

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

ELEVENTH 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

- | | | | |
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| 2. | Smt Rita Jailkhani | - | Director |
| 3. | Smt. Maya Lingi | - | Additional Director |
| 4. | Shri T.R. Nauriyal | - | Deputy Secretary |
| 5. | Ms. Vandana | - | Sr. 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 Eleventh Report of the Committee.

2. At their sitting held on 22 September, 2016, the Committee examined the term, composition, character, functions, etc., of the Panjab University, Chandigarh with a view to consider as to whether the Nomination/Appointment of Dr. Manmohan Singh, former Prime Minister and M.P.(Rajya Sabha) for Jawaharlal Nehru Chair Professorship at Panjab University, Chandigarh 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 Ministries of Human Resource Development (Department of Higher Education), Law and Justice (Legislative Department and Department of Legal Affairs) and Panjab University, Chandigarh 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/Appointment of Dr. Manmohan Singh, former Prime Minister and M.P.(Rajya Sabha) for Jawaharlal Nehru Chair Professorship at Panjab University, Chandigarh .

Dr. Manmohan Singh, former Prime Minister and Member, Rajya Sabha vide his letter dated 13 July, 2016, addressed to Hon'ble Chairman, Rajya Sabha has stated that he has received a letter from the Vice Chancellor , Panjab University, Chandigarh informing him that Panjab University Syndicate and Senate has approved his name for the Jawaharlal Nehru Chair Professorship. The University has offered honorarium and other facilities during his visits. He is free to choose the convenient time and duration for his visits and mode of interaction and for delivery of lectures to the students and faculty. Dr. Singh has, therefore, sought the advice whether accepting the offer of Panjab University for the Jawaharlal Nehru Chair Professorship will attract disqualification from the angle of 'office of profit' under the Article 102 (1) (a) of the Constitution of India. Rajya Sabha Secretariat have requested that the matter may be placed before the Joint Committee on Offices of Profit for its consideration and recommendations as to whether holding the position of Chair Professorship of the Panjab University by Dr. Singh would entail any disqualification from the membership of the House on the ground of holding an „Office of Profit“.

2. 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”

3. 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”

4. 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.

5. With reference to a questionnaire referred to the Panjab University, Chandigarh in the context of nomination of Dr. Manmohan Singh for Jawaharlal Nehru Chair Professorship, Panjab University, Chandigarh have furnished their replies which may be seen at **Annexure-II**. It may be gathered from the replies furnished by the Panjab University, Chandigarh that Panjab University is an Inter State Body corporate with successor States as State of Punjab and Union Territory, Chandigarh. The maintenance deficit of Panjab University is being funded by the State Government of Punjab and by the Central Government i.e. Ministry of Human Resource Development through UGC. In the year 1997, 05 Golden Jubilee Chair

Professorships including the Jawaharlal Nehru Chair Professorship were established. The person appointed would occupy the Chair for a short duration. The Chair is appointed on the recommendation by a committee consisting of eminent academicians with due approval of the Governing body. The persons appointed on this Chair is expected to visit the University for a short duration. During such visit, the person is entitled to the following facilities, as approved by the Governing body:

- * Business Class Air-fare.
- *Car with driver (if there is requirement)
- * Accommodation in a Hotel/P.U. Guest House (as per requirement)
- *Honorarium @ R.5000/- per day (during days of visit to Panjab University)
- *Besides above, suitable fare and hospitality shall also be provided for an attendant (if here is requirement)

According to the Panjab University, the person appointed on the Chair is required to interact with the faculty, staff and students of the University, by way of discussions/lectures. This Chair Professorship neither have any administrative responsibility nor any decision making power including that of appointment/removal/influence or power by way of patronage.

6. In their brief submission in writing, Ministry of Law & Justice (Legislative Department) inter-alia stated as under:

“ ...Now, the question under consideration is whether the acceptance of the offer of the Panjab University for the “Jawaharlal Nehru Chair Professorship” will attract disqualification of Dr. Manmohan Singh, for being a Member of Parliament from the angle of „office of profit“ under article 102(1)(a) of the Constitution of India.

