

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

THIRTEENTH REPORT

**Review of the Schedule to the Parliament (Prevention of Disqualification) Act,
1959 in respect of Bodies under the Ministry of Agriculture and Farmer's Welfare.**

Presented to Lok Sabha on 25.11.2016

Laid in Rajya Sabha on 25.11.2016



**LOK SABHA SECRETARIAT
NEW DELHI**

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

\$ Dr. Satya Pal Singh - **Chairperson**

**MEMBERS
LOK SABHA**

2. Shri T.G. Venkatesh Babu
3. Adv. Sharad Bansode
4. Smt. Meenakshi Lekhi
5. Shri Bhagwant Maan
6. Shri M.K. Raghavan
7. Prof. Saugata Roy
8. Smt. Supriya Sule
- # 9. Kunwar Pushpendra Singh Chandel
- #10. Shri Janardan Mishra

RAJYA SABHA

11. Shri Naresh Agrawal
12. Shri C.P. Narayanan
13. Shri Dilipbhai Pandya
14. Shri Sukhendu Sekhar Roy
- *15. Vacant

SECRETARIAT

- | | | | |
|----|--------------------------|---|---------------------|
| 1. | Shri U.B.S. Negi | - | Joint Secretary |
| 2. | Smt Rita Jaikhani | - | Director |
| 3. | Smt. Maya Lingi | - | Additional Director |
| 4. | Shri T.R. Nauriyal | - | Deputy Secretary |
| 5. | Shri Silalengzau Ngaihte | - | Committee Officer |

\$ Appointed as Chairperson vide Bulletin Part-II dated 19.07.2016 (Para No.3780) vice Shri P.P. Chaudhary resigned from the Chairpersonship of the Committee w.e.f. 05.07. 2016

Nominated as Member of the Committee vide Bulletin Part-II dated 02.08.2016 (Para No.3952) vice Shri P.P. Chaudhary and Shri Arjun Ram Meghwal resigned from the membership of the Committee consequent upon their appointment as Ministers w.e.f. 05.07.2016.

***** Shri K.C. Tyagi ceased to be the member of the Committee consequent upon expiration of his term of Rajya Sabha on 07.07.2016.

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 Thirteenth Report of the Committee.

2. The Committee undertook the exercise of scrutiny of the Bodies under the administrative control of various Ministries/Departments of the Government of India or the State Governments, as the case may be from the angle of office of profit and update the list of bodies as reflected in the Schedule to the Parliament (Prevention of Disqualification) Act, 1959. Office Memoranda were issued to all the Union Ministries and Chief Secretaries of State Governments and Union Territories on 14.02.2015, inviting information pertaining to various Bodies falling under their respective administrative domain to facilitate their examination from the angle of "Office of Profit". In this context, the Committee decided to call the representatives of the various Ministries/Departments of the Government of India and State Governments in a phased manner, to undertake their evidence for the purpose. In pursuance of this decision of the Committee, the representatives of the Ministry of Agriculture and Farmer's Welfare (Department of Agriculture Research and Education, Agriculture and Co-operation and Animal Husbandry, Dairying and Fisheries) were called to tender their oral evidence before the Committee on 17.04.2015. The representatives of the Ministry of Law and Justice were also called to remain present in the sitting of the Committee.

3. The Committee considered and adopted this Report at their sitting held on 14 October, 2016.

4. The Committee wish to express their thanks to the Ministry of Agricultural Farmer's Welfare and the Ministry of Law and Justice for furnishing the requisite information to them in connection with the examination of the Bodies under the administrative domain of the Ministry of Agriculture and Farmer's Welfare from the angle of 'Office of Profit'.

5. The Observations/Recommendations made by the Committee in respect of the matters considered by them are given in this Report in bold letters. The Recommendations of the Committee will, however, remain advisory in nature and as such cannot 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.

DR. SATYA PAL SINGH

Chairperson,

Joint Committee on Offices of Profit

NEW DELHI:

14 October, 2016

22 Asvina, 1938 Saka

REPORT

Chapter – I

Introductory

1.1 The concept of disqualifying a holder of Office of Profit under a Government for being chosen as, and for being, a Member of a Legislature originated from the need in a democratic form of Government to limit the control and influence of the Executive over the Legislature by means of an undue proportion of office holders being Members of the Legislature. Further holding of certain offices was considered incompatible with membership of legislatures due to physical impossibility of a person attending in two places or heavy duties being usually attached to those offices. Exception was, however, made in the case of Ministers and other members of a Government with a view to having effective coordination between the executive and the legislature.

1.2. In democracies, including the United Kingdom and U.S.A., 'office of profit' holders under the Government, as a rule, are disqualified for being a Members of Legislature. In India, the principal is embodied in Articles 102(1) (a) and 191 (1)(a) of the Constitution of India in regards to the Members of Parliament and State Legislatures respectively. Article 102(1) (a) of the Constitution reads as under:

“A person shall be disqualified for being chosen as, and for being, a Member of either House of Parliament-

(a) If he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder.”

1.3. In pursuance of the above Article, the Parliament (Prevention of Disqualification) Act, 1959 (Annexure-I) was enacted by the Parliament, laying down which offices would not disqualify holders thereof from the membership of Parliament. Briefly, this Act provides that if a member/Director of a statutory or non-statutory body /company is not entitled to any remuneration other than the compensatory allowance, she/he would not incur disqualification for receiving those allowances. Under Section 2(a) of the said Act, “compensatory allowance” has been defined as 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 Salary, Allowances and Pension of Members of Parliament Act, 1954) any conveyance allowance, house-rent allowance

or travelling allowance for the purpose of enabling her/him to recoup any expenditure incurred by her/him in performing the functions of that office.” The said Act has been amended from time to time to include office exempted from disqualification from the purview of the office of profit.

1.4. The expression “office of profit” has not been defined in the Constitution or in the Representation of the People Act, 1951 or in the Parliament (Prevention of Disqualification) Act, 1959, or in any Judgment rendered either by the High Court or Supreme Court evidently because it is not easy to frame an all embracing definition, covering all the different kinds of posts which exist under Government and those which might hereafter be created. Broadly speaking, it signifies that Government must not be in a position to seduce a member by placing him in a position where he can exercise authority, where he thinks he is somebody important, even if he gets no pecuniary remuneration. Its scope has, therefore, to be gathered from the pronouncements on the subject made by courts, election tribunals and other competent authorities on what constitutes, “office”, “profit”, “office under the Government”, and so on.

1.5. The term 'office' is not capable of being accurately defined. In the usual sense of the word an 'office' means a right to exercise a public or private employment and to take the fees and emoluments thereto belonging. The term connotes the elements of tenure, duration, emoluments and duties. It has also been held that an office is an employment on behalf of Government in any state or public trust and not merely transient, occasional or incidental. "Profit" normally connotes any advantage, benefit or useful consequences. Generally, it is interpreted to mean monetary gain but in some cases benefits other than monetary gain may also come within its meaning. "Office of Profit" is one to which some power or patronage is attached or in which the holder is entitled to exercise the executive functions, or which carries dignity, prestige or honour to the incumbent thereof.

1.6. Shri C.C. Biswas, the then Union Minister of Law and Minority Affairs, speaking on 24th December 1953 in the debate in the Lok Sabha relating to the Prevention of Disqualification (Parliament and Part C States Legislatures) Bill, 1953 said:

"....As the disqualification mainly arises from the office being an office of profit, it is necessary to consider what profit means....Now, so far as profit is concerned, generally no doubt profit is interpreted in terms of rupees, annas, pies- it means monetary profit. But in some cases the view has been taken that office includes something more than that. Even where it is not monetary profit, but other benefits, that also may come within the meaning of the word 'profit'. For instance, if the office is one to which some power or patronage is attached, the office is one in which

the holder is entitled to exercise executive functions, an office of dignity, of honour that might be regarded also an office of profit, the idea being that Government must not be in a position to seduce a Member of Parliament by placing him in a position where he can exercise authority, where he thinks he is somebody and either he has got some money or he is otherwise been made very important. All these temptations must be removed. That being the object, the word 'profit' has been given a larger interpretation."

