

CONFIDENTIAL

CB-II No.

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

TENTH REPORT

Presented to Lok Sabha on 19.12.2008
Laid in Rajya Sabha on 19.12.2008

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**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2008/Agrahayana, 1930 (Saka)

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**COMPOSITION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT
(FOURTEENTH LOK SABHA)**

MEMBERS

Shri Chandra Bhushan Singh - Chairman

Lok Sabha

2. Shri Ananth Kumar
3. Shri Ashok Argal
4. Vacant
5. Shri Mohan Jena
6. Shri S.K. Kharventhan
7. Shri G. Nizamuddin
8. Shri Nikhilananda Sar
9. Shri Bharatsinh M. Solanki
10. Shri Sita Ram Yadav

Rajya Sabha

11. Shri Silvius Condpan
- *12. Dr. Abhishek Manu Singhvi
- *13. Shri Arun Jaitley
- &14. Shri P.R. Rajan
15. Dr. C. Rangarajan

Secretariat

Shri P.K. Grover	-	Joint Secretary
Shri R.S. Misra	-	Director
Shri K. Sarkar	-	Deputy Secretary-II

* Elected by Rajya Sabha on 28.7.2006 vice Sarvashri Manoj Bhattacharya, Ram Nath Kovind and K. Rama Mohana Rao who retired w.e.f. 2.4.2006 and Shri Saif-ud-din-Soz resigned on 29.1.2006 consequent upon his appointment as Union Minister.

& Elected to the Committee on 4.5.2007 vice Shri Chittabrata Majumdar passed away on 20.2.2007.

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 Tenth Report of the Committee.

2. The matters covered in the Report were considered by the Joint Committee on Offices of Profit at their sitting held on 3 October, 2008. The Minutes of the sitting form part of the Report and is at Appendix I.

3. The Committee examined the composition, character, functions etc. of District Level Committee for monitoring of Rajiv Gandhi Gramin Vidyutikaran Yojna and issue of Rural Electrification in respective districts of Himachal Pradesh, Rajasthan Employment Guarantee Council, Consultative Committee on distribution/utilization of water under Indira Gandhi Canal System, Rajasthan with a view to considering whether the holders of the offices of membership in these bodies would incur disqualification under Article 102 of the Constitution.

4. The detailed information regarding the composition, character, functions, emoluments and allowances payable to the members of these bodies was furnished by the Governments of Himachal Pradesh and Rajasthan. The Committee wish to express their thanks to the Governments of Himachal Pradesh and Rajasthan for furnishing the information desired by the Committee.

5. The Committee considered and adopted this Report at their sitting held on 18 December, 2008.

6. The observations/recommendations of the Committee in respect of the matters considered by them are given in the respective Chapters of this Report. The recommendations of the Committee will, however, remain advisory in nature and as such can not give any protection from disqualification under the law until the recommendations are given statutory effect by the Government by suitably amending the Parliament (Prevention of Disqualification) Act, 1959.

NEW DELHI;

December, 2008
Agrahayana, 1930 (Saka)

CHANDRA BHUSHAN SINGH,
Chairman,
Joint Committee on Offices of Profit

REPORT

CHAPTER- I

Nomination of Members of Parliament to the District Level Committee for monitoring of Rajiv Gandhi Gramin Vidyutikaran Yojna and issue of Rural Electrification in respective districts of Himachal Pradesh.

The Government of Himachal Pradesh, General Administration Department (Parliamentary Affairs Department) vide their letter No.GAD – (PA)-4(D)-40/90 dated 15 May, 2006 have requested to obtain the approval of the Hon'ble Speaker, Lok Sabha regarding the nomination of Prof. Chander Kumar, Dr. (Col.) Dhani Ram Shandil, and Smt. Pratibha Singh, M.Ps to the District Level Committee for monitoring of the progress of the implementation of Rajiv Gandhi Gramin Vidyutikaran Yojna and issue of Rural Electrification in respective districts of Himachal Pradesh.

1.2 Since the information furnished by the State Government was not sufficient to examine the matter from the angle of office of profit, they were requested again to furnish the detailed information on it. The State Government have furnished the requisite information vide their letters dated 17 January and 5 May, 2008. The extracts of the information are reproduced below:

Constitution

- The District Level Committee has been constituted under Section 166 (5) of the Electricity Act, 2003.

