

JOINT COMMITTEE ON OFFICES OF PROFIT

(SIXTEENTH LOK SABHA)

THIRD REPORT

Presented to Lok Sabha on 12.8.2015

Laid in Rajya Sabha on 12.08.2015



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2015/Shravana, 1937(Saka)

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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 Jailkhani - 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 Third Report of the Committee.

2. The matter covered in the Report was considered by the Committee at their sitting held on 29 July, 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 Committee on Film Heritage of the Government of West Bengal with a view to considering as to whether the nomination of a Member of Parliament to the Committee as Chairperson would attract disqualification from the angle of 'office of profit' under Article 102 (1) (a) of the Constitution of India.

4. The Committee considered and adopted this Report at their sitting held on 06 August, 2015 and the Minutes of the sitting are given at Appendix-II.

5. The Committee wish to express their thanks to the Government of West Bengal for furnishing the information desired by the Committee for detailed examination of the issues involved and the Rajya Sabha Secretariat for obtaining the information on their behalf.

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

August, 2015

Shravana, 1937 (Saka)

REPORT

Subject: Query as to whether nomination/appointment of Smt. Jaya Bachchan, M.P. (Rajya Sabha) as Chairperson of the Committee on Film Heritage of the Government of West Bengal would amount to holding an Office of Profit - regarding.

1.1 The Rajya Sabha Secretariat (Committee Co-ordination Section), vide their note R.S.S.I.D.No. 7(3)/2015-Coord., dated 28.05.2015 had forwarded the request of Smt. Jaya Bachchan, M.P. (Rajya Sabha) in order to ascertain as to whether her nomination/appointment as Chairperson of the 'Committee on Film Heritage' of the Government of West Bengal would entail disqualification for being a Member of Parliament on the ground of holding an office of profit and had requested to place the matter before the Joint Committee on Offices of Profit for their consideration and recommendation in the matter.

1.2 The Rajya Sabha Secretariat had requested the West Bengal Government to furnish information on certain points relating to functions, nature, remuneration, facilities, of the Committee/Body, etc. The West Bengal Government have since furnished the requisite information vide their letter no.1141/Pr.s./ICA dated 22.05.2015. The gist of information furnished by the West Bengal Government is reproduced below:-

CONSTITUTION OF THE COMMITTEE ON FILM HERITAGE

The Government of West Bengal has constituted a Committee for Film Heritage which will inter-alia pilot the establishment of a Centre for Film Heritage, to be set up in Kolkata. This Centre would have the following elements :-

1. preserving old cinema, especially Bangla cinema, along with all related artefacts.
2. restoring and digitising old films that are still in retrievable condition.
3. setting up an interactive museum of cinema artefacts and memorabilia.
4. setting up screening theatre/s.
5. creating a public space for cinema lovers and experts.

Composition of the Committee

Smt. Jaya Bachchan, MP would be the Chairperson of the proposed committee and the composition of the proposed committee would be as under :-

Six non-official members, viz

- (i) Smt. Jaya Bachchan, MP
- (ii) Shri Sandip Ray
- (iii) Shri Srikant Mohta
- (iv) Shri Srijit Mukherjee
- (v) Shri Kaushik Ganguly
- (vi) Shri Jayabroto Chatterjee

And two official members, viz

- (i) Principal Secretary, I & CA Deptt., Government of West Bengal
- (ii) Joint Secretary and ex-officio Director of Films, I&CA Department, Government of West Bengal.

Mode of Appointment and Removal

Appointment of Chairperson/Members would be made only by nomination by the State Government.

Tenure of Committee

The proposed Committee would be an ad hoc body. The term of office of the members of the proposed Committee would be for one year. The term of office of the Members of the proposed Committee would be for one year, subject to further extension.

Functions of Committee

The Committee is purely advisory in nature. The powers and functions of the proposed Committee would be to furnish recommendation to the Government regarding digitization, restoration, preservation, etc. of the old and classic films made in West Bengal.

- The 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.

Remuneration/Facilities

The Chairperson and the non-official Members will not be entitled to receive any remuneration, including pay, travelling allowance and daily allowance, compensatory allowance, sitting fee, etc. However, hospitality arrangement will be made by the State Government when meeting will be held.

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

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

1.4 The Joint Committee on Offices of Profit considered the matter at their sitting held on 29 July, 2015 (APPENDIX-I).

1.5 The Committee note from the information furnished by the Government of West Bengal that the functions of the proposed "Committee on Film Heritage" are purely advisory in nature. The nomination as a Chairperson/Member to the body does not confer any power(s) of disbursement of funds, allotment of land, etc. and as such the Chairperson/Member of this Committee/Body cannot wield any influence by way of patronage, even. The nominated Member of Parliament, as the

Chairperson of the body, would also not be paid any remuneration, including pay, travelling allowance, daily allowance, compensatory allowance, sitting fee, etc. Besides, the proposed Committee has been stated to be an ad hoc body. Term of office of the Chairperson, who in this case also happens to be a non-official member of the proposed Committee would be for one year, subject to further extension.

1.6 In view of the foregoing, the Committee observe that the Member of Parliament, if nominated as Chairperson of the 'Committee on Film Heritage' to be constituted by the Government of West Bengal, may not attract disqualification for being chosen as, or 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**

August, 2015

Shravana, 1937 (Saka)

APPENDIX-I

(vide para 1.4 of Chapter of the Report)

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

The Committee met on Wednesday, 29 July, 2015 from 1015 hrs to 1045 hrs. in Hon'ble Chairperson's Room (No.135), Parliament House Annexe, New Delhi.

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.

3. Then the Committee took-up for consideration the draft Memorandum No.5: Query as to whether nomination/appointment of Smt. Jaya Bachchan, M.P (Rajya Sabha) as Chairperson of the Committee on Film Heritage of the Government of West Bengal would amount to holding an Office of Profit and adopted the same without any modification.

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The committee, then adjourned.

APPENDIX-II

EXTRACTS OF THE MINUTES OF THE TENTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (SIXTEENTH LOK SABHA) HELD ON 6 AUGUST, 2015

The Committee met on Thursday, 6 August, 2015 from 1500 hrs to 1630 hrs. in Hon'ble Chairperson's Room (No.135), Parliament House Annexe, New Delhi.

PRESENT

Shri P.P. Chaudhary - Chairperson

MEMBERS

LOK SABHA

2. Shri T.G. Venkatesh Babu
3. Smt. Meenakshi Lekhi
4. Prof. Saugata Roy
5. Dr. Satya Pal Singh

RAJYA SABHA

6. Shri C.P. Narayanan
7. Shri Dilipbhai Pandya
8. Shri Sukhendu Sekhar Roy
9. 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.

3. Then the Committee took-up for consideration the draft Report No.3: Query as to whether nomination/appointment of Smt. Jaya Bachchan, M.P (Rajya Sabha) as Chairperson of the 'Committee on Film Heritage' of the Government of West Bengal would amount to holding an Office of Profit and adopted the same without any modification.

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The committee, then adjourned.