

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

TENTH REPORT

Presented to Hon'ble Speaker, Lok Sabha on 14.10.2016

Presented to Lok Sabha on _____

Laid in Rajya Sabha on _____



**LOK SABHA SECRETARIAT
NEW DELHI**

October, 2016/Asvina, 1938(Saka)

Price : _____

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

\$ Dr. Satyapal 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 Jailkhani | - | Director |
| 3. | Smt. Maya Lingi | - | Additional Director |
| 4. | Shri T.R. Nauriyal | - | Deputy Secretary |
| 5. | Smt. Seema Sharma | - | Committee Assistant |

\$ 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 Minister 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 authorized by the Committee to present the Report on their behalf, present this Tenth Report of the Committee.

2. At their sitting held on 22 September, 2016, the Committee examined the term, composition, character, functions, etc., of the Rajya Kishan Ayog, Rajasthan with a view to consider as to whether the Nomination of Professor Sanwar Lal Jat, MP Lok Sabha as President Rajya Kishan Ayog, Rajasthan would attract disqualification from the angle of 'office of profit' under Article 102 (1) (a) of the Constitution of India.

3. The Committee considered and adopted this Report at their sitting held on 04 October, 2016.

4. The Committee wish to express their thanks to the State Government of Rajasthan for furnishing the information desired by the Committee for detailed examination of the issues involved in the matter.

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

NEW DELHI:

04 October, 2016

12 Asvina, 1938 Saka

DR. SATYAPAL SINGH
Chairperson,
Joint Committee on Offices of Profit

REPORT

Nomination of Professor Sanwar Lal Jat, MP Lok Sabha as President Rajya Kishan Ayog, Rajasthan.

Parliamentary Works Department, Government of Rajasthan vide fax letter dated 31.08.2016 have stated that there is a proposal to nominate Professor Sanwar Lal Jat, MP, Lok Sabha as President, Rajya Kishan Ayog, Rajasthan. They have requested that the matter may be placed before the Hon. Speaker for approval of his nomination to the Rajya Kishan Ayog.

2. The issue under consideration is as to whether the nomination of Professor Sanwar Lal Jat, MP, Lok Sabha as President, Rajya Kishan Ayog would cause disqualification from the angle of the „office of profit“.

3. Article 102(1)(a) of the Constitution of India reads as under:

“A person shall be 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, other than an office declared by Parliament by law not to disqualify its holder”

4. Parliament has passed a law, namely the Parliament (Prevention of Disqualification) Act, 1959 (**Annexure-I**) laying down which offices would not disqualify holders thereof from the membership of Parliament. This Act also provides that if a chairman or director or member of any statutory or non-statutory body is not entitled to any remuneration other than the compensatory allowance, he would not incur disqualification for being chosen as , or for being, a member of Parliament. 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 him to recoup any expenditure incurred by him in performing the functions of that office”

5. The expression “holds any office of profit under the Government” occurring in Article 102 (1)(a) has nowhere been defined precisely. However, the Joint Committee on Offices of Profit has been following the undermentioned 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.

6. As per the information furnished by the Government of Rajasthan (**Annexure-II**), Rajya Kishan Ayog is a non statutory body constituted by an executive order dated 27.02.2009. The role of the Member of Parliament as Chairman in the Ayog is to advice State Government on farmers’ condition, loan for farmers and other agricultural issues. The term of the Member of Parliament as non official Chairman in the Ayog is three years. According to the Government of Rajasthan the Government has executive control over the appointment to and removal from the office and over the performance and functions of the office of Rajya Kishan Ayog. Further no allowance except vehicle/TA/DA will be paid to the Chairman of the Ayog. He will also be given boarding and lodging facilities as applicable to the Minister of Government of Rajasthan.

7. The Joint Committee on Offices of Profit considered the matter at their sitting held on 22.09.2016.

Observations/Recommendations

8. The Committee note from the information furnished by the State Government of Rajasthan (Department of Parliamentary Affairs) that Rajya Kishan Ayog is a non statutory body constituted by an executive order dated 27.02.2009. The role of the Member of Parliament as Chairman in the Ayog is to advice State Government on farmers' condition, loan for farmers and other agricultural issues. The term of the Member of Parliament as non official Chairman in the Ayog is three years. The State Government exercise control over appointment to and removal from the office of Rajya Kishan Ayog. The Chairman of the Ayog will not be paid any allowance except vehicle/TA/DA. He will be also given boarding and lodging facilities as applicable to the Minister of Government of Rajasthan. Thus, office of Chairman, Rajya Kishan Ayog is an 'office' which comes under State Government of Rajasthan. Since, holder of office of Chairman, Rajya Kishan Ayog will be getting benefits of TA/DA and facility of vehicle as well as boarding and lodging facilities and the same constitutes an 'office of profit'. The Committee also note that as per Section 3(i) of the Parliament (Prevention of Disqualification) Act 1959, the office of Chairman, Director or Member of any statutory and non statutory bodies are exempted from incurring disqualification if the holder of such office is not entitled to any remuneration other than compensatory allowance. The Committee, are, therefore of the considered opinion that the nomination of Professor Sanwar Lal Jat , MP (Lok Sabha) as President of the Rajya Kishan Ayog, Rajasthan may not attract the angle of 'office of profit' under Article 102 (1) (a) of the Constitution of India provided that he is not entitled for any remuneration other than compensatory allowance as defined under Section 2 (a)

of the Act of 1959. The Committee would like to be informed of the action taken by the Government in this regard.