Remuneration

- No payment on any account whatsoever will be made to the members of the Committee
- No facility will be given to the Hon'ble Members of Parliament for attending the meetings. However, Rest House accommodation on payment of applicable charges shall be made available, if so desired by the members.

Function

- Its main function will be co-ordination and advisory for improvement in electricity supply in the districts.
- Electricity Act, 2003 is silent about powers of the Committee. However, the Committee will look into the following:-
 - (i) To Coordinate and review the extension of electrification in each district
 - (ii) To review the quality of power supply and consumer satisfaction and
 - (iii) To promote energy sufficiency and its conservation.
- The Committee do not exercise executive, legislative or judicial powers.
- The Committee neither confer powers of disbursement of funds, allotment of lands etc. nor would wield influence or power by way of patronage.
- The Committee would not have powers of appointment

1.3 The Committee considered the matter at their sitting held on 3 October, 2008 (APPENDIX-I).

1.4 The Committee note from the information furnished by the Government of Himachal Pradesh that the main function of the District Level Committee is to co-ordinate and advise for improvement in electricity supply in the Districts. The Committee also note that the said district level Committee does not perform executive, legislative or judicial functions. Also, the Committee neither confer powers of disbursement of funds, allotment of lands etc. nor would wield influence or power by way of patronage. The Committee further note that no payment on any account whatsoever will be made to the members of the Committee and also no facility will be given to the Members of Parliament for attending the meetings of the Committee except Rest House Accommodation on payment of applicable charges, if so desired by the members.

1.5 The Committee therefore feel that the membership in the District Level Committee for monitoring of Rajiv Gandhi Gramin Vidyutikaran Yojna and issue of Rural Electrification in respective districts of Himachal Pradesh does not attract disqualification from the angle of 'Office of Profit' under Article 102 (1) (a) of the Constitution and hence, the Members of Parliament, if nominated to the said Committee may not attract disqualification for being chosen as, or for being a member of Parliament.

CHAPTER-II

Nomination of the Members of Parliament to the Rajasthan Employment Guarantee Council.

The Government of Rajasthan (Department of Parliamentary Affairs) vide their letter dated 28.3.2006 requested to obtain the approval of Hon'ble Speaker, Lok Sabha, regarding nomination of Sarvashri Dushyant Singh, M.P. and Dhan Singh Rawat, M.P. to the Rajasthan Employment Guarantee Council.

2.2 The detailed information as furnished by the Government of Rajasthan vide their letters dated 28.3.2006, 11.5.2007, 5.2.2008 and 7.7.2008 are given as follows:-

Constitution

- The Council is constituted in pursuance of Section 12 (1) of National Rural Employment Guarantee Act, 2005 with the permission of Hon'ble Governor, Government of Rajasthan.
- There is a provision for reconstitution of the Council.

Term

- The term is 5 years for the Council and 3 years for Hon'ble Members of Parliament on rotation basis.

Remuneration

No specific honorarium etc. are payable to the M.Ps. since they have been nominated as ex-officio members of the parishad. Also, as the nomination is not as a non-official member but as an ex-officio member so no specific TA/DA is payable to the members of the parishad.

Functions

The details of functions as performed by the Council are given as follows:-

- (i) To give suggestions regarding the scheme and its implementation.
- (ii) To fix priority of works to be undertaken under the scheme.
- (iii) Periodical Review of Monitoring and Redressal Mechanism and to give suggestions for improvement.
- (iv) To disseminate information regarding provisions of the Act and the scheme to grass root level.
- (v) Monitoring of provisions of the Act and implementation of the scheme at State level and co-ordination with the Central Employment Guarantee Council.
- (vi) To approve proposals from the districts for addition of new works to be undertaken under the scheme as per section of Schedule-I and forward them with their recommendations to the Government of India.
- (vii) To prepare annual Report on the Rajasthan Rural Employment Guarantee scheme and Present the same to the Vidhan Sabha of the State.
- (viii) Other functions as to be decided by the Rural Employment Guarantee Council and the State Government.
- (ix) Implementation of scheme in the State and the right to undertake collection of data on rural economy of the State and monitoring thereon.