1.7. When a Member of a body is permitted to get some monetary benefit, the question of its quantum assumes importance and becomes a matter of serious consideration. This monetary benefit may be in the nature of a salary attached to the membership or office. When it is a salary attached to the office, it immediately and indisputably makes the office an 'office of profit', but when the monetary benefit is in the nature of an allowance or fee, it makes the question of declaring the office to be an 'office of profit' a bit difficult one. If consideration is paid in the form of 'sitting fee' or 'attendance fee', not being daily allowance, it becomes a 'profit' even if it does not even purport to cover any actual expenses. Such consideration or remuneration is deemed to constitute 'profit' even though, on detailed accounting, it may be found that no financial advantage has, in fact, been gained by the member in question. Travelling allowance do not act as a disqualification if one draws not more than what is required to cover the actual out-of-pocket expenses. House rent allowance and conveyance are not profits as the allowances are utilised for the purposes of paying the house rent and meeting conveyance charges; they do not give a pecuniary benefit to the person to whom they are paid. If the quantum of daily allowance is such as not to be a source of income, no disqualification shall be incurred.

1.8. It is being contended that a person serving on a committee or holding an office, for which remuneration is prescribed, may not draw the allowance or remuneration and thus escape disqualification under the relevant provisions of law, However, Shri S.K. Sen (Chief Election Commissioner) in one of his judgement held that for the purpose of deciding the question of disqualification, so long as any profit was attached to any office, it did not matter whether the profit has in fact been appropriated or not and therefore, there was no distinction for the purpose between members who drew their allowance and those who did not.

1.9. Unless otherwise declared by Parliament by law, a person is disqualified for being chosen as, and for being, a member of either House of Parliament if he holds any office of profit under the Government of India or the Government of any State. If any question

arises as to whether a Member of Parliament has become subject to any of the disqualification laid down in the Constitution including the one whether she/he is holding an office of profit or not, the question is referred for the decision of the President and her/his decision is final. However, before giving any decision on any such question, the President is required to consult the Election Commission in terms of Article 103 (2) of the Constitution and the Commission may make such enquiry as it deems fit. It is important to note that in this matter the President does not act on the aid & advise of his Council of Ministers.

1.10. The underlying object of this constitutional provision is to secure the independence of the Members of Parliament or a State Legislature and to ensure that Parliament or the State Legislature does not consist of persons who have received favours or benefits from the Executive Government and who consequently, being under the obligation to the Executive Government, might be amenable to its influence. Obviously, the provision has been made in order to eliminate or reduce the risk of conflict between duty and self-interest among the legislators.

1.11. If the Executive Government were to have untrammelled powers of offering to a Member any appointment, position or office which carries emoluments of one kind or the other with it, there would be a risk that an individual Member might feel herself/himself beholden to the Executive Government and thus lose her/his independence of thought and action and cease to be a true representative of her/his constituents.

1.12. Although certain enactments had been passed by Parliament, keeping in view the provision of Article 102(1)(a), it was widely felt that none of the Acts met comprehensively the needs of the situation. In this background, and following presentations from Members of Parliament, speaker G.V. Mavalankar, in consultation with the Chairman of Rajya Sabha, appointed, on 21 August, 1954, a Committee of Offices of Profit under the Chairmanship of Pt. Thakur Das Bhargava to:

“study various matters connected with disqualification of Members and to make recommendations in order to enable the Government to consider the lines along which a comprehensive legislation would be brought before the House; and collect facts, data and make suggestions as to how the matter should be dealt with.”

1.13. The Bhargava Committee in their Report had observed that ordinarily Members of Parliament should be encouraged to go on such Committees which are of an advisory character and represent the local or popular point of view in a manner which will effectively influence the officials’ point of view. Members of Parliament by virtue of their

membership are in a position to say and represent certain matters with some authority and confidence, and their views are likely to go a long way in influencing the view-point of officials. It is at the same time felt that consistent with above view, Members of Parliament should not be permitted to go on Committees, Commissions, etc. which jeopardize their independence or which will place them in a position of power or influence or in a position where they receive some patronage from Government or are themselves in a position to distribute patronage.

1.14. The Bhargava Committee recommended, inter-alia, the introduction of a comprehensive Bill having schedules enumerating the different offices which should not incur disqualification, offices to which exemption was to be granted, and offices which would disqualify. The Bhargava Committee felt that since a schedule of that nature could never be exhaustive or complete and frequent scrutiny would have to be made in cases of new bodies as well as the existing ones, a Standing Committee should be appointed to undertake the work of such continuous scrutiny. It also recommended that all proposed appointments of Members of Parliament to any office or Committee or Commission be communicated to the Standing Parliamentary Committee, for its consideration. Further, any future legislation undertaken affecting such office or Committees should be duly considered before a Bill is brought before Parliament.

1.15. In pursuance of the recommendations of the Bhargava Committee, the Government introduced in the Lok Sabha the Parliament (Prevention of Disqualification) Bill on 5 December, 1957. It was referred to a Joint Committee of the Houses and its Report was presented to the Lok Sabha on 10 September, 1958.

1.16. The Bill, as introduced, did not contain any Schedules as recommended by the Bhargava Committee. The Joint Committee felt that the enactment should contain a Schedule enumerating the Government Committee whose membership would disqualify. The Joint Committee, accordingly, proposed a Schedule to the Bill, Part I of which enumerated the Committees, membership of which would entail disqualification and Part II, the committees in which the office of Chairperson, Secretary, or Member of the Standing or Executive Committee would entail disqualification. The Bill, as further amended and passed by Parliament, received the assent of the President on 4 April, 1959.

1.17. On 18 August, 2006, a Joint Committee of 15 Members of Parliament (10 from Lok Sabha and 5 from Rajya Sabha) was constituted to examine the Constitutional and Legal position relating to Office of Profit. The Committee inter-alia made certain observations

and recommended the amendment of Article 102(1)(a) of the Constitution which provided for disqualification for Members of Parliament for being chosen as, and for being, a Member of either House of Parliament on certain well delineated and defined conditions. The amendment of Article 191(1)(a) (for Members of State Legislatures) was also suggested by the Committee for amendment on the similar lines- in order to maintain uniformity in the matter. The Committee submitted its Report to the Parliament on 22 December, 2008. The Report was also forwarded to the Government of India for necessary action on the recommendations of the Committee contained in the Report.

Guiding Principles

1.18. In order to determine whether an office held by a person is an office of profit under the Government, the Joint Committee on Offices of Profit, in their Tenth Report (7th Lok Sabha), presented to Lok Sabha on 7 May, 1984, laid down the following guiding principles:

“The broad criteria for the determination of the question whether an office held by a person is an office of profit have been laid down in judicial pronouncements. If the Government exercises control over the appointment to and dismissal from the office and over the performance and functions of the office and in case the remuneration or pecuniary gain, either tangible or intangible in nature, flows from such office irrespective of whether the holder for the time being actually receives such remuneration or gain or not, the office should be held to be an office of profit under the Government. Otherwise, the object of imposition of the disqualification as envisaged in the Constitution will become frustrated. This first basic principle would be the guiding factor in offering positions to a member of the Legislature.

1.19. Keeping the above position in view, the Joint Committee on Offices of Profit have been following the undernoted criteria to test the Committees, Commissions, etc. for deciding the questions as to which of the offices should disqualify and which should not disqualify a person for being chosen as, and for being a Member of Parliament:

- i. Whether the holder draws any remuneration, like sitting fee, honorarium, salary, etc. i.e. any remuneration other than the „compensatory allowance“ as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

(The Principle thus is that if a member draws not more than what is required to cover the actual out of pocket expenses and does not give him pecuniary benefit, it will not act as a disqualification.)

- ii. 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 licences, etc, or gives powers of appointment, grant of scholarships, etc. and
- iii. Whether the body in which an office held enables the holder to wield influence of power by way of patronage.

If reply to any of the above criteria is in affirmative then the office in question will entail disqualification.

1.20. One of the functions of the Joint Committee on Offices of Profit is to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise. The Ministry of Law and Justice (Legislative Department) drafts Bill to amend the Parliament (Prevention of Disqualification) Act, 1959 so as to give effect to the recommendations of the Committee made from time to time. Before introducing a Bill in either House of Parliament, the Ministry of Law and Justice (Legislative Department) forwards to the Lok Sabha Secretariat a copy of the draft Bill to see whether it is fully in accord with the recommendations made by the Committee. On receipt, the Bill is examined by the Secretariat in the light of the recommendations of the Committee and then placed before the Committee, with the approval of the Chairperson. The Report of the Committee on the Bill is presented to the House and thereafter the Ministry of Law and Justice (Legislative Department) proceeds with the introduction of the Bill in Parliament.