Article 102(1) of the Constitution says that a person who holds any office of profit under the Government of India or of any State shall be disqualified and he is not eligible to be chosen as a Member of Parliament or to continue as one unless such office has been declared by Parliament by law not to disqualify the holder In so far as the law made by Parliament is concerned, the Parliament (Prevention of Disqualification) Act, 1959 (10 of

1959) has been enacted to declare certain offices of profit under the Government not to disqualify the holders thereof for being chosen as, or for being, Member of Parliament. Section 3 of the said Act provides that certain offices of profit shall not disqualify the holder thereof as provided under the said section. In this regard, it may be mentioned that clause (f) of section 3 of the said exempts the office of chairman or member of the syndicate, senate, executive committee, council or court of a university or any other body connected with a university. However, the said clause does not provide for exemption of “Jawaharlal Nehru Chair Professorship” of a University from incurring disqualification.

In order to examine the issue under consideration, following test has to be considered-

- i. Whether the office of “Jawaharlal Nehru Chair Professorship” of the Panjab University is an „office” and further an „office of profit” and if the answer is in the affirmative, then the most relevant question would be
- ii. Whether the Panjab University is under the Central Government or State Government.

If the answer to the above questions are in the affirmative, the only the „office” will attract the provisions of disqualification mentioned in article 102(1)(a) of the Constitution.

On examination of the point wise reply, it appears that the office of “Jawaharlal Nehru Chair Professorship” in the Panjab University is subsisting permanent and substantive position which has an existence independent of the person who filled it, as such it has all the ingredients of an „office” and since it attached with „remuneration” in the form of honorarium, etc. it would constitute an „office of profit”. It is seen from the point wise reply , it appears that the Panjab University is a University established under the State Act of East Panjab. As per the offer of appointment issued by the Vice Chancellor of the Panjab University dated 8th March, 2016, it has been issued by him on approval of the Syndicate and Senate. Whereas, in the point wise reply it is

stated that offer is made to eminent persons as recommended by a committee consisting of eminent academicians with due approval of the Governing bodies. Besides this, from the point wise reply, it is evident that the Panjab University is being funded by the State Government of Punjab and by the Central Government through the University Grants Commission. Since the Panjab University is governed by the said Act, it is not under the control of the State Government or the Central Government. On the basis of the point wise reply and discussions made above, it is clear that the Government do not exercise any control over the appointment of “Jawaharlal Nehru Chair Professorship” of the Panjab University.

In the light of the discussions made above, it is felt that the acceptance of the post of “Jawaharlal Nehru Chair Professorship” in the Panjab University by the Member of Parliament does not attract the provisions of the article 102(1)(a) of the Constitution.”

7. During the course of evidence undertaken by the Committee on 22.09.2016, the Vice Chancellor of the Panjab University briefed the Committee as under:

"...The University was recommenced in independent India in October 1947 and the Act of the University is based on the Universities Act which was enacted in 1904 which was same Act for all the five universities of India at that time – Madras, Calcutta, Bombay, Allahabad and Panjab. Small changes were made in 1904 Act adopted by Panjab State Government in the first Ordinance in 1947, then the Act in 1948. The word `East` is dropped from the East Panjab University as India became Republic on 26th January 1950 and Panjab is reorganized by an Act of Parliament in 1966. So wherever the Panjab Government is there, the same is replaced by Central Government. It was the same Act but with some modification in 1904. It is an Inter-State Body Corporate; it is the responsibility of the Central Government. Initially the States of Panjab, Haryana and Himachal were there but Himachal and Haryana were taken out their universities at Chandigarh. Today, it is an Inter-State Body Corporate Panjab University with the twin responsibility of Punjab and Central Government.

Initially, funding for the university was to come out of the fee generated by the University from tuition and examination. University had a deficit, which was met by the Punjab and Central Government. It was to be done in a certain ration – 40 per cent Punjab and 40 per cent of Central Government. Punjab Government's share is Rs.20 crore and the entire deficit of the University is met by the Central Government, the HRD Ministry through the budget of UGC. So, the university's financial status as of today is that it is an Inter-State Body Corporate. It is a State Act but it became a Central Act because the State is reorganized by the Central Act as University is located in the Union Territory of Chandigarh, which is Centrally administered through the Ministry of Home Affairs. At one time, a deficit got met via the route of Home Ministry directing the UT...."

