

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

TENTH REPORT

Presented to Lok Sabha on 22 August, 2013
Laid in Rajya Sabha on 22 August, 2013



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2013/Sravana 1935(Saka)

Price : _____

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

Shri Rewati Raman Singh - Chairman

**MEMBERS
LOK SABHA**

2. Shri P.C. Chacko
3. Shri Dara Singh Chauhan
4. Shri Sanjay Dhotre
5. Shri Prataprao Ganpatrao Jadhav
6. Shri Vishwa Mohan Kumar
7. Shri Rajendrasinh Rana
8. Shri Ashok Tanwar
9. Shri Pradeep Majhi
10. Shri Gopal Singh Shekhawat*

RAJYA SABHA

11. Dr. Bharatkumar Raut
12. Smt. Mohsina Kidwai
13. Shri Janardan Dwivedi
14. Shri Ravi Shankar Prasad
15. Dr. (Smt.) T.N. Seema

SECRETARIAT

1. Shri R.S. Kambo - Joint Secretary
2. Shri Shiv Kumar - Director
3. Shri Maya Lingi - Deputy Secretary

*Elected to the Committee on 14.03.2013 vice Shri Sarvey Sathyanarayana resigned w.e.f. 06.12.2012 consequent upon his appointment as Minister of State.

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 matter covered in the Report was considered by the Committee at their sitting held on 20 June, 2013 . The Minutes of the sitting form part of the Report and are given at Appendices I and II.

3. The Committee examined the term, composition, character, functions etc. of the District Level Advisory Committee to be constituted under the Chairpersonship of a Member of Parliament (Lok Sabha) to monitor the Prime Minister's Employment Generation Programme (PMEGP) and multi-stakeholder National Platform for Disaster Risk Reduction (NPDRR) - with a view to consider as to whether the nomination/appointment of a Member of Parliament as a Chairperson/Member to the District Level Advisory Committee and to the National Platform for Disaster Risk Reduction. would attract disqualification from the angle of 'office of profit' under Article 102 (1)(a) 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 Ministry of Micro, Small and Medium Enterprises and the Ministry of Home Affairs.

5. The Committee considered and adopted this Report at their sitting held on 12 July, 2013 and the Minutes of the sitting are given at Appendix III.

6. The Committee wish to express their thanks to the Ministry of Micro, Small and Medium Enterprises and the Ministry of Home Affairs for furnishing the information desired by the Committee.

7. The observations/recommendations made by the Committee in respect of the matters considered by them are given at the end of this Report in bold letters.

NEW DELHI;

01 August, 2013
10 Sravana, 1935 (Saka)

REWATI RAMAN SINGH,
Chairman,
Joint Committee on Offices of Profit

REPORT

CHAPTER I

Constitution of a District Level Advisory Committee under the Chairpersonship of a Member of Parliament (Lok Sabha) to monitor the Prime Minister's Employment Generation Programme (PMEGP).

* * *

1.1 The Ministry of Micro, Small and Medium Enterprises *vide* their letter No.PMEGP/Cor/1/2012-13 dated 28 March, 2013 had requested for the grant of an approval/concurrence for the constitution of the 'District level Advisory Committee' under the Chairpersonship of a Member of Parliament (Lok Sabha) elected from the District (having the largest part of the district under his/her Parliamentary Constituency and other Member of Parliament (Lok Sabha) having Part Constituency in the District as Co-Chairperson and nomination/appointment of Member of Rajya Sabha as a Member to the Committee to monitor progress of Prime Minister's Employment Generation Programme (PMEGP), a flagship scheme of the Ministry of Micro, Small and Medium Enterprises (MSME).

