

JOINT COMMITTEE ON OFFICES OF PROFIT

(SIXTEENTH LOK SABHA)

SECOND REPORT

Presented to Lok Sabha on 31.07.2015

Laid in Rajya Sabha on 31.07.2015



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

July, 2015/Shravana, 1937(Saka)

Price : _____

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

Shri P.P. Chaudhary - Chairperson

**MEMBERS
LOK SABHA**

2. Shri T.G. Venkatesh Babu
3. Adv. Sharad Bansode
4. Smt. Meenakshi Lekhi
5. Shri Bhagwant Maan
6. Shri Arjun Ram Meghwal
7. Shri M.K. Raghavan
8. Prof. Saugata Roy
9. Dr. Satya Pal Singh
10. Smt. Supriya Sule

RAJYA SABHA

11. Shri Naresh Agrawal
12. Shri C.P. Narayanan
13. Shri Dilipbhai Pandya
14. Shri Sukhendu Sekhar Roy
15. Shri K.C. Tyagi

SECRETARIAT

1. Shri K. Vijaykrishnan - Additional Secretary
2. Shri Shiv Kumar - Joint Secretary
3. Smt Rita Jaikhani - Director
4. Smt. Maya Lingi - Additional Director

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 Second Report of the Committee.

2. The matter covered in the Report was considered by the Committee at their sitting held on 15 June, 2015. The Minutes of the sitting form part of the Report and are given at Appendix-I.

3. The Committee examined the term, composition, character, functions, etc. of the Monitoring Committee of Mount Abu Eco-Sensitive Zone and Corporate Social Responsibility Implementation Committee (CSRI Committee) for Power Project/Station of Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUN) with a view to consider as to whether the nomination of a Member of Parliament to the Monitoring Committee of Mount Abu Eco-Sensitive Zone and to Corporate Social Responsibility Implementation Committee (CSRI Committee) for Power Project/Station of Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUN) 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 Government of Rajasthan (Department of Environment and Energy Department).

5. The Committee considered and adopted this Report at their sitting held on 29 July, 2015 and the Minutes of the sitting are given at Appendix-II.

5. The Committee wish to express their thanks to the Government of Rajasthan (Department of Environment and Energy Department) for furnishing the information desired by the Committee.

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

P.P. CHAUDHARY

NEW DELHI:

**Chairperson,
Joint Committee on Offices of Profit**

29 July, 2015

07 Shravana, 1937 (Saka)

CHAPTER-I

Nomination of a Member of Parliament (Shri Devji Patel, MP, Sirohi, Rajasthan) to the Monitoring Committee of Mount Abu Eco-Sensitive Zone.

The Government of Rajasthan (Department of Environment), vide their letter No.F.12(3)Env./2009/pt.II dated 27.02.2015, have requested for permission of Hon'ble Speaker, Lok Sabha, for Nomination of a Member of Parliament (Shri Devji Patel, MP, Sirohi, Rajasthan) to the Monitoring Committee of the Mount Abu Eco-Sensitive Zone. Thus, the subject for consideration before the Joint Committee on Offices of Profit is whether the Nomination of Shri Devji Patel, MP, to the Monitoring Committee of the Mount Abu Eco-Sensitive Zone will be considered as a disqualification for being a Member of Parliament from the angle of 'Office of Profit' under Article 102 (1) (a) of the Constitution.

1.2 As the aforesaid request was not accompanied with adequate details, Government of Rajasthan (Department of Environment) were requested to furnish information on certain points relating to the nature of the Committee, its powers, mode of appointment and removal of the Member of the Monitoring Committee, etc. The Government furnished the requisite information vide their letter dated 12 May, 2015. The gist of information furnished is reproduced below:-

In pursuance of the Gazette Notification S.O.No.1545 (E) dated 25th June, 2009 (Mount Abu Notification) declaring Mount Abu and surrounding region as an Eco-Sensitive Zone and under the provisions of sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Government of India in the Ministry of Environment and Forest constitutes the Monitoring Committee.