8. On being enquired by the Committee as to whether the Panjab University is Central University, the Vice Chancellor of the University clarified as under:

" It is not a Central University. It is an Inter-State Body Corporate. It has a unique status. No other university in the country has this status. It is located in the Union Territory. There are other universities which are located in the UT. For instance, the University of Pondicherry, which is a Central University. Allahabad since become a Central University – which is only an old university created in the country which is not a Central University...."

9. When the Committee asked about the status of Panjab University and whether it falls within the domain of the Government of India or State Government of Panjab, the Vice Chancellor of the University responded as under:

"This is a very vexed question. It is the UGC classified. It is a State University when it comes to dispersal of Plan grants. The Act was initially passed by the State of Punjab, that Act becomes the responsibility of the Central Government via the virtue of an Act of Parliament at the time of reorganization of the State of Punjab in 1966. Wherever the word „Punjab Government“ is there in the original Act, that is replaced by the „Central Government“."

10. When the Committee observed that the Government is controlling the

University, the Vice Chancellor of the University responded in affirmation.

11. On being questioned by the Committee as to whether the University is entirely under the domain of the Government, the representative of the Ministry of HRD replied as under:

"There is a fair amount of autonomy."

12. When the Committee asked about the funding by the Central Government, the representative of the Ministry of HRD replied as under:

"Out of the total, roughly about 50 per cent is coming from the Ministry of Human Resource Development and the other 50 per cent are their own earnings."

13. When the Committee observed that the Panjab University is a Government body controlled by the Government, the Vice Chancellor of the University stated as under:

"Sir, universities per se are autonomous bodies."

He also further added as under:

"Yes, it is an inter-State body corporate. Universities *per se* are corporates. All universities which are part of the University Grants Commission are all autonomous. Every university is autonomous. There was a great deal of debate which went on when the University Grants Commission came into being. It has been wonderfully recorded in the book called „Sixty Years of UGC“. In that „autonomy *versus* control of UGC“, it is a very delicate balance. The University Grants Commission controls all the universities *via* the instrument of pay revision which comes in every 10 years."

14. On being observed by the Committee that even in a Central University, the Central Government has no direct power, the representative of the Ministry of HRD responded as under:

"Sir, basically the Act is saying that the Chancellor of the University shall be appointed by the Central Government by Notification in the Gazette of India and the Vice Chancellor shall be appointed by the Chancellor. These two things I would like to submit. Beyond that, if you require anything else, we will submit in writing."

15. When the Committed asked the response of the Secretary of the Ministry of Law and Justice (Legislative Department), he responded as under:

"Sir, as far as article 12 is concerned, it mentions „other authority“. Universities come within the meaning of „other authority“ under article. But article 12 restricts itself only Part III of the Constitution, that is, Fundamental Rights, whereas we are discussing this aspect under article 102 of the Constitution. In article 102, we do not have that word, „other authority“. So, that definition of State under article 12 is not relevant here."

16. On being asked about the nomination of Dr. Manmohan Singh, the Vice Chancellor of the University explained as under:

" The Punjab University created Chaired Professorships of a very special kind at the conclusion of the Golden Jubilee Year of the University in Independent India, that is, in the year 1997. The University, in its own wisdom, proposed the creation of five Chairs where eminent national icons will be invited to serve the university and visit the university as and when they have the convenience. These Chairs did not get occupied till very recently. Prof. Bamba, had proposed these Chairs in the year 1997. As a nominated member of the Punjab University Senate, he took the initiative to get these Chairs revived about a year ago. He chaired a Committee. He proposed to me. I appointed a Committee headed by Prof. S.S. Jha, the Chancellor of the Central University of Punjab and the nominated member of the Punjab University Senate. I appointed a small Committee of which Prof. Bamba was also a member. This Committee recommended that we invite national icons to occupy these Chairs and visit Punjab University for duration of their choice and their convenience whenever they wish to come. They will come and deliver few lectures, interact with the teachers and the faculty. On the day of their visit, they will be paid an honorarium of Rs. 5,000. For their coming and going, adequate arrangements will be made and they will be provided accommodation in Punjab University Guest House or in a hotel of their comfort. The university will pay for all these expenses through the Foundation of Higher Education of Punjab University which is created on

behalf of the university in which some money stands put from the savings of the university and from those savings they will be paid. So, this is how these five eminent people were chosen to occupy these Chairs and out of these five eminent people, three of them have already visited the university this year.