1.2 As the aforesaid request was not accompanied by the adequate details, the Ministry of Micro, Small and Medium Enterprises were requested to furnish information on certain points relating to power, functions, remuneration, facilities, etc. provided to the Chairperson and Members of the Committee. The Ministry furnished the requisite information *vide* their letter No.PMEGP/Cor/1/2012-13 dated 22 April, 2013, the extracts of which are reproduced below:

- There is no provision of 'Advisory Committee' in the PMEGP Guidelines and the said Committee has been proposed to be established as per directions of Hon'ble Minister, to monitor progress of PMEGP at district level with active involvement of the Hon'ble Member of Parliament (MP) of the district with following composition:-
 - (i) The Member of Parliament (Lok Sabha) elected from the District (having the largest part of the district under his/her parliamentary constituency) - Chairperson;
 - (ii) Other Member of Parliament (Lok Sabha) having part constituency in the District - Co-Chairperson;
 - (iii) Member of Parliament (Rajya Sabha) - Member;
 - (iv) All Member of State Legislative Assembly elected from the District - Member;
 - (v) Member of Legislative Council concerned – Member;
 - (vi) Chairperson of the Zilla Panchayat;

- (vii) Chief Executive Officer of the Zilla Panchayat or an officer of same rank/position-Member;
 - (viii) District Magistrate/Deputy Commissioner/Collector of the District – Member;
 - (ix) One representative each of SC/ST, OBC, Minority and Women of which at least two should be entrepreneur of which one should be women to be nominated by the chairperson in consultation with other MPs in the Committee – Member;
 - (x) One professional from the field of social work/social science to be nominated by the District Collector/Deputy Commissioner – Member;
 - (xi) Three representatives from Banks/financial institutions operating in the district including the Lead Bank Manager – Member;
 - (xii) Representative of State/UT Khadi and Village Industries Board – Member;
 - (xiii) General Manager, District Industries Centre (DIC) – Member; and
 - (xiv) Concerned State/Divisional Director of KVIC – Member Secretary.
- The term of Reference/primary responsibility of the Advisory Committee will be:
- (i) to provide overall guidance & suggestions for the implementation of PMEGP;
 - (ii) to liaise and coordinate with KVIC, State Government and other agencies including Banks for effective mobilization of young entrepreneurs under PMEGP;
 - (iii) to ensure that the PMEGP scheme is being implemented in accordance with the guidelines;
 - (iv) to track the progress of implementation to meet the target;
 - (v) to monitor both input and output, i.e. whether the services and projects are being set up on schedule; and
 - (vi) to review the progress/achievement.
- District Level Advisory Committee will be a Standing Body.
- As per approved Term of Reference, no provisions have been proposed for payment of sitting fee and allowances such as daily allowance, travelling allowance, house-rent allowance, compensatory allowance, honorarium, etc. to the Member of Parliament as Chairperson and Member of the Committee.
- No provision has been proposed regarding exercise of executive, legislative or judicial powers, disbursement of funds, allotment of lands, issue of license and wielding of influence of power by way of patronage by the Committee.

1.3 The Joint Committee on Offices of Profit consider the following criteria for determining as to whether an office ought or ought not to disqualify the holder thereof for being chosen as, and for being a Member of Parliament:-

- (i) Whether the Government exercise control over the appointment to and removal from the office and over the performance and functions of the office;

- (ii) Whether the holder draws any remuneration other than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959;
- (iii) Whether 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 licenses, etc., or gives powers of appointment, grant of scholarships, etc; and
- (iv) Whether the body in which an office is held enables the holder to wield influence or power by way of patronage.

1.4 The Joint Committee on Offices of Profit considered the matter at their sitting held on 20 June, 2013 (APPENDIX-I).

1.5 The Committee note from the information furnished by the Ministry of Micro, Small and Medium Enterprises that there is no provision of 'Advisory Committee' in the PMEGP Guidelines. However, the said Committee has been proposed to be established as per directions of Hon'ble Minister to monitor progress of PMEGP at the District level with active involvement of the Hon'ble Member of Parliament (MP) of the District. The Committee also note that the proposed 'Advisory Committee' is a Standing Body. As per the approved Term of Reference, no provisions exists for the payment of sitting fee and allowances such as daily allowance, travelling allowance, house-rent allowance, Compensatory Allowance, honorarium, etc. to the Member of Parliament as Chairperson and Member of the said Committee. Further the Advisory Committee is not armed with any executive, legislative or judicial powers, disbursement of funds, allotment of lands, issue of license. As such it may not wield or influence power by way of patronage.