Composition of Monitoring Committee

The Chairman of the Monitoring Committee shall be an eminent person with proven managerial or administrative experience and understanding of local issues and the other members shall be:-

- (1) a representative of the Ministry of Environment and Forests, Government of India;
- (2) Senior Town Planner of the Area;
- (3) One expert, on the Eco-Sensitive Zones nominated by Government of India;
- (4) Two local residents/people knowledgeable about the region to be nominated by the Government of India;

- (5) Two representatives of Non-governmental Organisations working in the field of environment (including heritage conservation) to be nominated by the Government of India;
- (6) Assistant Director (Tourism), Mount Abu;
- (7) Regional Officer, Rajasthan State Pollution Control Board, Pali;
- (8) Deputy Conservator of Forest (Wild Life), Mount Abu;
- (9) the District Collector, Sirohi as the Member Secretary.

The Monitoring Committee of the Mount Abu Eco-Sensitive Zone was constituted by the Government of India (Ministry of Environment and Forests) by their Order dated 10th December, 2009. Now, the Government of India (Ministry of Environment, Forests and Climate Change) by their order dated 5 May, 2015 have reconstituted the Monitoring Committee comprising of the following:-

- | | | |
|-----|---|----------|
| 1. | Divisional Commissioner Jodhpur | Chairman |
| 2. | Shri Saurabh Gangdia, Shiv Chetna Kunj,
Mount Abu -307501 | Member |
| 3. | Representative of MoEF, New Delhi | Member |
| 4. | Deputy Conservator of Forests (Wild Life),
Mount Abu | Member |
| 5. | Shri Chetna Charan, Badi Dhundai, Opp. Sun
Rock Hotel, Mount Abu-307501 | Member |
| 6. | Umesh Mohan Sahai
Retd. PCF (HOFF)
Rajasthan | Member |
| 7. | Shri Devji Patel*
Member, Parliament, Sirohi | Member |
| 8. | Shri Ishwar Chand Daga
Shivaji Marg, Opp. Chacha Museum,
Mount Abu, Rajasthan | Member |
| 9. | Senior Town Planner
Distt. Sirohi
Rajasthan | Member |
| 10. | Assistant Director (Tourism)
Mount Abu | Member |

- | | | |
|-----|---|------------------|
| 11. | Regional Officer
Rajasthan State Pollution Control Board
Pali | Member |
| 12. | The District Collector, Sirohi | Member Secretary |

* The membership of Hon'ble Member of Parliament, Lok Sabha shall become active after the receipt of permission from Hon'ble Speaker, Lok Sabha.

- Shri Devji Patel, MP is proposed as a member in the category of local residents/people knowledgeable about the region.

Terms of Reference

The terms of reference of the Committee are as follows:-

To monitor the compliance of the provisions of the Notification No.S.O.No.1545 (E) dated 25th June, 2009 (Mount Abu Notification) declaring Mount Abu and surrounding region as an Eco-sensitive Zone published in the Gazette of India Extra-ordinary Part II Section (3) Sub-Section (ii) and discharge the functions specifically enumerated in the notification.

Powers and Functions

The duty of the Monitoring Committee of Mount Abu Eco-Sensitive Zone is to monitor conservation and protection of the area from ecological and environmental point of view. In the Zonal Master Plan for Eco-Sensitive Zone, any increase in the existing parameter of permissible Floor Area Ratio, permissible ground coverage, maximum number of floors and maximum height and all new constructions shall be allowed only after the proposals are scrutinized and approved by the Monitoring Committee and all the other development activities, including additions, alterations, demolitions, repairs, renovations and restorations of building shall require prior approval of the Monitoring Committee, provided that these do not involve structural changes and are on the existing authorized plinth areas in the Mount Abu Municipal Limits and there shall be no consequential reduction in Tribal Area, Green Area and Agricultural Area. In case of activities requiring prior permission or environment clearance, such activities shall be referred to the State Level Environment Impact Assessment Authority, which shall be the Competent Authority for grant of such clearance. The Central Government in the Ministry of Environment and Forests Ministry shall give directions to the Monitoring Committee from time to time for effective discharge of the function of the Monitoring Committee.

- The Committee or any officer or member of the Monitoring Committee authorized by the Committee shall file complaints under Section 19 of the Environment (Protection) Act, 1986, if offences under the said Act come to the notice of the Committee.
- The Monitoring Committee shall meet at least once in two months and dispose of its business within a period of 90 days.
- The quorum for the Monitoring Committee shall not be less than five members, including the Chairman.

Tenure

The tenure of the Committee is for a period of two years and can be subsequently extended, if necessary, by the Government of India.