1.21. The Joint Committee on Offices of Profit consisting of 10 Members of Lok Sabha and 5 Members of Rajya Sabha is constituted on a Government motion for the duration of the term of each Lok Sabha. The Joint Committee on Offices of Profit for the term of 16th Lok Sabha was constituted on 11 December, 2014 on the basis of the motion moved by the Government and adopted by Lok Sabha on 01.08.2014 and concurred by Rajya Sabha on 14.08.2014, After its constitution, the Committee in its first sitting held on 12 January, 2015, took note of various Committees/Bodies/Organisations mentioned in the Schedules annexed to the Parliament (Prevention of disqualification) Act, 1959 as amended from time to time., which though exempted from the angle of office of profit, ceased to exist. However, these Committees/Bodies/ Organisations are still being reflected in the Schedule of the said Act. The Committee, therefore, decided to scrutinise the Schedule to the Act. The Committee also decided to obtain ab-initio information/data/status of each

Committee/Commission/Body/Organisation referred to in the Schedule annexed to the Act from the concerned authorities. It was also decided that changes in the composition/character etc. of such Committee/Commission/Body/Organisation, since their inclusion in the Schedules, be also ascertained. Further, similar information be also obtained in respect of Government Bodies where Members of Parliament, have been nominated by virtue of specific Acts of Parliament. The Committee also took note of the fact that various Centrally sponsored Schemes/Programmes, such as MGNREGA and other flagship programmes, are under implementation where Members of Parliament play a pivotal role in the implementation/delivery mechanism of such Schemes/programmes. The Committee, therefore, desired that such schemes/Programmes be reviewed by them and role of Members of Parliament be considered in the implementation of these Schemes/Programmes, without attracting disqualification from the angle of Office of Profit and the relevant/appropriate information/data on the subject be obtained from the concerned authorities.

1.22. In pursuance of the said decisions of the Committee, this Secretariat *vide* their O.M. No.21/2/1/2015/CII dated 14.2.2015 asked information and comments from all Ministries/Departments of the Government of India and State Governments on the following points:-

- (a) The details of Committees/Boards/Corporations/Bodies, etc. included in the Schedule of the Act, 1959 as amended from time to time along with the present status of each such legal entity. In case such Committees/ Boards/ Corporations/ Bodies, etc. have ceased to operate/exist or nomenclature/title changed, details of changes in chronological order of such entities be furnished.
- (b) For the above said purpose, the information about the composition, character, etc. of all the other Committees/Boards/Corporations/ Bodies, etc. also be furnished wherein Members of Parliament have been nominated by virtue of some other specific Acts of Parliament i.e. other than the Parliament (Prevention of Disqualification) Act, 1959, as amended from time to time.
- (c) Further for the purpose of a thorough review, the complete details of all the other Centrally funded/sponsored schemes/programmes under the Administrative control of your Ministry for the implementation/monitoring of such schemes/programmes like Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), Member of Parliament Local Area Development (MPLAD) Scheme, etc. wherein there may/may not be a provision for the nomination/election of Members of Parliament along with other such future schemes/plans wherein inclusion of Members of Parliament is proposed.

1.23. The process of scrutinising the Schedule of the Parliament (Prevention of Disqualification) Act, 1959 was initiated by the Committee and in this context, the Committee decided to call the representatives of the various Ministries/Departments of the

Government of India, in a phased manner, to undertake their evidence for the purpose. In pursuance of the decision of the Committee, the Committee called the representatives of the Ministry of Agriculture on 17 April, 2015 to tender evidence before the Committee in connection with review of the Committees / Boards / Organisations etc. under the administrative domain of the Ministry. The representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) were also called to remain present throughout the sitting of the Committee.

1.24 This Report contains chapters pertaining to various Bodies/offices etc. under the administrative control of the Department of Agriculture Research & Education; Department of Agriculture & Co-operation and Department of Animal Husbandry, Dairying & Fisheries of the Ministry of Agriculture (Now Ministry of Agriculture & Farmer's Welfare). The detailed analysis along with Observations/Recommendations of the Joint Committee are stipulated at the end of each Chapter. The Joint Committee expect the Ministry of Law and Justice to undertake an exercise to draft a Bill enumerating clearly the Bodies/offices which would disqualify Members of Parliament, Bodies/ offices for which exemption need to be granted and Bodies/offices which would not incur disqualification of Members of Parliament, in the light of the Observations/Recommendations of the Joint Committee.

Chapter II

The Ministry of Law and Justice

2.1 Initiating the process of the scrutiny of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 the Secretary of the Ministry of Law and Justice during the sitting held on 31.03.2015, briefed the Committee as under:

“... The concept came into existence for the first time when British Parliament passed an Act of Settlement and second law was enacted by British Parliament in 1701. Under these two laws, for the first time this concept of office of profit germinated. Under that law, any office which was associated with any profit or any persons who was entitled to any royal pension was not allowed to be Member of the House of Commons. From here it began. It travelled through decades and after 300 years, there was an Act of 1957 in the United Kingdom.

In this regard, I would like to mention that after independence when our Constitution made provision under Article 102 and 191, three laws were enacted in 1950, 1951 and 1953. One law deleted some of the offices which were temporary in nature. These two other laws provided for certain offices which were considered and declared as offices of profit, not to contradict the provisions of Article 102 of the Constitution.

During those days, it was not considered appropriate that the three laws covered the area adequately and therefore representation was made in Parliament and on the basis of that representation, first time a Committee was constituted headed by Pandit Thakur Das Bhargava. The Committee went to examine in details all the issues relating to office of profit and made a detailed report on the basis of which a present law that we are considering today came into existence. This is the precise background, historical background.

In this law, the basic principles which were enunciated were, though there were certain offices which otherwise could constitute office of profit under constitutional provisions but if Parliament by law so declared that this office will not constitute office of profit, then that office stands exempted from the provision of the Constitution. So this power has been given to Parliament to identify the offices.

In this regard, a number of Hon. Committees were constituted. All these Committees made recommendations on the basis of which from time to time many amendments have been carried out. It is not that we are the only country where

such provision exists. Even in the US, there is a provision that if anybody holds an office of profit, he shall not become a Member of the House of Representatives. So, such provision also exists in other countries. The reason is that is envisaged under the constitutional provisions by the founding fathers of the Constitution that our Members of Parliament be independent of the Government. The Government should not have any control over the Parliament and representatives of the people. To ensure this, the provision has been made and it has been left to the Parliament to decide about the offices which would constitute office of profit or not.

It was not provided in the Constitution as to what would constitute office of profit, neither in the Act of 1959 nor in the Representation of People Act. Nowhere it is provided what would constitute, what would be the definition of office of profit. But it has been left exclusively with the Parliament to decide and enact a law.

Further, it envisaged three things- first one, there must be an office. Second, there is a control of the Government and third, there is some pecuniary benefit. A number of judgements have been pronounced since the Act came into existence and on the basis of those judgements what emerges has been very nicely summarised by none else than Shri P.D.T. Achary, former Secretary General of Lok Sabha. He has summarised perhaps all the judgments in one paragraph as to what are the elements we should look for before we decide on any office whether it would constitute office of profit. If I may be permitted, I will just read that paragraph. That is a very small paragraph. This is from Chapter VI of the book „Practice and Procedure of Parliament“ by Shri P.D.T. Achary. The relevant paragraph goes like this:

“It has also been held by the Supreme Court that all the determinative factors need not be conjointly present. The critical circumstances, not the total factors, prove decisive. A practical view, not pedantic basket of tests, should guide in arriving at a sensible conclusion.”
“The Supreme Court, in several decisions, has laid down the tests for finding out whether an office in question is an office under a Government and whether it is an office of profit.”

He has enumerated the tests as follows:

“Those tests are whether the Government makes the appointment, whether the Government has the right to remove or dismiss the holder, whether the

Government pays the remuneration, what are the functions of the holder, does he perform them for the Government, and does the Government exercise any control over the performance of those functions.”

These are the five questions which he has summarised on the basis of the judgements and these five questions, if answered in the affirmative constitute an office of profit. These are the five questions to be answered if you look at an office which he has summarised from the so many judgements he has covered in his book in this chapter. If the answer for these questions is a „No“, it is not an office of profit. He has very nicely summarised it in this chapter.