1.6. In view of the foregoings, the Committee observed that the constitution of the 'District level Advisory Committee' under the Chairmanship of a Member of Parliament (Lok Sabha) elected from the District (having the largest part of the district under his/her Parliamentary Constituency and other Member of Parliament (Lok Sabha) having Part Constituency in the District as Co-Chairperson and nomination/appointment of Member of Rajya Sabha as a Member to the Committee to monitor progress of Prime Minister's employment Generation Programme (PMEGP), may not attract disqualification, for being a Member of Parliament, from the angle of 'office of profit' under Article 102 (1) (a) of the Constitution.

CHAPTER-II

Nomination of two Members of Rajya Sabha to the multi stakeholder National Platform for Disaster Risk Reduction (NPDRR) .

* * *

2.1 Rajya Sabha Secretariat (Committee Co-ordination Section) *vide* their I.D. No. 7(9)/2013-Coord. dated 16 April, 2013 have requested to place the matter regarding nomination of two Members of Rajya Sabha to the multi-stakeholder National Platform for the Disaster Risk Reduction (NPDRR) under the Ministry of Home Affairs before the Joint Committee on Offices of Profit for their consideration and recommendation as to whether or not the nomination of Members of Rajya Sabha could be considered as a disqualification for being a Member of Parliament.

2.2. The Ministry of Home Affairs were requested to furnish information on certain points relating to power, functions, remuneration, facilities, nature of Body, etc. The Ministry have furnished the requisite information *vide* their O.M.No.47-31/2012-DM-III/600 dated 1st May, 2013. The gist of which is reproduced below:-

Term of Office

The tenure of the National Platform for Disaster Risk Reduction in the Ministry shall be 5 years from the date of Notification of the Resolution.

Composition

- The National Platform for Disaster Risk Reduction is set up with following composition:-
 1. Chairperson
The Union Home Minister
 2. Vice Chairperson
 - (i) Minister of State in charge of Disaster Management in the Ministry of Home Affairs
 - (ii) Vice Chairman, National Disaster Management Authority
 3. Representatives of The Government of India

4. Representatives of State Governments & Union Territories Administrations
5. Representatives of Local Self Governments
6. Representatives from Parliament
7. Ex-officio Members
8. Heads of Institutions of National Importance
9. Persons representing Industry
10. Media representatives
11. Representatives of Civil Society Organisations
12. International Representatives
13. Special invitee
 - (i) Dr. P.K. Mishra ex-Secretary (Agriculture), Government of India
 - (ii) Any other special invitee with the permission of the Chair
14. Convenor

Functions:-

- (a) To review the progress made in the field of disaster management from time to time.
 - (b) To appraise the extent and manner in which the Disaster Management Policy has been implemented by the Central and State Government and other concerned agencies, and to give appropriate advice in the matter.
 - (c) To advise regarding coordination between the Central and State Governments/UT Administrations, State Governments, local Governments and civil society organisations for development of Disaster Risk Reduction.
 - (d) To advise suo-moto or on a reference made by the Central Government or any State Government or a Union Territory Administrations on any question pertaining to disaster management.
 - (e) To review the Disaster Management Policy.
- For the discharge of these functions, the Platform may:-

- (a) Call for information and comments from any government institution, any other organisation or an individual.
 - (b) Appoint committees or groups comprising members of the Platform and/or others as may be necessary' and
 - (c) Commission through the Central Government or any other agency, studies, research or reports on any specific issue requiring the attention of the Platform or its Committees or groups.
- The NPDRR of the Ministry of Home Affairs does not exercises legislative or judicial powers.
 - The body does not confer powers of disbursement of funds, allotment of land etc.
 - The body does not have powers of appointment/removal.
 - The body does not wield influence or power by way of patronage.