Remuneration/Facilities

Members will only be entitled to receive travelling and daily allowances in respect of expenses incurred in the performance of their duties. TA/DA for the non-official members shall be met by the Government of Rajasthan as per the State Government rules. The travelling allowance, halting allowance, conveyance allowance to a Member of Parliament to serve on a Committee will be admissible as per rule of the Rajasthan Travelling Allowance Rules, 1971, as amended time to time, and such allowances fall within the definition of compensatory allowances as defined under Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959. No other allowances or remuneration are admissible.

- The expenditure on the Monitoring Committee shall be met by the Government of Rajasthan.
- The Monitoring Committee does not exercise executive, legislative or judicial powers.
- The Committee does not confer powers of disbursement of funds, allotment of land, etc.
- The Committee does not have powers of appointment/removal.
- The Committee does not wield influence or power by way of patronage.

1.3. 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.

1.4 The Joint Committee on Offices of Profit considered the matter at the sitting held on 15 June, 2015 (APPENDIX-I).

1.5. The Committee note from the information furnished by the Government of Rajasthan (Department of Environment) that the Monitoring Committee of the Mount Abu Eco-Sensitive Zone has been reconstituted by the Government of India in the Ministry of Environment, Forest and Climate Change, in pursuance of the Gazette Notification S.O.No.1545(E) dated 25th June, 2009 (Mount Abu Notification) declaring Mount Abu and surrounding region as an Eco-Sensitive Zone and under the provision of subsection (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986). In addition to official members, 6 persons from amongst Eco-Sensitive Zone expert, local resident, representative of NGOs and a Chairman are nominated to the Committee and Shri Devji Patel, MP, Sirohi, Rajasthan is proposed as a member in the category of local residents/people, knowledgeable about the region. The main role of a Member of the Monitoring Committee is to monitor the compliance of the provision of the Notification dated 25th June, 2009 of the Ministry of Environment and Forests, i.e. to monitor conservation and protection of the area from the ecological and environmental point of view. A Member of Parliament nominated to the Monitoring Committee does not have powers of disbursement of funds, allotment of land, etc. and as such the Member of this Committee cannot wield any influence by way of patronage. Members of the Committee would only be paid TA/DA in respect of expenses incurred in the

performance of their duties as per the relevant rules/instructions of the Rajasthan Travelling Allowance Rules, 1971, as amended from time to time. No other facilities/remuneration/ allowances will be given to the Members. Further, they do not exercise any executive, legislative or judicial powers.

1.6 In view of the foregoing, the Committee observe that the Nomination of a Member of Parliament (Shri Devji Patel, MP, Sirohi, Rajasthan) to the Monitoring Committee of the Mount Abu Eco-Sensitive Zone may not attract disqualification for being chosen as, and for being, a Member of Parliament from the angle of 'office of profit.'

CHAPTER-II

Nomination of Shri Dushyant Singh, MP, Jhalawar-Baran, Rajasthan, as Member of Corporate Social Responsibility Implementation Committee (CSRI Committee) for Power Project/Station of Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUN).

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The Government of Rajasthan (Energy Department), vide their letter No.F.16 (4)Energy/2009 dated 22.04.2015, have requested to kindly arrange consent/permission from Hon'ble Speaker, Lok Sabha, for Nomination of Shri Dushyant Singh, MP, Jhalawar - Baran, Rajasthan, as a Member of the Corporate Social Responsibility Implementation Committee (CSRI Committee) for Power Project/Station (Chhabra Thermal Power Station, Supercritical Thermal Power Project and Gas based Power Project, Chhabra, Distt Baran and Kalisindh Thermal Power Project & Supercritical Thermal Power Project, Jhalawar) of the Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUN). Thus, the subject for consideration before the Joint Committee on Offices of Profit is whether the Nomination of Shri Dushyant Singh, MP, as a Member of the CSR Implementation Committee for Power Project/Station of the Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUN) could be considered as a disqualification for being a Member of Parliament from the angle of 'Office of Profit' under Article 102 (1) (a) of the Constitution.