Why was a necessity felt to keep a provision in the Constitution? If we wade through the chapter and the background under which these provisions came into being, it was felt necessary that there are a number of statutory bodies, a number of non-statutory bodies where hon. Members of Parliament can guide the Executive and guidance given to the Executive will enable the people at large in formulating or taking any decision. It was considered necessary that in those bodies let Members of Parliament participate and guide the Executive in taking those decisions but at the same time it was appropriate to make a provision so that the Members of Parliament in no way come under the control of the Government. So, there is a balance which has to be harmonised or maintained and that has been left very eloquently with the Parliamentarians only; no authority has been envisaged under the Constitution to decide as to what constitutes and what does not constitute that. But it has been left with the Members of Parliament and it is for the Parliament to examine the offices whether those offices are useful, where the representation of the Members of Parliament in those offices are useful for guiding and providing guidance for the benefit of taking policy decisions. All this has been left to the Parliament meaning thereby that the Constitution though provides for disqualification with certain objections but there is a law permitting through parliamentary legislation to examine certain offices where representation is a must. This is the background and the circumstances. In this background whatever suggestions come, if they require any amendments, we are available in the Legislative Department because the subject matter of office of profit as regards legislation is the concern of the Legislative Department. We are always available at your service.”

2.2 In this context, the Secretary of the Ministry of Law and Justice also added as under:

“.....Section 3 says that it is hereby declared that none of the following offices in so far as they relate to the office under the Government of India shall disqualify the holder from such and such. None of the following offices is plain and simple way of writing things and anybody can know the import of the provision. But when we sail through the clauses like (i), this not for the first time it is said. At the time when the bill was introduced particularly on this clause it was mentioned in the Statement of Objects and Reasons that this was the most controversial item in the entire Bill as it raised the question of desirability of appending a schedule to the bill enumerating the committees membership of which would entail disqualification. The Committee have given their most careful thought to the question and have come to the conclusion that law on the subject of disqualification of Members of Parliament should be clear and unambiguous.

The Committee, therefore, decided that on the model of the British House of Commons Disqualification Act, 1957, the bill should contain a Schedule which should enumerate the Committee whose membership should disqualify, the Committee have accordingly attached a Schedule to the Bill, the Part I of which enumerates the committee’s Chairmanship of which would entail disqualification and Part II of the Committee in which the office of Chairman or Secretary of the Standing or the Executive Committee would entail disqualification but not the office of the member only. So, from the beginning this clause (i) was considered as a controversial item. We can, if we are given directions, try to make an attempt and come up with a simplified form that clause which makes it easier to understand.”

2.3 When the Committee pointed out that this is a legislative defect, the Secretary of the Ministry of Law and Justice responded as under:

“Sir, I will not call it exactly a legislative defect because Parliament when enacted, then we have no right to say anything on this.”

Chapter III
MINISTRY OF AGRICULTURE
(Now Ministry of Agriculture and Farmer's Welfare)

(Department of Agriculture Research & Education)

3.1 The following eight Central Commodity Committees which were earlier under the then Ministry of Food, Agriculture and Commodity Development and Cooperation are listed in the exempted category in the Schedule of the Parliament (Prevention of Disqualification) Act, 1959:

- (i) Indian Central Cotton Committee, Bombay;
- (ii) Indian Central Oilseeds Committee, Hyderabad;
- (iii) Indian Central Coconut Committee, Ernakulum;
- (iv) Indian Lac Cess Committee, Ranchi;
- (v) Indian Central Jute Committee, Calcutta;
- (vi) Indian Central Tobacco Committee, Madras
- (vii) Indian Central Arecanut Committee, Kozikode; and
- (viii) Indian Central Sugarcane Committee, New Delhi.

With the Government of India decision to conduct and organize agricultural research on a broad-based and regional pattern, the Commodity wise approach to research was not felt ideal to be continued any longer. Therefore, a decision was taken by the Cabinet in its meeting held on 30 April, 1965 to abolish all the Central Commodity Committees under the then Ministry of Food, Agriculture, Commodity Development and Cooperation and taking over all these research institutions by the Indian Council of Agricultural Research (ICAR) in the public interest. Consequently all the Central Commodity Committees were dissolved and the research work hitherto conducted by these Committees was handed over to ICAR including the administrative control of the various research institutes and stations set up by these Committees. The development and marketing aspects of the Commodity Committees was taken over by the Department of Agriculture and Cooperation.

3.2 These Committees were dissolved w.e.f. 1st April, 1966 with the approval of the Union Cabinet and research work hitherto conducted by these Committees was handed over to ICAR including the administrative control of the various research institutes and stations set up by these Committees. The development and marketing aspects of the Commodity Committees was taken over by the Department of Agriculture and Cooperation.

Indian Council of Agricultural Research (ICAR)

3.3 The Indian Council of Agricultural Research is the apex national organisation for research, education and extension education in the country and was initially set up as the Imperial Council of Agricultural Research on 16 July, 1929 as a Society registered under the Societies Registration Act, 1860.

3.4 At present, ICAR undertakes the functions of research, education and extension education in the fields of natural resource management, agricultural and horticultural crops, animal husbandry, fisheries and agricultural engineering. The Council comprises of 108 Research Institutes, 78 All India coordinated Research Projects/Network Projects, other Projects and more than 600 Krishi Vigyan Kendras. The ICAR also supports two Central Agricultural Universities, State Agricultural Universities and Central Universities with agricultural faculty.

3.5 ICAR is governed by its Rules and Bye-Laws (**Annexure II**). The Union Agriculture Minister is the ex-officio President of the ICAR Society. The General Body and the Governing Body are the two main authorities of the ICAR. Apart from the Union Agriculture Minister, Union Ministers holding charge of Finance, Planning, and Science and Technology, Education and Commerce, six Members of Parliament (four elected by Lok Sabha and two elected by Rajya Sabha) and all State Agriculture Ministers are members of the ICAR Society under the relevant rules of the ICAR Society. Apart from these experts from Agriculture Sciences, Farmers, Representatives of Commerce and Industries/rural Interests are other non-official members.

3.6 As per Rule 4(vii), six Members of Parliament-four elected by Lok Sabha and two elected by Rajya Sabha are also members of General Body of the Society. Further, out of these six Members of Parliament- two from Lok Sabha and one from Rajya Sabha are nominated by Hon'ble Agriculture Minister as members of the Governing Body of the ICAR Society. Usually the General Body meets once in a year.

3.7 The Members of Parliament nominated to serve as members of General Body/Governing Body of the ICAR Society are compensated by the Council for attending the meetings. They are entitled to travel by air in economy class and are paid Rs.260/- towards Daily Allowance and an honorarium of Rs.2000/- as sitting fee.

3.8 The specific details concerning nomination of Members of Parliament in the Governing Body and General Body of ICAR society may please be seen at **Annexure-III** and **Annexure-IV** respectively.

3.9 The details of the present nominees of Rajya Sabha and Lok Sabha is attached at **Annexure-V**.

3.10 The term of Member of Parliament as non-official member of General Body of ICAR society. is till the expiry of their membership of the Parliament. In the Governing Body of the ICAR Society, the term of the Member of Parliament is for a period of three years from the date of their nomination as member by the Hon^{ble} Agriculture and Farmers Welfare Minister.

Powers and duties of General Body of the ICAR Society

3.11 The Society shall have, subject to such restrictions as the Government of India may impose and subject to such guidelines as the Government of India may issue from time to time in this behalf, full authority to perform all acts and issue such directions as may be considered necessary, incidental or conducive to the attainment of the objects enunciated in the Memorandum of Association of the Society.

The Society shall review in its meeting at least once a year the progress and performance of the constituent units of the Society and give such policy directions as it may deem fit, to the Governing Body and the constituent units of the Society. Rules 16 and 17 of the ICAR Rules and Bye-laws may be seen at **Annexure II**.

Powers and duties of Governing Body of the ICAR Society

3.12 The Governing Body shall generally pursue and carry out the objects of the Society as set forth in the Memorandum of its Association and in doing so shall follow and implement the policy directions and guidelines laid down by the Society. The affairs and funds of the Society shall be managed, administered, directed and controlled, subject to Rules, Bye-laws and orders of the Society by the Governing Body.

The Governing Body shall exercise all executive and financial powers of the Society including those vested in or conferred or to be conferred on it by or under any statute subject nevertheless in respect of expenditure of such limitations as the Government of India from time to time may impose. Detailed powers of Governing Body may be seen under Rules 37 to 40 and Rule 48 of the Rules and Bye-laws of the Council at **Annexure-II**.