2.3. As per the criteria laid down by the Joint Committee on Offices of Profit, the following points are required to be made note of, in particular by the Committee for determining as to whether an office ought or ought not to disqualify the holder thereof for being chosen as, and for being a Member of Parliament:-

- (i) Whether the Government exercise control over the appointment to and removal from the office and over the performance and functions of the office;
- (ii) Whether the holder draws any remuneration other than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959;
- (iii) Whether 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 licenses, etc., or gives powers of appointment, grant of scholarships, etc; and
- (iv) Whether the body in which an office is held enables the holder to wield influence or power by way of patronage.

2.4. The Joint Committee on Offices of Profit considered the matter at the sitting held on 20 June, 2013 (APPENDIX-II).

2.5. The Committee note from the information furnished by the Ministry of Home Affairs that the functions of National Platform for Disaster Risk Reduction (NPDRR) are purely advisory in nature. The Committee also note that the nomination as a Member to the body does not confer powers of disbursement of funds, allotment of land, etc. and as such the Member of this Committee/Body can not wield any influence by way of patronage even. The Committee further note that the nominated Member of Parliament, as a Member of the body would not be paid any remuneration, daily allowance or other expenses.

2.6. In view of the foregoings, the Committee observe that the Member(s) of Parliament, if nominated to the National Platform for Disaster Risk Reduction constituted by the Ministry of Home Affairs may not attract disqualification, for being, a Member of Parliament from the angle of 'office of profit.'

NEW DELHI;

01 August, 2013
10 Sravana, 1935 (Saka)

REWATI RAMAN SINGH,
Chairman,
Joint Committee on Offices of Profit

APPENDIX-I
(Vide para 1.4 of Chapter I of the Report)

**EXTRACTS OF THE MINUTES OF THE TWENTY SEVENTH SITTING OF THE JOINT
COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD
ON THURSDAY, 20 JUNE, 2013**

The Committee met on Thursday, 20 June, 2013 from 1200 hrs to 1245 hrs in Committee Room No.'62', First Floor, Parliament House, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS
LOK SABHA

2. Shri P.C. Chacko
3. Shri Sanjay Dhotre
4. Shri Prataprao Ganpatrao Jadhav
5. Shri Vishwa Mohan Kumar

RAJYA SABHA

6. Smt. Mohsina Kidwai
7. Shri Ravi Shankar Prasad
8. Dr. (Smt.) T.N. Seema

SECRETARIAT

1. Shri R.S. Kambo - Joint Secretary
2. Shri Shiv Kumar - Director

At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them about the agenda of the sitting.

2. Thereafter, the Committee took up for consideration Memorandum No. 27 regarding : Constitution of a District Level Advisory Committee under the Chairpersonship of a Member of Parliament (Lok Sabha) to monitor the Prime Minister's Employment Generation Programme, a flagship scheme of the Ministry of MSME.

3. The Committee took note of the information furnished by the Ministry of Micro, Small and Medium Enterprises to the effect that there is no provision of 'Advisory Committee' in the PMEGP Guidelines. However, the said Committee has been proposed to be established as per directions of Hon'ble Minister so as to monitor progress of PMEGP at the District level with active involvement of the Hon'ble Member of Parliament (MP) of the District. Further, the Committee will be a Standing Body and its functions are not purely advisory. As per approved Term of Reference, no provisions have been proposed for the payment of sitting fee and allowances such as daily allowance, travelling allowance, house-rent allowance, compensatory allowance, honorarium, etc. to the Member of Parliament as Chairperson and Member of the Committee. Also no provision exist in Term of Reference for exercising executive, legislative or judicial powers, disbursement of funds, allotment of lands, issue of license and wielding of influence of power by way of patronage by the Committee.