It has further been clarified by the State Government that the Council can only suggest and has no powers to execute its recommendations. Execution of recommendations will be done by the State Government keeping in view the merits of recommendations. Also, State Government will implement the

recommendation, keeping in view its merits or recommend to Central Government for implementation.

2.3 The Committee considered the matter at their sitting held on 3 October, 2008 (APPENDIX-I).

2.4 The Committee note from the information furnished by the Government of Rajasthan that the power of appointment lies with the Government. The Committee also note that the Council performs advisory functions as execution of recommendations will be done by the State Government keeping in view the merits of recommendations. Also, State Government will implement the recommendation, keeping in view its merits or recommend to Central Government for its implementation. The Committee further note that no specific honorarium, TA/DA etc. are payable to the Members of Parliament since they have been nominated on ex-officio basis.

2.5 The Committee therefore feel that the membership in the Rajasthan Employment Guarantee Council is not an 'Office of Profit' under Article 102 (1) (a) of the Constitution and hence, the Members of Parliament, if nominated to the said Council may not attract disqualification for being chosen as, or for being a member of Parliament.

CHAPTER-III

Nomination of MPs to the Consultative Committee on distribution/utilization of water under Indira Gandhi Canal System, Rajasthan.

The Government of Rajasthan (Department of Parliamentary Affairs) have requested for permission of Hon'ble Speaker, Lok Sabha for nomination of MPs to the Consultative Committee on distribution/utilization of water under Indira Gandhi Canal System, Rajasthan.

3.2 Since the information regarding the aforesaid Committee was not sufficient to examine it from the angle of 'office of profit', the Government of Rajasthan were requested to furnish further information in this regard. The State Government have since furnished the requisite information vide their letter dated 23.7.2007 and 17.6.2008.

The extracts of the information are given below:-

- The said consultative Committee is a Standing Committee.
- The Consultative Committee has been constituted vide an order No.F.7(9) Irrigation/2004 dated 14.5.2005 of Government of Rajasthan (Irrigation-fed Area and Indira Gandhi Canal Department).
- The term of office of member on the consultative Committee of Parliament is permanent.
- No payment is made to the MPs for attending the meetings of the said Consultative Committee .
- No extra facility is proposed to be given to MPs for attending the sittings of the Committee
- The Committee exercises only advisory power

- The Commissioner, Irrigated Land Development, Bikaner will determine regulation of water for appropriate utilization and distribution of water in both the phases of allotted water from the Indira Gandhi Canal on the recommendations Engineer, Irrigation, Hanumangarh and Chief Engineer Indira Gandhi Canal Project, Jaisalmer will distribute water in their respective areas accordingly.
- The Hon'ble MPs are to advise with regard to proposed regulation.
- The Committee neither confers powers of disbursement of funds, allotment of lands etc. nor would wield influence or power by way of patronage.
- It would not have powers of appointment/removal.

3.3. The Committee considered the matter at their sitting held on 3 October, 2008 (APPENDIX-I).

3.4 The Committee note from the information furnished by the Government of Rajasthan that the office of membership in the Consultative Committee on distribution/utilization of water under Indira Gandhi Canal System, Rajasthan is an 'office under the Government', since the nomination of MPs is to be made as per the provision in the Government's order dated 14.5.2005. The Committee further note that no payment is made to the members of Parliament for attending the sittings of the Committee. The members of Parliament are also not given any facilities for attending the sitting of the Committee. The Committee also observe that the Consultative Committee exercises only advisory function and neither confers power of disbursement of funds, allotment of lands etc. nor would wield influence or power by way of patronage. It does not have powers of appointment/removal as well.

3.5 The Committee therefore feel that Members of Parliament, if nominated to the Consultative Committee on distribution/utilization of water under Indira

Gandhi Canal System, Rajasthan may be exempted from disqualification for being chosen as, or for being, a member of Parliament under article 102 (1) (a) of the Constitution.