The first to visit was Shri Gulzar on the Tagore Chair. The second to visit was Professor Y.K. Alagh who was the former Vice Chancellor of the Jawaharlal Nehru University. He was also a former Union Minister and he is currently the Chancellor of the Central University of Gujarat. He visited for a week, just about two weeks ago. Shrimati Ela Bhatt would be arriving in Chandigarh on 1st October. She would participate in the Gandhi Jayanthi celebrations at the campus at Gandhi Bhawan on 2nd October, she would deliver the Punjab University Foundation Day Lecture on the Punjab University Campus on 3rd October, will interact with the Department of Gandhian Studies and the Department of Philosophy and would return to Ahmedabad on 4th October.

Then, Gen. K.J. Singh, who retired as the General Officer Commanding of the Western Command who had created the Think Tank called *Gyan Chakra* when he was serving there, he was appointed the Maharaja Ranjit Singh Chair Professor and he assumed that position on 18th August. He also delivered a lecture. He occasionally comes, sometimes once a week, sometimes twice a week. But he is stationed at Chandigarh. Whichever day he comes, he receives an honorarium of Rs. 5,000."

17. On being observed by the Committee that this is the first time that a Member of Parliament is offered this seat, the Vice Chancellor of the University responded in affirmation.

18. When the Committee asked as to whether Dr. Manmohan Singh accepted the offer in principle, the Vice Chancellor of the University replied as under:

"Not yet."

19. On being enquired by the Committee as to whether the teachers or professors of the Panjab University are considered as Government employees or whether the post of chair/professorship is outside the scope of the Government of India/State Government, the Vice Chancellor of the University stated as under:

" Chair/professorships are honorary professorships, which do not have any administrative responsibilities; nor do they have any financial powers to spend any money on behalf of the universities. These are purely academic things to come, interact with the students and return."

20. On being asked by the Committee about the views of the Secretary of the Ministry of Law & Justice (Legislative Department), he submitted as under:

" Sir, we have to examine this aspect under Article 102(1)(a). It says that „a person shall be disqualified if he holds office of profit under the Government of India unless he is exempted from this Act."

These are two limbs of this Article 102. We need not examined the second limb. First we have to examine the first limb if a person held office of profit under the Government of India. No doubt this is an office of profit because this professorship is a continuing one and a permanent one and independent from the person. There is an office but profit is also there because he is getting an honorarium of Rs. 5000. Next question is whether that comes under the Government of India or not. Though there is an office of profit but since it is not coming under the Government of India, this Article 102 is not fulfilled and hence Dr. Manmohan Singh can accept the professorship of Panjab University. "

21. When the Committee asked the views of the Secretary of the Ministry of Law & Justice (Department of Legal Affairs) on the issue, he submitted as under:

"Sir, the issue before us is as to whether by accepting the Professor Chair in the Panjab University, hon. Member of Parliament, Dr. Manmohan Singh, is disqualified. We have to consider his letter which he has written in the light of the provisions of Article 102. Under Article 102, there are four ingredients – there must be an office, there must be a pecuniary benefit attached with

the post and it should be under the Government and the last one is other than an office declared by the Parliament by law not to disqualify by its holder. The first ingredient is there that there is an office. Second ingredient is also there that he gets pecuniary benefits because he gets honorarium. And the last one also that it is not the one which is other than which are mentioned in the schedule. Now the question comes only whether it is under the Government. Of course, Universities come within the definition of State under Article 12 of the Constitution but strictly speaking it is not under the Government because the appointment is being made by the senate. Maybe whatever our colleague Dr. Raju has explained but the appointment is not made by the Government, this ingredient to my mind is not fulfilled. Now, the Committee has to take a view on this, if one ingredient that is the under the Government is a very dicey question and not a single judgment is a complete one. But at the same time there are some authorities wherein the Supreme Court has said that these appointments which are not made by the Government are not under the Government, neither these can be dismissed nor these can be appointed by the Government. So, all these things are not directly having a connection because the appointment is made by other authority body not only directly but by the senate. To my mind, as a Law Secretary, I feel that this ingredient of „under the Government“ is not fulfilled. "