4. In view of the above, the Committee observed that constitution of the 'District level Advisory Committee' under the Chairmanship of a Member of Parliament (Lok Sabha) elected from the District (having the largest part of the district under his/her parliamentary constituency and other Member of Parliament (Lok Sabha) having part constituency in the District as Co-Chairperson and nomination/appointment of Member of Rajya Sabha as a Member to the Committee to monitor progress of Prime Minister's employment Generation

Programme (PMEGP), may not attract disqualification, for being a Member of Parliament, from the angle of 'office of profit' under Article 102 (1) (a) of the Constitution.

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12. The Committee then adjourned.

APPENDIX-II
(Vide para 2.4 of Chapter II of the Report)

**EXTRACTS OF THE MINUTES OF THE TWENTY SEVENTH SITTING OF THE JOINT
COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA)
HELD ON THURSDAY, 20 JUNE, 2013**

The Committee met on Thursday, 20 June, 2013 from 1200 hrs to 1245 hrs in Committee Room No.'62', First Floor, Parliament House, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS
LOK SABHA

2. Shri P.C. Chacko
3. Shri Sanjay Dhotre
4. Shri Prataprao Ganpatrao Jadhav
5. Shri Vishwa Mohan Kumar

RAJYA SABHA

6. Smt. Mohsina Kidwai
7. Shri Ravi Shankar Prasad
8. Dr. (Smt.) T.N. Seema

SECRETARIAT

1. Shri R.S.Kambo - Joint Secretary
2. Shri Shiv Kumar - Director

At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them about the agenda of the sitting.

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5. Then, the Committee took up for consideration Memorandum No.28 regarding: Nomination of two Members of Rajya Sabha to the Multi - Stakeholder National Platform for Disaster Risk Reduction (NPDRR).

6. The Committee took note of the information furnished by the Ministry of Home Affairs to the effect that the functions of National Platform for Disaster Risk Reduction (NPDRR) are purely advisory in nature. The nomination as a Member to the body does not confer powers of disbursement of funds, allotment of land, etc. and as such the Member of this Committee/Body can not wield any influence by way of patronage even. The nominated Member of Parliament, as a Member of the body would not be paid any remuneration, daily allowance or other expenses.

7. In view of the above, the Committee observed that the Member(s) of Parliament, if nominated to the National Platform for Disaster Risk Reduction constituted by the Ministry of Home Affairs may not attract disqualification, for being, a Member of Parliament from the angle of 'office of profit.'

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12. The Committee then adjourned.

APPENDIX-III

EXTRACTS OF THE MINUTES OF THE TWENTY EIGHTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON FRIDAY, 12 JULY, 2013

The Committee met on Friday, 12 July, 2013 from 1200 hrs to 1235 hrs in Committee Room No.'53', First Floor, Parliament House, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS LOK SABHA

2. Shri Sanjay Dhotre
3. Shri Prataprao Ganpatrao Jadhav
4. Shri Vishwa Mohan Kumar
5. Shri Rajendrasinh Rana
6. Shri Gopal Singh Shekhawat

RAJYA SABHA

7. Shri Janardan Dwivedi
8. Dr. Bharatkumar Raut
9. Smt. Mohsina Kidwai
10. Dr. (Smt.) T.N. Seema

SECRETARIAT

1. Shri R.S. Kambo - Joint Secretary
2. Shri Shiv Kumar - Director
3. Smt. Maya Lingi - Deputy Secretary

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them about the agenda of the sitting.

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6. Then the Committee took-up for consideration the draft Tenth Report - consisting of following two Chapters :-

Chapter - I Constitution of a District Level Advisory Committee under the Chairpersonship of a Member of Parliament (Lok Sabha) to monitor the Prime Minister's Employment Generation Programme (PMEGP).

Chapter – II Nomination of two Members of Rajya Sabha to the multi stakeholder National Platform for Disaster Risk Reduction (NPDRR).

7. The Committee adopted the Chapter-I and Chapter-II. However, Members suggested certain suggestions to be incorporated in the recommendations of Chapter-I. It was also decided that Chairman, may be authorised to consider such suggestions and finalise the Report accordingly.

The Committee then adjourned.