NEW DELHI:

04 October, 2016
12 Asvina, 1938 Saka

DR. SATYAPAL SINGH
Chairperson,
Joint Committee on Offices of Profit

Appendix-I**EXTRACTS OF MINUTES OF THE THIRTY SIXTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT
(SIXTEENTH LOK SABHA) HELD ON 22 SEPTEMBER, 2016**

The Committee met on Friday, 22 September, 2016 from 1100 hrs to 1215 hrs. in Committee Room No.'139', First Floor, Parliament House Annexe, New Delhi.

PRESENT

Dr. Satya Pal Singh - Chairperson

MEMBERS**LOK SABHA**

2. Shri T.G. Venkatesh Babu
3. Smt. Meenakashi Lekhi
4. Shri M.K. Raghavan
5. Shri. Saugata Roy
6. Shri. Janardan Mishra

RAJYA SABHA

7. Shri C.P. Narayanan
8. Shri Dilipbhai Pandya

SECRETARIAT

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

WITNESSES

Ministry of Law & Justice
(i) (Legislative Department)

XX XX XX XX

(ii) (Department of Legal Affairs)

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Ministry of Human Resource Development
(Department of Higher Education)

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Panjab University, Chandigarh

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Ministry of Culture

XX XX XX XX

At the outset, the Chairperson welcomed the Members to the Thirty Sixth sitting of the Committee, and briefly apprised them of the agenda for the sitting viz. consideration of (i) Memorandum No.7 regarding the nomination of Prof. Sanwar Lal Jat MP (Lok Sabha) as President to Rajya Kishan Ayog by State Government of Rajasthan (ii) Nomination of Dr. Manmohan Singh MP (Rajya

Sabha) and former Prime Minister for Jawaharlal Nehru Chair professorship at Panjab University ,Chandigarh (iii) Nomination of Pradip Bhattacharya MP (Rajya Sabha) for Council Of Asiatic Society, Kolkata.

2. The Committee, then, proceeded to consider Memorandum No.7 relating to the nomination of Prof. Sanwar Lal Jat MP (Lok Sabha) as President to Rajya Kishan Ayog by State Government of Rajasthan. After deliberation the Committee were of the opinion that the proposed appointment of the Member to the said Committee may not incur disqualification from the angle of 'Office of Profit' provided that he is not entitled for any remuneration other than compensatory allowance as defined under The Parliament (Prevention of Disqualification) Act of 1959.

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11. A copy of the Verbatim record of the sitting has been kept.

The Committee then adjourned.

Matter not related to this subject.

REPRESENTATIVES OF THE MINISTRIES

THE MINISTRY OF LAW AND JUSTICE

(i) LEGISLATIVE DEPARTMENT

- | | | |
|----|------------------------|-------------------------------|
| 1. | Dr. G. Narayana Raju | Secretary |
| 2. | Mrs. Veena Kothavale | Additional L.C. |
| 3. | Shri R.S. Jayakrishnan | Assistant Legislative Counsel |

(ii) DEPARTMENT OF LEGAL AFFAIRS

- | | | |
|----|------------------|--------|
| 1. | Shri G.S. Yadav | JS&LA |
| 2. | Smt. Arti Chopra | A.L.A. |

MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF HIGHER EDUCATION)

- | | | |
|----|-------------------------|-------------------------|
| 1. | Shri Vinay Sheel Oberoi | Secretary |
| 2. | Shri Rakesh Ranjan | Joint Secretary (ICCIP) |

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 (I) Draft Report pertaining to the Nomination of Prof. Sanwar Lal Jat, MP Lok Sabha as President Rajya Kishan Ayog, Rajasthan; (II) Draft Report pertaining to Nomination/appointment of Dr. Manmohan Singh, former Prime Minister of India and Member, Rajya Sabha for the Jawaharlal Nehru Chair Professorship at the Punjab University, Chandigarh; (III) Draft Report

pertaining to Nomination of Shri Pradeep Bhattacharya, Member of Rajya Sabha to the Asiatic Society, Kolkata; (IV) Memorandum No.8 regarding the Nomination of one Member of Rajya Sabha to the Executive Council of the Institute of Constitutional and Parliamentary Study and to take Oral evidence of Ministries of Human Resource Development (Department of Higher Education) and Law and Justice (Legislative Department and Department of Legal Affairs) regarding the nomination/appointment of Member of Rajya Sabha to the Council of the Indian Institutes of Information Technology (IIITs).

3. The Committee then considered the draft Tenth, Eleventh and Twelfth Reports of the Committee concerning with the above stated subjects and adopted the same without any modification.

4. The Committee authorized the Chairperson to finalize the Reports and present the same to the Hon'ble Speaker in the absence of the Session and to present the same to the Parliament in the ensuing Winter Session, 2016.

5. xx xx xx xx

The Committee then adjourned

Matter not related to this subject.