NEW DELHI;

December, 2008
Agrahayana, 1930 (Saka)

CHANDRA BHUSHAN SINGH,
Chairman,
Joint Committee on Offices of Profit

APPENDIX – I

(Vide paras 1.3, 2.3 and 3.3 of Chapters I, II and III of the Report respectively)

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**EXTRACTS OF THE MINUTES OF THE NINETEENTH SITTING OF THE
JOINT COMMITTEE ON OFFICES OF PROFIT**

(FOURTEENTH LOK SABHA)

The Committee sat on Friday, 3 October, 2008, from 1500 hrs. to 1610 hrs in
Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Chandra Bhushan Singh - Chairman

MEMBER (LOK SABHA)

2. Shri Ashok Argal
3. Shri Rajiv Ranjan 'Lalan' Singh
4. Shri Mohan Jena
5. Shri S. K. Kharventhan
6. Shri G. Nizamoddin
7. Shri Nikhilananda Sar

MEMBER (RAJYA SABHA)

8. Shri Silvius Condpan

SECRETARIAT

Shri R.S. Misra - Director

Shri Kusal Sarkar - Deputy Secretary-II

2. At the outset, the Chairman welcomed the members to the sitting of the Committee.

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6. Thereafter, the Committee considered Memorandum No.27 regarding nomination of Members of Parliament to the District Level Committee for monitoring of Rajiv Gandhi Gramin Vidyutikaran Yojna and issue of Rural Electrification in respective districts. The Committee noted from the information furnished by the Government of Himachal Pradesh that the main function of the District Level Committee was to co-ordinate and advise for improvement in electricity supply in the Districts. The Committee also noted that the said district level Committee does not perform executive, legislative or judicial functions. Also, the Committee neither confer powers of disbursement of funds, allotment of lands etc. nor would wield influence or power by way of patronage. The Committee further noted that no payment on any account whatsoever would be made to the members of the Committee and also no facility would be given to the Members of Parliament for attending the meetings of the Committee except Rest House Accommodation on payment of applicable charges, if so desired by the members.

The Committee therefore felt that the membership in the District Level Committee for monitoring of Rajiv Gandhi Gramin Vidyutikaran Yojna and issue of Rural Electrification in respective districts did not attract disqualification from the angle of 'Office of Profit' under Article 102 (1) (a) of the Constitution and hence, the Members of Parliament, if nominated to the said Committee might not attract disqualification for being chosen as, or for being a member of Parliament.

7. Thereafter, the Committee considered Memorandum No.28 regarding nomination of Members of Parliament to the Rajasthan Employment Guarantee Council. The Committee noted that the power of appointment lies with the Government. The Committee also noted that the Council performs advisory functions as execution of recommendations would be done by the State Government keeping in view the merits of recommendations. Also, State Government would implement the recommendation, keeping in view its merits or recommend to Central Government for its

implementation. The Committee also noted that no specific honorarium, TA/DA etc. were payable to the Members of Parliament since they have been nominated on ex-officio basis.

The Committee therefore felt that the post of membership in the Rajasthan Employment Guarantee Council is not an 'Office of Profit' under Article 102 (1) (a) of the Constitution and hence, the Members of Parliament, if nominated to the said Council might not attract disqualification for being chosen as, or for being a member of Parliament.

8. Thereafter, the Committee considered Memorandum No.29 regarding nomination of MPs to the Consultative Committee on distribution/utilization of water under Indira Gandhi Canal System, Rajasthan. The Committee noted from the information furnished by the Government of Rajasthan that the office of membership in the Consultative Committee on distribution/utilization of water under Indira Gandhi Canal System was an 'office under the Government', since the nomination of MPs was to be made as per the provisions contained in the Government's order dated 14.5.2005. The Committee further noted that nothing would be paid to the Members of Parliament for attending the sittings of the Committee and also they were not given any facilities for attending the sitting of the Committee. The Committee also observed that the Consultative Committee exercises only advisory function and neither confers power of disbursement of funds, allotment of lands etc. nor would wield influence or power by way of patronage. It does not have powers of appointment/removal as well.

The Committee, therefore, felt that MPs if nominated to the Consultative Committee on distribution/utilization of water under Indira Gandhi Canal System, Rajasthan might be exempted from disqualification for being chosen as, or for being, a member of Parliament.

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The Committee then adjourned.

6. The Committee, then took up the draft Ninth and Tenth Reports for consideration and adopted the same without any modification. Thereafter, the Committee authorized the Chairman to present the same to Parliament.

The Committee then adjourned.