2.2 As the aforesaid request was not accompanied with adequate details, the Government of Rajasthan (Energy Department) were requested to furnish information on certain points relating to the nature and composition of the Committee, power, functions, remuneration, daily allowances, other facilities, etc. provided to the Members of the Committee. The Government of Rajasthan furnished the requisite information vide their letter dated 08 May, 2015. The gist of information furnished is reproduced below:-

The Rajasthan Rajya Vidyut Utpadan Nigam Ltd (RVUN) is a Government of Rajasthan undertaking engaged in power generation. RVUN is a socially committed Organisation which aims to actively contribute to sustainable socio-economic development of the local community and society surrounding its power generating stations which are located mostly in remote areas. The Nigam will take up community development activities for existing Power Stations in operation as well as new/extension Power Projects and aims to restore the livelihood of the Project

Affected Persons (PAPs) and to undertake development works in the Project Affected Area (PAA), for which RVUN has formed its Corporate Social Responsibility (CSR) Policy.

The State Government, vide Energy Department's letter No.F.16 (4)Energy/2009 dated 20.5.2011, has approved the Corporate Social Responsibility Policy of the Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RVUN). This policy shall be applicable for all existing/future Power Projects of RVUN. This policy has been issued in compliance with the Terms of Reference issued by the Ministry of Environment & Forests Government of India for obtaining environmental clearance.

For the implementation of various activities/works under the Policy, a "CSR Implementation Committee (CSRI Committee)" will be formed for each Power Project/Station. The CSRI Committee is a 'Standing Body'.

Composition of CSRI Committee

For implementation of various activities/works under the CSR Policy, a CSR Implementation Committee comprising of the following officers of the State Government & RVUN and representatives of Local Bodies for each Power Projects/Station of RVUN has been formed by Administrative Reforms (Gr. 3) Department of Government of Rajasthan vide letter no. F.6(21)AR/Gr.3/2011 dated 20.6.2011

1.	Collector of the District concerned	Head & Chairman
2.	Chief Executive Officer -Zila Parishad	Member
3.	Chief Engineer/Project Chief of RVUN	Member Secretary
4.	Project CAO/Head of Accounts wing	Member & Treasurer
5.	SDM of the area concerned	Member
6.	MLA of the area concerned	Member
7.	Pradhan of the Panchayat Samiti concerned	Member
8.	BDO of the Panchayat Samiti concerned	Member
9.	Highest officer of PWD, Irrigation, PHED, Discoms and other executing agencies of the Distt. where the Project is located	Member

Now, it has been felt necessary to nominate one Hon'ble Member of Parliament (concerned) to be a Member of the CSR Implementation Committee in

addition to Hon'ble MLA of that area as a public representative, after seeking approval of Hon'ble Lok Sabha Speaker.

Functions

The functions of the CSRI Committee are purely advisory and suggestive in nature. It has to prepare the action plan identifying the CSR activities covered under CSR Policy and to finalize the time schedule for completion of each identified activity.

Tenure

The term of the Member of Parliament as non-official Member in the Committee is upto the term of the current Lok Sabha's tenure.

Remuneration/Facilities

The CSR Policy is applicable to the Project Affected Persons (PAPs) for the Project Affected Areas (PAAs) in respect of the RVUN's existing projects/future projects to be developed. Thus, there is no provision of paying any kind of allowance, honorarium, fee or providing any facility to the Member of Parliament as a Member of the CSRI Committee.

- The CSRI Committee does not exercise executive, legislative or judicial powers.
- The Committee does not confer powers of disbursement of funds, allotment of land, etc.
- The Committee does not have powers of appointment/removal.
- The Committee 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 taken 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 15 June, 2015 (APPENDIX-I).

2.5. The Committee note from the information furnished by the Government of Rajasthan (Energy Department) that the Corporate Social Responsibility Implementation Committee (CSRI Committee) is a 'Standing Body' which is formed for each Power Project/Station for the implementation of various activities/works under the Corporate Social Responsibility Policy formed by the Rajasthan Rajya Vidyut Utpadan Nigam Ltd. and the Policy is issued in compliance with the Terms of Reference is issued by the Ministry of Environment and Forests, Government of India, for obtaining the Environmental Clearance. The Member of Parliament concerned is nominated as a Member of the CSRI Committee as a public representative. The functions of the CSRI Committee are purely advisory and suggestive in nature. It has to prepare the action plan identifying the CSR activities covered under the CSR Policy and to finalize the time schedule for completion of each identified activity. The Member of Parliament nominated to the CSRI Committee does not have powers of disbursement of funds, allotment of land, etc. and as such the Member of this Committee cannot wield any influence by way of patronage. Further, there is no provision of paying any kind of allowance, honorarium, fee or providing any facility to the Member of Parliament as a Member of the CSRI Committee since the CSR Policy is applicable to the Project Affected Persons (PAPs) for the Project Affected Area (PAAs) in respect of the RVUNs existing Projects/future Projects to be developed. Also, the Committee does not exercise executive, legislative or judicial powers.