In this context, Secretary of the Ministry of Law & Justice (Legislative Department) also added as under:

"Sir, as I have said earlier, same is my view. But I want to add here one more point. Article 12 uses the term „other authority“ but article 102 does not use that term. Again I will bring to this hon. Committee“s attention in 58(2) relating to President and Vice-President Elections. They have used the words:

“A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.”

See, here also the term „other authority“ is coming but clearly it is not coming in Article 102. That means, the intention of the Parliament is clear that they do not want to bring the concept of „other authority“ here in Article 102. That is all. "

22. The Committee in its 4th Report (16th Lok Sabha) opined in the context of Dr. Anupam Hazra, MP that the office under Viswa Bharat University is not an office 'under the Government' and therefore, Dr. Hazra does not hold an office of profit by holding the office of Assistant Professor in that University and hence he does not incur any disqualification for being a Member of Parliament under Article 102(1)(a) of the Constitution of India.

23. In this connection, relevant pronouncements delivered by Hon'ble Supreme Court/High Courts/Other Courts are mentioned here under:

S.No	Title of Case	Decision of Nature of Office	Test Applied	Authority
1.	Mahadeo v. Shantibhai and Others (40 ELR Vol. XL, p.81)	(i) xx xx xx (ii) xx xx xx (iii) Office of Professor of law in the Madhav college, Ujjain do not constitute offices of profit under the Government.	(i) The office of profit was one, which enabled him to make a profit, irrespective of whether the holder himself made profit. (ii) Office means a fixed position for performance duties.	Supreme Court concurred with the High Court's decision
2.	Hari Das V. Hira Singh Pal & Others (1953 ELR Vol. IV; p.468)	Employee of University of Punjab is not a holder of office of profit under the Government.	Government control and administration test: whether the Government has any hand in the administration of the University? Appointment and removals other than those of the Chancellor and Vice Chancellor are made by the University and not by the Government.	Election Tribunal, Himachal Pradesh

Observations/Recommendations

24. The Committee note that Panjab University, Chandigarh has offered the Jawaharlal Nehru Chair Professorship to Dr. Manmohan Singh, former Prime Minister and Member, Rajya Sabha. His name for the Chair Professorship has been approved by the Syndicate and Senate of the Panjab University. It was informed to the Committee that Panjab University is being funded by the State Government of Punjab and by the Central Government i.e. Ministry of Human Resource Development through UGC. The University will pay him an honorarium of Rs 5000/- per day during his visits, bear the expenses of airfare and provide furnished accommodation at the campus alongwith an official vehicle as a local transport. Dr. Singh would be free to choose the convenient time and duration of the visits and mode of interaction and for delivery of lectures to the students and faculty. The Committee also note that the Chair is appointed on the recommendation by a committee consisting of eminent academicians with due approval of the Governing body. The persons appointed on this Chair is expected to visit the University for a short duration. The Chair Professorship neither have any administrative responsibility nor any decision making power including that of appointment/removal/influence or power by way of patronage. The Committee also note that this is the first time that a Member of Parliament has been offered the Chair Professorship.

25. As per Article 102(1) of the Constitution, a person who holds any office of profit under the Government of India or of any State shall be disqualified and he is not eligible to be chosen as a Member of Parliament or to continue as one unless such office has been declared by Parliament by law not to disqualify the holder In so far as the law made by Parliament is concerned, the Parliament (Prevention of Disqualification) Act, 1959 has been enacted to declare certain offices of profit under the Government not to disqualify the holders thereof for being chosen as, or for being, a Member of Parliament. As per Section 3 of the said Act, certain offices of profit under the Government for being chosen as, or being , a Member of Parliament. Under clause (f) of Section 3 of the said Act, the office of chairman or member of the syndicate, senate, executive committee, council or court of a university or any other

body connected with a university has been exempted. However, the said clause does not provide for exemption of “Jawaharlal Nehru Chair Professorship” of a University from incurring disqualification.

