and soil resources of the State and suggest remedial measures. Thus, the Committee found that the function of the Board is advisory in nature.

16. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2 (a) of the said Act, the Committee recommended to exempt non-official members

(including Members of Parliament) of the State Land Use Board from disqualification for being chosen as, or for being, Members of Parliament.

***West Bengal Comprehensive Area Development Corporation.
(Memorandum No. 28)***

17. The Committee, thereafter, considered Memorandum No. 28 and noted from the information furnished by the State Government of West Bengal that non-official members of the Corporation are not paid any remuneration.

18. The Committee also noted that the main function of the Corporation are to provide for development of State of West Bengal through area based development programme with a view to increasing agricultural and allied production and ensuing maximum benefits of such production to the cultivators. The Corporation have the power to acquire, hold and dispose of movable and immovable property, to borrow money, to advance loans and to write off loans for the purpose of carrying out its functions. As such, the Corporation exercised executive and financial powers.

19. The Joint Committee on Office of Profit in its Tenth Report (Seventh Lok Sabha) presented to Lok Sabha on 7 May, 1984, recommended that if the Body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarship, etc. then the office in question will entail disqualification.

20. The Committee, keeping in view the above, recommended that the non-official members (including Members of Parliament) of the said Corporation should not be exempted from disqualification for being chosen as, or for being, Member of Parliament.

The Committee then adjourned.

**MINUTES OF THE TENTH SITTING OF THE JOINT COMMITTEE
ON OFFICES OF PROFIT (ELEVENTH LOK SABHA)**

The Committee met on Tuesday, 16 September, 1997 from 1500 hours to 1610 hours in Committee Room 'B', Parliament House Annex, New Delhi.

PRESENT

Smt. Geeta Mukherjee — *Chairperson*

MEMBERS

Lok Sabha

2. Shri P. Namgyal
3. Prof. I.G. Sanadi
4. Rajkumari Ratna Singh
5. Shri Lal Babu Yadav

Rajya Sabha

6. Shri Gaya Singh
7. Shri Virendra Kataria

SECRETARIAT

Shri Ram Autar Ram — *Director*

The Sales Tax Advisory Committee, Goa. (Memorandum No. 29)

2. The Committee took up for consideration Memorandum No. 29 and noted from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of Sales Tax Advisory Committee were paid TA/DA as admissible to Grade-I officers which are covered under the Parliament (Prevention of Disqualification) Act, 1959.

3. The Committee also noted that the main functions of the Sales Tax Advisory Committee are to assist/advise the Government for smooth and efficient administration of the Sales Tax Law in the State. Thus, the Committee found that it is a purely an Advisory Committee.

4. Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should

not exceed the 'Compensatory Allowance' as defined in Section 2 (a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament) of the Sales Tax Advisory Committee from disqualification for being chosen as, or for being, Members of Parliament.

*Free Legal Aid & Advice Board, Law Department (Legal Affairs),
Government of Goa. (Memorandum No. 30).*

5. The Committee then considered Memorandum No. 30 and noted from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of the Free Legal Aid and Advice Board, Goa are entitled to draw TA/DA as admissible to Grade-I officers at the higher rate which are covered by the 'Compensatory Allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959.

6. The Committee further noted that the main functions of the Board are to administer the scheme for Free Legal Aid and Advice to economically and socially backward sections of the society as approved by the Government to assist cases where the decision of the Court may affect weaker sections and also to render Free Legal Aid and Advice to the needy. As such, the functions of the Board are advisory in nature.