2.6 In view of the foregoing, the Committee observe that the Nomination of Shri Dushyant Singh, MP, Jhalawar - Baran, Rajasthan, as a Member of the CSRI Committee for Power Project/Station (Chhabra Thermal Power Station, Supercritical Thermal Power Project and Gas based Power Project, Chhabra,

Distt. Baran and Kalisindh Thermal Power Project and Supercritical Thermal Power Project, Jhalawar) of the Rajasthan Rajya Vidyut Utpadan Nigam Ltd. may not attract disqualification for being chosen as, and for being, a Member of Parliament from the angle of 'office of profit'.

P.P. CHAUDHARY

NEW DELHI:

**Chairperson,
Joint Committee on Offices of Profit**

July, 2015

Shravana, 1937 (Saka)

APPENDIX-I
(Vide paras 1.4 and 2.4 of the Report)

**EXTRACTS OF THE MINUTES OF THE SEVENTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT (SIXTEENTH LOK SABHA)
HELD ON 15 JUNE, 2015**

The Committee met on Monday, 15 June, 2015 from 1100 hrs to 1330 hrs. in Committee Room No. '53', Parliament House, New Delhi.

PRESENT

Shri P.P. Chaudhary - Chairperson

MEMBERS

LOK SABHA

2. Smt. Meenakshi Lekhi
3. Shri Bhagwant Maan
4. Shri M. K. Raghavan
5. Prof. Saugata Roy
6. Dr. Satya Pal Singh

RAJYA SABHA

7. Shri C.P. Narayanan
8. Shri Dilipbhai Pandya
9. Shri K.C. Tyagi

SECRETARIAT

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

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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 meeting, i.e (i) Consideration of Memorandum No.3 regarding nomination of a Member of Parliament (Sri Devji Patel, MP, Sirohi, Rajasthan) to the Monitoring Committee of Mount Abu Eco-Sensitive Zone and Memorandum No.4 regarding nomination of Shri Dushyant Singh, MP, Jhawalar-baran Rajasthan as Member of the Corporate Social Responsibility Implementation Committee (CSRI Committee) for power Project/Station of Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUN);

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3. Memoranda No.3 and 4 were adopted by the Committee without any modification(s).

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The Committee then adjourned.

APPENDIX-II

**EXTRACTS OF THE MINUTES OF THE NINTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT (SIXTEENTH LOK SABHA)
HELD ON 29 JULY, 2015**

PRESENT

Shri P.P. Chaudhary - Chairperson

MEMBERS

LOK SABHA

2. Shri T.G. Venkatesh Babu
3. Shri Arjun Ram Meghwal
4. Dr. Satya Pal Singh

RAJYA SABHA

5. Shri C.P. Narayanan
6. Shri Dilipbhai Pandya
7. Shri K.C. Tyagi

SECRETARIAT

1. Shri Shiv Kumar - Joint Secretary
2. Smt. Rita Jaikhani - Director
3. Smt. Maya Lingi - Additional Director

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

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4. The Committee then took up for consideration the draft Second Report - consisting of two Chapters viz. (a) Nomination of a Member of Parliament (Shri Devji Patel, MP, Sirohi, Rajasthan) to the Monitoring Committee of Mount Abu Eco-Sensitive Zone ; and (b) Nomination of Shri Dushyant Singh, MP, Jhalawar-Baran, Rajasthan, as Member of Corporate Social Responsibility Implementation Committee (CSRI Committee) for Power Project/Station of Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUN).

5. The Committee considered and adopted the Chapter-I without any amendment. The Committee then proceeded to consider Chapter II and adopted the same without any amendment.

6. The Committee authorized the Chairperson to finalize the Report and present the same to the Parliament in the current Monsoon Session, 2015.

The committee, then adjourned.