3.13 In response to a question about the present status of nominating MPs to ICAR Society, the Department in its written reply inter-alia stated as under:

"Before the formal election/nomination, the Lok Sabha Secretariat after detailed scrutiny had made following observations vide their Office Memorandum (No.21/4/1/2010/CII, dated 08.02.2011 and NO. 21/2/1(5)/2013/CII, dated 31.10.2013 "After detailed examination of the matter it is felt that the election of Members of the Parliament to the Indian Council of Agricultural Research (ICAR) Society and nomination of 2 MPs from Lok Sabha and 1 MP from Rajya

Sabha to the Governing Body of the ICAR Society by the Hon^{ble} Agriculture Minister and

President of the ICAR from the amongst the 6 MPs, 4 elected by Lok Sabha and 2 elected by Rajya Sabha on the ICAR Society, would not attract disqualification from the angle of „office of profit“.

is also informed that the Committee’s recommendations are of advisory in nature and as such cannot give any protection to the members from disqualification under the law until and unless they are given statutory effect by the Government by amending the Parliament (Prevention of Disqualification) Act, 1959 suitably.”

Accordingly, the proposal for inclusion of the General Body and Governing Body of the ICAR Society in the exempted category of the Parliament (Prevention of Disqualification) Act, 1959 is proposed now.”

3.14 On being asked by the Committee as to whether the Ministry proposes for inclusion of any fresh entry in the Act of 1959, the Ministry in its written reply stated as under:

"yes, General Body and Governing Body of the Indian Council of Agricultural Research Society may be included in the exempted category of the Parliament (Prevention of Disqualification) Act, 1959."

3.15 During the course of evidence of the Department of Agricultural Research and Education (DARE) on 17.04.2015, the representative of the Department briefed the Committee as under:-

“Sir, thank you for giving this opportunity. In the year 1966 certain commodity committees which were operating independently were brought under the control of the Indian Council of Agricultural Research for purposes of research. But those Committees continue to be under the Act for protection to members of Parliament. So we made a request that membership of these Committees in any case does not exist because the Committees do not exist and therefore those committees could be deleted from the purview of the Act. That is one request we have.

The second request that we have made is that we have a General body of the ICAR and we have a Governing Body of the ICAR to which Members of Parliament are nominated by Parliament. We have four Members of the Lok Sabha and two Members of the Rajya Sabha in the General body and out of them 2 Members of the Lok Sabha and one Member of the Rajya Sabha are nominated to the Governing Body. Our request is that the membership of the General Body and the Governing Body should be provided for under the Act so that the Members do

not face any disqualification proceedings subsequently. We have been making these requests in the past.”

3.16 On being parried as to whether the Governing body has executive and financial powers, the representative of DARE stated as under:

“ Power is there. That is precisely the reason why we wanted this matter to be brought before the hon. Committee so that they could be specifically exempted. The Governing Body controls the entire functions of the ICAR and the ICAR is the body which receives about Rs. 6000 to Rs. 7000 crores by way of grant from the Government, both Plan and non-Plan put together. The Governing Body is the supreme body which takes decision as to how funds of the organization should be deployed.”

3.17 On being asked by the Committee as to whether the Government exercises control over the appointment of the Members of Parliament to and removal from the office and over the performance and functions of the office, the DARE in its written reply stated as under:

“Yes. The Hon^{ble} Minister-in-charge of the portfolio of Agriculture in the Union Cabinet is the President of the ICAR Society.

Non-Officials members in the General Body and Governing Body are nominated by the President, ICAR. He may at any time terminate the membership of any one or more of the members or at one and the same time terminate the membership of all members other than the ex-officio members.”

3.18 When the Committee asked as to whether any proposal has been made to delete the eight commodities committees, the representatives of the Department responded as under:

“We have now submitted before the Committee that the committee should now be deleted from that list but in the past, there have been one or two references which we could locate immediately. But I am sure that we will be able to go through the past record and probably have more such references.”

3.19 When the Committee observed that the Member of Parliament can be in the General Body as well as in the Governing Body in the ICAR, the representative of the Department responded as under:

“True, He is the same Member. Out of the 4 Members of the Lok Sabha and two Members of the Rajya Sabha, two are chosen for the Governing Body and out of

the two Members of the Rajya Sabha , one is chosen for the Governing Body. Basically, Governing Body members are taken from the General Body.”

3.20 When the Committee asked the opinion of the Ministry of Law and Justice on the issue, the Secretary of the Ministry of Law and Justice submitted as under:

“Sir, under the prevention of Disqualification Act, Section 3 read with clause (i) can be divided into two parts. The first part contains certain offices which are exempt, but excluding some. That excluding part is the real part which connects it with the First Schedule, which contains two parts. In those two parts, there are a number of statutory bodies of the Central Government as well as of the State Governments, which will incur disqualification if two conditions are absent. First, if they are receiving anything more than the compensatory allowance. That is one.”

3.21 When the Committee observed that apart from compensatory Allowance, everything is included in the „profit“, the Secretary of the Ministry of Law and Justice added as under:

“Yes, that that will disqualify. The second thing is, the hon. Member may accept the membership of those bodies only if the hon. Member receives the Compensatory Allowance. So, the basis criterion to judge whether that will constitute office of profit or not is with reference to the allowance. That is the Compensatory Allowance. The Compensatory Allowance has been defined in the Act. This Compensatory Allowance cover the Transport Allowance, conveyance Allowance that is given to attend the meetings, other miscellaneous expenditures that are given. I will just read out, with your permission, what is given in the Compensatory Allowance. It says: “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, Allowances and Pension of Members of Parliament Act, 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 the functions of that office.” So, there are various offices. Those offices may be situated outside the place where the hon. Member of Parliament may not be having the residence. If the provision is made for making payment for that, that will not incur disqualification. So, this is the basis adjudging formula on the basis of which the office of profit will be determined. So, in this Schedule, part I and II , whatever bodies are given there, the membership of that body will incur disqualification if two things are absent. Member is receiving anything more than the Compensatory

Allowance. If there is honorarium, then that honorarium issue may not be covered in the form of Compensatory Allowance from the definition. So, we have to judge it from the definition of Compensatory Allowance. Otherwise, the respective rules are required to be amended.

3.22 When the Committee questioned that even if the rules are amended and the provision regarding honorarium is taken away from the rules but executive power and financial powers are there then that also will be included in profit, the Secretary of the Ministry of Law and Justice responded as under:

“Then the other things which are required to be looked into are the power to appoint and power to remove.”

Observations/Recommendations

Central Commodity Committees

3.23 The Committee note that the following eight Central Commodity Committees which were earlier under the then Ministry of Food, Agriculture and Commodity Development and Cooperation are listed in Part II of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959:

- (i) Indian Central Cotton Committee, Bombay;**
- (ii) Indian Central Oilseeds Committee, Hyderabad;**
- (iii) Indian Central Coconut Committee, Ernakulum;**
- (iv) Indian Lac Cess Committee, Ranchi;**
- (v) Indian Central Jute Committee, Calcutta;**
- (vi) Indian Central Tobacco Committee, Madras**
- (vii) Indian Central Arecanut Committee, Kozikode; and**
- (viii) Indian Central Sugarcane Committee, New Delhi.**

However, these Committees were dissolved w.e.f. 1st April, 1966 and research work hitherto conducted by these Committees was handed over to ICAR including the administrative control of the various research institutes and stations set up by these Committees. The development and marketing aspects of the Commodity Committees was taken over by the Department of Agriculture and Cooperation. The Committee feel that since all these eight Commodity Committees do not exist now, their listing in Part II of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 Act, would not serve any purpose. The Committee, therefore, recommend that all the eight aforesaid Commodity Committees may be deleted from Part II of the Schedule of the Act and action may accordingly be taken by the Department in this regard.

Indian Council of Agricultural Research (ICAR)

3.24 The Committee note that ICAR as a Society is registered under Society Registration Act, 1860. ICAR is governed by its Rules and Bye-Laws. The Union Agriculture Minister is the ex-officio President of the ICAR Society. The General Body and the Governing Body are the two main authorities of the ICAR. The matter regarding election/nomination of Members of Parliament to the General Body/ Governing Body was examined by the Committee in 2013 and it was felt that same

would not attract disqualification from the angle of 'office of profit' but the same can not give any protection to the Members unless and until they are given statutory effect by the Government by amending the Parliament (Prevention of Disqualification) Act, 1959 suitably. Notwithstanding the position taken by the Committee in the past, the issue has been reviewed/re-examined in terms of the relevant provisions of the Act of 1959 and the Rules and Bye-Laws of ICAR including inputs provided by the Ministry in the matter.