7. ~~Keeping in view Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959 which has declared certain offices of profit not to disqualify the holder thereof for being chosen as, or for being, a member of Parliament, subject to the condition that the amount of TA/DA provided to the non-official members of the Committee should not exceed the 'Compensatory allowance' as defined in Section 2(a) of the said Act, the Committee recommended to exempt non-official members (including Members of Parliament, if nominated), of Free Legal Aid and Advice Board from disqualification for being chosen as, or for being, Members of Parliament.~~

*Toddy Tappers Welfare Fund Board, Goa
(Memorandum No. 31)*

8. The Committee then considered Memorandum No. 31 and noted from the information furnished by the State Government of Goa that the non-official members (including Members of Parliament, if nominated) of the Toddy Tappers Welfare Fund Board, Goa are entitled to TADA as admissible to Grade-I officers of the State Government. The payment of TADA are covered by the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

9. The Committee further noted that the main functions of the Board are to determine the cause of accident and death of the registered beneficiary, to fix the compensation, to fix and collect the contribution from the beneficiaries and prepare accounts for obtaining the equal

matching contribution from the Government and to maintain the full accounts of the fund. Thus, the Board exercised both executive and financial powers.

10. The Joint Committee on Offices of Profit in its Tenth Report (Seventh Lok Sabha) presented to Lok Sabha on 7 May, 1984, had recommended that if the Body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarship, etc. then the office in question will entail disqualification.

11. The Committee, keeping in view the above, recommended that the non-official members (including Members of Parliament, if nominated) of the Toddy Tappers Welfare Board should not be exempted from disqualification for being chosen as, or for being, Members of Parliament.

*Rajasthan State Social Welfare Advisory Board, Jaipur,
(Memorandum No. 32)*

12. The Committee thereafter considered Memorandum No. 32 and noted from the information furnished by the State Government of Rajasthan that non-official members (including Members of Parliament, if nominated) of Rajasthan State Social Welfare Advisory Board, Jaipur are paid TA/DA at the rate admissible to highest Grade Class-I officers of the State Government, which is less than the 'Compensatory Allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

13. The Committee also noted that as regards the Chairperson of the Board, the State Government may provide certain facilities, if they so desire to her in terms of Honorarium, Secretarial facilities or Status of Ministerial rank etc. in addition to TA/DA as mentioned above. The facilities and honorarium being provided to the Chairperson do not come under the purview of the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

14. The Committee further noted that the main functions of the Board are to undertake social welfare activities in the State. To achieve this purpose, the Board act as media for exchange of information between the field and the Centre and to invite, receive, examine and recommend to the Central Social Welfare Board applications for grant-in-aid from voluntary welfare institutions under different programmes. Thus, the Board exercise both executive and financial powers.

15. In this connection, the Joint Committee on Offices of Profit in its Tenth Report (Seventh Lok Sabha) presented to Lok Sabha on 7 May, 1984, recommended that if the Body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarship, etc. then the office in question will entail disqualification.

16. The Committee, keeping in view the above, recommended that the non-official members (including Members of Parliament, if nominated) of the Rajasthan State Social Welfare Advisory Board, Jaipur should not be exempted from disqualification for being chosen as, or for being, Members of Parliament.

17. Thereafter, the Committee decided to undertake a study visit to Cochin, Lakshadweep, Bangalore, Hyderabad and Chennai during the first week of November, 1997 to examine certain organisations to see whether these organisations constitute an office of profit under the Government which would disqualify the Member, for being a Member of Parliament.

The Committee then adjourned.

MINUTES OF THE TWELFTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (ELEVENTH LOK SABHA)

The Committee met on Wednesday, 3 December, 1997 from 1030 hours to 1145 hours in Chairperson's Room No. 145, Third Floor, Parliament House, New Delhi.

PRESENT

Smt. Geeta Mukherjee — *Chairperson*

MEMBERS

Lok Sabha

2. Shri Bhimrao Vishnuji Badade
3. Shri P. Namgyal
4. Shri A. Raja
5. Prof. I. G. Sanadi

Rajya Sabha

6. Dr. Naunihal Singh
7. Shri Virendra Kataria

SECRETARIAT

1. Shri P.D.T. Achary — *Joint Secretary*
2. Shri Ram Autar Ram — *Director*

2. The Committee considered and adopted their Draft Third Report.
3. The Committee authorised the Chairperson to present the Report to Hon'ble Speaker, Lok Sabha.

The Committee then adjourned.