26. The Secretary of the Ministry of Law & Justice (Legislative Department) was of the opinion that the office of "Jawaharlal Nehru Chair Professorship" has all the ingredients of an 'office' and it would constitute an 'office of profit' since 'remuneration' in the form of honorarium etc. is attached with it. However, the Panjab University is governed by the State Act and therefore, it is not under the control of the State Government or the Central Government. The offer of the Chair Professorship has been issued by the Vice Chancellor of the Panjab University on the approval of the Syndicate and Senate of that University and on the recommendation by a committee consisting of eminent academicians with due approval of the Governing Body. Thus, it is clear that the Government do not exercise any control over the appointment of "Jawaharlal Nehru Chair Professorship" of the Panjab University. It was also argued by the Law Secretary that Universities come within the meaning of 'other authority' under Article 12 of the Constitution which restricts itself only Part III of the Constitution i.e. Fundamental Rights whereas the issue under reference falls under Article 102 of the Constitution which do not have the word 'other authority'. So the definition of State under Article 12 is not relevant in the context of the instant case. According to him, there are some authorities wherein the Supreme Court has said that appointments which are not made by the Government are not under the Government as neither these can be dismissed nor can be appointed by the Government. So he felt that the ingredient 'under the Government' in the context of the present case is not fulfilled. Secretary of the Ministry of Law & Justice (Legislative Department) also contended that although the term 'other authority' is coming in Article 12 but the same is not coming in Article 102 which clearly shows the intention of the Parliament that they do not bring the concept of 'other authority' under Article 102 of the Constitution.

27. The Committee also note its opinion given in its 4th Report (16th Lok Sabha) in the context of Dr. Anupam Hazra, MP that office under Visva Bharati University is not an office under the Government and therefore, Dr. Hazra does not hold an office of profit by holding the office of Assistant Professor in that University and hence he does not incur any disqualification. Likewise in certain cases, the Courts/Tribunals have taken the view that employment under the University do not constitute an office of profit under the Government.

28. In view of the foregoing, the Committee are of the considered opinion that the office of 'Jawaharlal Nehru Chair Professor" does not fall with in the purview of the Government and therefore, the acceptance of offer of Jawaharlal Nehru Chair Professorship of Panjab University by Dr. Manmohan Singh, former Prime Minister and MP, Rajya Sabha may not attract the angle of 'office of profit' incurring disqualification for being chosen as, or for being a Member of Parliament under Article 102(1)(a) of the Constitution of India.

NEW DELHI:

04 October, 2016
12 Asvina, 1938 Saka

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

WITNESSES

Ministry of Law & Justice

(i) (Legislative Department)

- | | | | |
|----|------------------------|---|-------------------------------|
| 1. | Dr. G.N. Raju | - | Secretary |
| 2. | Dr. M. Vijayawargiya | - | Additional Secretary |
| 3. | Shri R.S. Jayakrishnan | - | Assistant Legislative Counsel |

(ii) (Department of Legal Affairs)

- | | | | |
|----|---------------------|--|-------------------------------|
| 1. | Shri Suresh Chandra | | Secretary |
| 2. | Shri S.R. Mishra | | JS & Legal Advisor |
| 3. | Shri R.S. Verma | | Deputy Legal Adviser Dir, MOC |

Ministry of Human Resource Development

(Department of Higher Education)

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| 1. | Shri. R. Subrahmanyam | | Additional Secretary |
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Panjab University, Chandigarh

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| 1. | Prof. Arun Kumar Grover | | Vice-Chancellor |
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Ministry of Culture

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REPRESENTATIVES OF THE MINISTRIES

THE MINISTRY OF LAW AND JUSTICE

(i) LEGISLATIVE DEPARTMENT

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| 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

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

MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF HIGHER EDUCATION)

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| 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.

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The Committee then adjourned

Matter not related to this subject.