3.25 As per Rule 4(vii) of the Rules and Bye-Laws of ICAR, six Members of Parliament-four elected by Lok Sabha and two elected by Rajya Sabha are also members of General Body of the Society. The Bhargava Committee in its report in 1955 (para 72) had felt that when Parliament itself elects one of its Members to serve on committees, councils etc, the question of receiving patronage from Government which will affect the independence of the Member does not arise and therefore, they recommended that such Members should be saved from disqualification. However, out of these six Members of Parliament- two from Lok Sabha and one from Rajya Sabha are nominated by Hon'ble Agriculture Minister as members of the Governing Body of the ICAR Society. Members of Parliament nominated to serve as members of General Body/Governing Body of the ICAR Society are compensated by the Council for attending the meetings. They are entitled to travel by air in economy class and are paid Rs.260/- towards Daily Allowance and an honorarium of Rs.2000/- as sitting fee.

3.26 As per Section 3(m) of the Parliament (Prevention of Disqualification) Act of 1959, exemption has been granted to the offices of Chairman, President, Vice-President or Principal Secretary or Secretary of the Governing Body of any society registered under the Societies of Registration Act, 1860. However, members of the Society have not been granted any explicit exemption under the Act of 1959. Further, under Section 3(i) of the Act of 1959, exemption can not be granted to the members of the Society if the holder of an office is being granted any remuneration other than compensatory allowance as defined under Section 2(a) of the Act of 1959. In the context of ICAR Society, members are paid Rs.2000 as honorarium as sitting fee which is not covered under compensatory allowance as defined under Section 2(a) of the Act of 1959. Further, the General Body of the Society performs all acts and issue such directions as may be considered necessary to the attainment of the objects enunciated in the Memorandum of Association of the Society. The Governing Body exercises all executive and financial powers of the ICAR Society. ICAR receives about Rs.6000 to Rs.7000

crores by way of grant from the Government and the Governing body is the supreme body which takes decision as to how funds of the Society should be utilised. Over and above, two Members from Lok Sabha and one Member from Raya Sabha are nominated as members by the Central Government (Central Minister for Agriculture) to the Governing Body of the ICAR and it has also the power to remove them. In view of the foregoing, the Committee are of the view that Members of Parliament as members of the ICAR Society would attract angle of 'office of profit' and may entail disqualification unless ICAR Society is granted exemption from disqualification. The Department has also proposed that the General Body and Governing Body of the ICAR Society may be included in the exempted category of the Act of 1959. The Committee, therefore, recommend that ICAR Society may be granted exemption and included in the Table under Section 3(k) of the Act of 1959 and action may be initiated by the Department accordingly.

Chapter-IV
Ministry of Agriculture
(Department of Agriculture and Co-operation)

4.1 The following Committees/Boards/Corporation/Bodies related to Department of Agriculture and Cooperation figure in the Schedule of the Parliament (Prevention of Disqualification) Act, 1959, as amended from time to time:

Part I

Bodies under the Central Government

- (i) National Co-operative Development and Warehousing Board established under Section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Part II

Bodies under the Central Government

- (ii) Indian Central Arecanut Committee;
 - (iii) Indian Central Coconut Committee constituted under Section 4 of Indian Coconut Committee Act, 1944 (10 of 1944);
 - (iv) Indian Central Cotton Committee constituted under Section 4 of the Indian Cotton Cess Act, 1923 (14 of 1923);
 - (v) Indian Central Jute Committee;
 - (vi) Indian Central Oilseeds Committee constituted under Section 4 of Indian Oilseed Committee Act, 1946 (9 of 1946);
 - (vii) Indian Central Sugarcane Committee;
 - (viii) Indian Central Tobacco Committee;
- Table(Section 3(k))
- (ix) The National Agriculture Co-operative Marketing Federation of India Ltd. (NAFED); and
 - (x) The National Co-operative Union of India Limited (NCUI).

4.2 Out of the above mentioned Committees/Boards/Corporations/Bodies, the following Committees/Boards/Corporations/Bodies are not in existence at present:-

- (i) Indian Central Arecanut Committee
- (ii) Indian Central Coconut Committee constituted under Section 4 of Indian Coconut Committee Act, 1944 (10 of 1944);
- (iii) Indian Central Cotton Committee constituted under Section 4 of the Indian Cotton Cess Act, 1923 (14 of 1923);
- (iv) Indian Central Jute Committee;
- (v) Indian Central Oilseeds Committee constituted under Section 4 of Indian Oilseed Committee Act, 1946 (9 of 1946);
- (vi) Indian Central Sugarcane Committee;
- (vii) Indian Central Tobacco Committee; and

4.3 The details of the existing Committees/Boards/Corporations /Bodies are given below:

- i. National Cooperative Development and Warehousing Board established under section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956)

National Cooperative Development and Warehousing Board (NCDWB) came into being in 1956. In 1963, the Warehousing activity was separated and on 14th March, 1963 National Cooperative Development Corporation (NCDC) was established as a nodal organisation for meeting the post harvest requirements of farmers through cooperative societies.

NCDC was set up under National Cooperative Development Corporation Act, 1962 (26 of 1962) for the purpose of planning and promoting programmes for the production, processing, marketing, storage, export and import of agricultural produce, foodstuffs, industrial goods. Livestock, certain other commodities and services on co-operative principles and for matters connected therein is functioning under the administrative control of this Department. No Member of Parliament is nominated on the Governing Council/Board of NCDC by DAC. NCDC has already been examined by the Committee during fourth Lok Sabha (1967-70) and exempted.

- ii. The National Agriculture Co-operative Marketing Federation of India Ltd. (NAFED).
The National Cooperative Union of India Limited (NCUI)

Ministry of Agriculture, Department of Agriculture and Cooperation is the nodal Department for the NAFED and NCUI. There are Multi-State Cooperative Societies where this Ministry has no stake nor are they under the administrative control of this Ministry. Further, these cooperative organisations are not set up under a statute of the Centre & State(s). No Member of Parliament is nominated by the Department on these Bodies.

4.4 Therefore, so far as, Department of Agriculture and Cooperation is concerned, Members of Parliament are nominated to the Coconut Development Board as non-official member to present the Council of States (Rajya Sabha)/The House of the People (Lok Sabha).

Coconut Development Board was set up under the Coconut Development Board Act, 1979 (**Annexure-VI**). The Board formally came into existence on 12th January, 1981.

It comes under the administrative control of the Ministry of Agriculture, Government of India and entrusted with the functional responsibilities for achieving a balanced development of the coconut industry in the country.

There are some Committees of the State Government or Cooperation Boards against the different State Governments, on which the Department of Agriculture and Cooperation has no role to play.

There is no other Committee/Board/Cooperation/Body etc. where Members of Parliament have been nominated by virtue of some other special Acts of Parliament, other than the Parliament (Prevention of Disqualification) Act, 1959, except in the Rajya Bhasha Committee which has been constituted under Rajbhasha Act 1963.

4.5 The complete details of all other Centrally funded/sponsored Schemes/Programmes under the administrative control of the Department of Agriculture and Cooperation is included at **Annexure-VII**. In these Schemes/Programmes, there is no provision for nomination/election of Members of Parliament. Further, there is no future Scheme/Plan where inclusion of Member of Parliament is proposed.

4.6 On being asked about the present status of nominating Members of Parliament on the Bodies/Committees under their Administrative control, the Department of Agriculture and Cooperation in its written reply stated as under:

“Presently no Member of Parliament is nominated in the Committees/Boards/Corporations included in the Schedule except Coconut Development Board (former Indian Central Coconut Committee) and National Cooperative Development Corporation (former National Cooperative Development and Warehousing Board). Hon“ble Agriculture Minister is nominated President of General Council of NDC. In the Coconut Development Board two Members of Lok Sabha and one Member of Rajya Sabha are nominated to represent the Council of States/House of People. Shri C.P. Narayanan , MP, Rajya Sabha and Shri Narasimham Thota, MP, Lok Sabha and Shri Nalin Kumar Kateel , MP, Lok Sabha are non-official members of the Board at present.”

4.7 On being asked as to the whether the Ministry has any proposal for inclusion of any fresh entry in the Act, the Ministry in its written reply stated as under:

“National Cooperative Development & Warehousing Board established under section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956) may be replaced with National Co-operative Development Corporation (NDC) set up under National Co-operative Development Corporation Act, 1962 (26 of 1962) Indian Central Coconut committee constituted under section 4 of Indian Coconut Committee Act, 1944 (10 of 1944)

may be replaced with Coconut Development Board set up under the Coconut Development Board Act, 1979.

Remaining Boards/Committees except NCDC and Coconut Development Board may be deleted from the Schedule.”

4.8 Briefing the Committee, the Secretary of the Department of Agriculture and Cooperation during the evidence of the Department on 17.04.2015 stated as under:

“sir, there were number of bodies in the Department of Agriculture wherein Member of Parliament was there but all these committees have now been abolished or amendment has been made in their rules. Now only there is Coconut Development Board wherein Members of Parliament are there.....”

4.9 When the Committee pointed out about the existence of National Co-operative Development and Warehousing Board, the Secretary of the Department stated as under:

“NCDC Act has been formulated. National Co-operative Development and Warehousing Board has been abolished and National Cooperative Development Corporation has been established. Therein there is no Member of Parliament.”

4.10 When the Committee observed that a proposal is required to be moved if National Co-operative Development and Warehousing Board is no more in existence, the representative of the Ministry responded as under:

“We will move it. We will send it.”

4.11 During the evidence, the Secretary of the Department of Agriculture and Cooperation also apprised the Committee as under:

“Sir, there are two cooperative institutions, NAFED and NCUI. Both are not under any Parliament Act. They are registered under Multi-Cooperative Society Act. Neither any nominations are made by the Government of India nor any appointment is made by the Government of India. Election is held.”

Observations/Recommendations

4.12 The Committee note that the following Bodies are listed in Part II of the Schedule of the Parliament (Prevention of Disqualification) Act, 1959:

- (i) Indian Central Arecanut Committee
- (ii) Indian Central Coconut Committee constituted under Section 4 of Indian Coconut Committee Act, 1944 (10 of 1944)
- (iii) Indian Central Cotton Committee constituted under Section 4 of the Indian Cotton Cess Act, 1923 (14 of 1923)
- (iv) Indian Central Jute Committee
- (v) Indian Central Oilseeds Committee constituted under Section 4 of Indian Oilseed Committee Act, 1946 (9 of 1946)
- (vi) Indian Central Sugarcane Committee
- (vii) Indian Central Tobacco Committee.

As discussed at para 3.23 above, all the above mentioned Bodies ceased to exist and therefore, these Bodies need to be deleted from Part II of the Schedule of the Act of 1959 as recommended by the Committee.

National Co-operative Development and Warehousing Board (NCDWB)

4.13 The Committee note that National Co-operative Development and Warehousing Board (NCDWB) established under Section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956), is listed in Part I of the Schedule of the Parliament (Prevention of Disqualification) Act, 1959. In 1963, the Warehousing activity was separated and on 14th March, 1963, National Cooperative Development Corporation (NCDC) was established under National Cooperative Development Corporation Act, 1962 (26 of 1962) as a nodal organisation for meeting the post harvest requirements of farmers through cooperative societies. Since NCDWB as an entity do not exist, the Committee recommend that the name of NCDWB may be deleted from Part I of the Schedule of the Act of 1959. So far as NCDC is concerned, the Committee note that no Member of Parliament is nominated on the Governing Council/Board of NCDC by the Department. The Committee also note that NCDC was examined by the Committee during fourth Lok Sabha (1967-70) and in its Second Report felt that the membership of NCDC ought not to disqualify. The Committee, therefore, would not like to make any further comments concerning NCDC.

National Agriculture Co-operative Marketing Federation of India Ltd. (NAFED) and National Co-operative Union of India Limited (NCUI)

4.14 The Committee note that NAFED and NCUI are listed in the Table under Section 3(k) of the Schedule of the Parliament (Prevention of Disqualification) Act, 1959. The Committee also note that NAFED and NCUI are Multi-State Cooperative Societies where the Ministry of Agriculture, Department of Agriculture and Cooperation has no stake nor are they under the administrative control of the Ministry. Further, these cooperative organisations are not set up under a statute of the Centre and State(s). The Committee also note that no Member of Parliament is nominated by the Department on these Bodies. In view of the foregoing, the Committee feel that the listing of NAFED and NCUI under Section 3(k) of the Schedule of the Act of 1959 is irrelevant and needs to be deleted. The Committee, therefore, recommend that the action may be initiated by the Department to delete NAFED and NCUI from the Schedule of the Act of 1959.

Coconut Development Board

4.15 The Committee note that Coconut Development Board was set up under the Coconut Development Board Act, 1979. The Board formally came into existence on 12th January, 1981. It comes under the administrative control of the Ministry of Agriculture, Government of India and entrusted with the functional responsibilities for achieving a balanced development of the coconut industry in the country. Members of Parliament are nominated to the Coconut Development Board as non-official member to present the Council of States (Rajya Sabha)/ House of the People (Lok Sabha) and therefore, their membership do not fall within the ambit of 'office of profit'. However, as per Section 10 of the Act of 1979, the Board is responsible to promote the development under the control of the Central Government of the coconut industry and in the process exercises executive and financial powers for the purpose. Members of the Board receive such allowances as may be fixed by the Central Government as per Section 5(2) of the Act of 1979. The Department has suggested that Indian Central Coconut committee constituted under section 4 of Indian Coconut Committee Act, 1944 (10 of 1944) which now ceased to exist, may be replaced with Coconut Development Board set up under the Coconut Development Board Act, 1979. Indian Central Coconut committee is presently listed in Part II of the Schedule of the Parliament (Prevention of Disqualification) Act, 1959 and as a result, the offices of Chairman or Secretary of the said Body are being treated as 'office of profit' and will entail disqualification as per Section 3(i) of the Act of 1959. But the membership of the Body shall not incur disqualification

provided he/she is not entitled to any remuneration other than compensatory allowance. In view of the foregoing, the Committee recommend that Coconut Development Board may be listed appropriately in the Schedule of the Parliament (Prevention of Disqualification) Act, 1959 and action may accordingly be taken by the Department.

Chapter-V
Ministry of Agriculture
(Department of Animal Husbandry, Dairying & Fisheries)

5.1 There is no Committee/Body etc. which is under the administrative control of the Department and has been figuring in the Schedule to Parliament (Prevention of Disqualification) Act, 1959 and the Department does not propose to set up any such Committee in the present/future.

5.2 When the Committee enquired as to whether the Department has any committee, the Secretary of the Department stated as under:

“No, we have Central Institutes. We do not have any committee. We have the National Dairy Development Board which came into existence through an Act of Parliament but it does not have any MP.

5.3 On being enquired about the Centrally funded, sponsored schemes, programmes under the administrative control of the Department, the Secretary of the Department responded as under:

“In none of them, Members of Parliament are there.”

5.4 When the Committee asked as to whether it can be there for education, monitoring of any of the schemes of the Government, the Secretary of the Department stated as under:

“As of now, we do not have. In case there is any, we will inform you.”

Observations/Recommendations

5.5 **The Committee note that there is no Committee/Body etc. which is under the administrative control of the Department. Also no such Committee / body etc. figure in the Schedule to Parliament (Prevention of Disqualification) Act, 1959. The Department also does not propose to set up any such Committee in the present/future. In view of this, the Committee do not have any comments to offer in this regard.**

NEW DELHI:

14 October, 2016

22 Asvina , 1938 (Saka)

DR. SATYA PAL SINGH
Chairperson,
Joint Committee on Offices of Profit

**EXTRACTS OF MINUTES OF THE FOURTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT (SIXTEENTH LOK SABHA)
HELD ON 17 APRIL, 2015**

The Committee met on Friday, 17 April, 2015 from 1520 hrs to 1700 hrs. in Committee Room No. G-074, Parliament Library Building, New Delhi.

PRESENT

Shri P.P. Chaudhary - Chairperson

MEMBERS

LOK SABHA

2. Smt. Meenakshi Lekhi
3. Shri Arjun Ram Meghwal

RAJYA SABHA

4. Shri Dilipbhai Pandya
5. Shri K.C. Tyagi

SECRETARIAT

1. Shri Shiv Kumar - Director
3. Smt. Maya Lingi - Additional Director

REPRESENTATIVES OF THE MINISTRIES

**MINISTRY OF AGRICULTURE
(DEPARTMENT OF AGRICULTURE RESEARCH & EDUCATION)**

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**MINISTRY OF AGRICULTURE
(DEPARTMENT OF AGRICULTURE & CO-OPERATION)**

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**MINISTRY OF AGRICULTURE
(DEPARTMENT OF ANIMAL HUSBANDRY, DAIRYING & FISHERIES)**

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MINISTRY OF SHIPPING

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MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)

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| 1. | Dr. Sanjay Singh | - | Secretary |
| 2. | Dr. Ms. Mukulita Viyayawargiya | - | Joint Secretary and
Legislative Counsel. |
| 3. | Shri Jayakrishnan | - | ALC |

(DEPARTMENT OF LEGAL AFFAIRS)

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| 1. | Shri D. Bhardwaj | - | Joint Secretary & Legal Adviser |
| 2. | Shri Mahendra Khandelwal | - | Addl. Government Advocate |

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee and briefly apprised them about the agenda of the meeting i.e oral evidence of the representatives of the Ministries of Agriculture (Departments of Agricultural Research and Education, Agricultural and Cooperation and Animal Husbandry & Fisheries etc.,) and Shipping and Law and Justice (Legislative Department and Department of Legal Affairs) - in connection with Review of Committees/Boards/Organisations, etc. referred to in Schedules to the Parliament (Prevention of Disqualification) Act, 1959, as amended from time to time. The Chairperson, then, discussed the provisions of the Parliament (Prevention of Disqualification) Act, 1959 with Members of the Committee. The Members actively participated in discussion and the committee stressed the imperative need to review the Schedules thoroughly - for making the provisions of the Act unambiguous.

3. Then, the representatives of the Ministry of Agriculture (Department of Agricultural Research and Education, Agricultural and Cooperation and Animal Husbandry & Fisheries etc.,) and representatives of Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) were ushered in.

4. The Chairperson welcomed the representatives of the Ministries to the sitting of the Committee and apprised them in detail about the purpose of the oral evidence and asked the representatives of Ministry of Law to remain present for the complete duration of the sitting.

5. The representative of the Ministry of Agriculture (Department of Agriculture Research and Education) briefed the Committee that there are eight Committees which have been listed in the Parliament (Prevention of Disqualification) Act of 1959. Since all these bodies have been dissolved they are no more in existence, viz. (i) Indian Central Cotton Committee, Bombay; (ii) Indian Central Oilseeds Committee, Hyderabad; (iii) Indian Central Coconut Committee, Ernakulum; (iv) Indian Lac Cess Committee, Ranchi; (v) Indian Central Jute Committee, Calcutta; (vi) Indian Central Tobacco Committee, Madras (vii) Indian Central Arecanut Committee, Kozikode; (viii) Indian Central Sugarcane Committee, New Delhi, hence it was requested by them that the bodies may be deleted from the Parliament (Prevention of Disqualification) Act, 1959.

6. It was submitted by the Department that the Government of India decided in 1966 to conduct and organize agricultural research on a broad-based and regional pattern and the Commodity wise approach to research was not felt ideal to be continued any longer. Consequently all the Central Commodity Committees were dissolved and the research work which have been conducted by these Committees was thereafter handed over to ICAR including the administrative control of the various research institutes and stations set up by these Committees. The development and marketing aspects of the Commodity Committees was also taken by the Department of Agriculture and Cooperation.

7. It was further submitted by the Department that Six Members of Parliament - Four elected by Lok Sabha and two elected by Rajya Sabha are also Members of the General Body of the Society. Further out of these six Members of Parliament two from Lok Sabha and one from Rajya Sabha are nominated by Hon'ble Agriculture Minister as Members of the Governing Body of the ICAR Society.

8. The Department submitted that as Member of Parliament nominated to serve as Members of General Body/Governing Body of the ICAR Society are compensated by the Department by extending facilities like travel by air in economy class, Daily Allowance of Rs.260/- and honorarium of Rs.2000/- as sitting fee it was requested by them to consider deletion of the eight Commodity Committees from the Act and include ICAR Society in the exempted list of bodies of the Parliament (Prevention of Disqualification) Act, 1959.

9. The representatives of Ministry of Agriculture (Department of Agricultural Research and Education), then, concluded their brief.

10. The Chairperson, then, asked the representatives of Ministry of Agriculture (Department of Agriculture and Co-operation) to express their views on the subject.

11. The Ministry of Agriculture (Department of Agriculture and Co-operation) stated that the ten bodies related to their Department are figuring in the Schedule of the Parliament (Prevention of Disqualification) Act, 1959 viz. (i) National Co-operative Development and Warehousing Board established under Section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1959 (28 of 1956) (ii) Indian Central Arecanut Committee (iii) Indian Central Coconut Committee constituted under Section 4 of Indian Coconut Committee Act, 1944 (10 of 1944); (iv) Indian Central Cotton Committee constituted under Section 4 of the Indian Cotton Cess Act, 1923 (14 of 1923); (v) Indian Central Jute Committee; (vi) Indian Central Oilseeds Committee constituted under Section 4 of Indian Oilseed Committee Act, 1946 (9 of 1946); (vii) Indian Central Sugarcane Committee; (viii) Indian Central Tobacco Committee (ix) The National Agriculture Co-operative Marketing Federation of India Ltd. (NAFED); and (x) The National Co-operative Union of India Limited (NCUI).

12. The Department of Agriculture and Cooperation further stated that out of these ten Bodies only three i.e (i) National Co-operative Development and Warehousing Board established under Section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956), (ii) the national Agriculture Co-operative Marketing Federation of India Ltd. (NAFED); (iii) the National Co-operative Union of India Limited (NCUI) are existent, but only National Co-operative Development and Warehousing board is under the Administrative control of the Department and even in that body no member of Parliament has been nominated for quite some time.

13. The Department further stated that only in Coconut Development Board (which formally came into existence in 1981) and which is under the Administrative control of the Department, Members of Parliament are nominated as non-official Members to represent.

14. The representatives of Ministry of Agriculture (Department of Agriculture and Co-operation), then, concluded.

15. The Chairperson then asked the representatives of Ministry of Agriculture (Department of Animal Husbandry, Dairying & Fisheries) to present their views on the subject.

16. The representatives of Department of Animal Husbandry Dairying and Fisheries have conveyed that there is no Committee/Body etc. which is under the Administrative control of the Department which is figuring in the Schedules to the Parliament (Prevention of Disqualification) Act, 1959 and the Department does not propose to set up any such Committee in the immediate future.

17. The representatives of Ministry of Agriculture (Department of Animal Husbandry, Dairying & Fisheries) concluded and then withdrew.

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23. The witness then withdrew.

24. A copy of the verbatim proceedings of the sitting of the Committee has kept on record.

The Committee then adjourned,.

* matter not related with this Report

**EXTRACTS OF MINUTES OF THE THIRTY EIGHTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT (SIXTEENTH LOK SABHA)
HELD ON 14 OCTOBER, 2016**

The Committee met on Friday, 14 October, 2016 from 1100 hrs to 1145 hrs. in Committee Room No. 62, Parliament House, New Delhi.

PRESENT

Dr. Satya Pal Singh - Chairperson

MEMBERS

LOK SABHA

2. Shri T.G. Venkatesh Babu
3. Adv. Sharad Bansode
4. Smt. Meenakshi Lekhi
5. Shri M.K. Raghavan
6. Prof. Saugata Roy
7. Kunwar Pushpendra Singh Chandel
8. Shri. Janardan Mishra

RAJYA SABHA

7. C.P. Narayanan

SECRETARIAT

1. Shri U.B.S. Negi - Joint Secretary
2. Smt. Rita Jaikhani - Director
3. Smt. Maya Lingi - Additional Director

REPRESENTATIVES OF THE MINISTRIES

MINISTRY OF LAW AND JUSTICE (i) DEPARTMENT OF LEGAL AFFAIRS

1. Shri Suresh Chandra Law Secretary
2. Shri Ramayan Yadav Additional Secretary
3. Smt. Arti Chopra Assistant Legal Adviser

(ii) LEGISLATIVE DEPARTMENT

1. Dr. (Ms.) M. Vijayawargiya Additional Secretary
2. Shri R.S. Jayakrishnan Assistant Legislative Counsel

MINISTRY OF LABOUR AND EMPLOYMENT

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2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee and briefly apprised them about the agenda of the sitting, i.e to consider draft Report regarding review of Schedule to the Parliament (Prevention of Disqualification) Act, 1959 in respect of Bodies/Committees/Organisations pertaining to the Ministry of Agriculture and Farmer's Welfare (Departments of Agriculture Research and Education, Agriculture & Co-operation and Animal Husbandry, Dairying & Fisheries) and to take Oral evidence of the representatives of the Ministries of Labour & Employment and Law & Justice (Legislative Department and Department of Legal Affairs) regarding the nomination/appointment of Member of Rajya Sabha to the National Social Security Board (NSSB).

3. The Committee then considered the draft Report of the Committee concerning with the above stated subject and adopted the same without any modification. The Committee authorized the Chairperson to finalize the Report and present the same to the Parliament in the ensuing Winter Session, 2016.

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8. A copy of the verbatim proceedings of the sitting of the Committee has been kept on record.

The Committee then adjourned.

* matter not related with this Report