

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

**TWELFTH 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 |

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\$ 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 Twelfth Report of the Committee.

2. At their sitting held on 22 September, 2016, the Committee examined the term, composition, character, functions, etc., of the Council of Asiatic Society, Kolkata with a view to consider as to whether the Nomination of Shri Pradip Bhattacharya, MP, Rajya Sabha to the Council of Asiatic Society, Kolkata at 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 Asiatic Society, Kolkata; Ministries of Culture and Law and Justice (Legislative Department and Department of Legal Affairs) 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**

**DR. SATYAPAL SINGH**

**Chairperson,**

**Joint Committee on Offices of Profit**

**12 Asvina, 1938 Saka**

## REPORT

### **Nomination of Shri Pradip Bhattacharya, MP, Rajya Sabha to the Council of Asiatic Society, Kolkata.**

In his letter dated 20.07.2016 addressed to Hon'ble Chairman, Rajya Sabha, Shri Pradeep Bhattacharya, MP Rajya Sabha and the Chairman, Parliamentary Standing Committee on Home Affairs has stated that he is connected with Asiatic Society, Kolkata, an institute of national importance and this year, the Employees Union has elected him as President of the Union. As per the constitution of the Asiatic Society, the President of the Union automatically will be the member of the Council. He has added that as a member of the Council, he will not take any remuneration or fees from the Asiatic Society. He has, therefore, desired to know as to whether being a Member of the Rajya Sabha, he could be a member of the Council. While forwarding the aforesaid letter dated 20.07.2016 from Shri Bhattacharya, Rajya Sabha Secretariat vide their note RSS ID No. 7(2)/2016-coord. dated 22 July, 2016 have requested to place the matter before the Joint Committee on Offices of Profit for consideration and recommendation as to whether or not the nomination of Shri Bhattacharya to the aforesaid Society could be considered as a disqualification for being a Member of Parliament.

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. As per the information furnished by the Ministry of Culture (**Annexure-II**), the Asiatic Society is a registered body under the West Bengal Societies Registration Act, 1961 and it was declared as an Institution of National Importance by an Act of Parliament in the year 1984. At present, it is an Autonomous Body under the Ministry of Culture, Government of India. Administration of the Society is run by the Council by virtue of the Asiatic Society Act, 1984 and is fully funded by Government of India. Asiatic Society, Kolkata has 1270 life member and 164 Ordinary Members. The total membership of Society is 1534 at present. 20 Office bearers and the other members of the Council of the Asiatic Society are elected by members of the Society for two years and there are 6 nominated members as follows:

- i. 4 nominees from Government of India
- ii. 1 nominee from Government of West Bengal
- iii. 1 representative from Asiatic Society Employees' Union.

The Government does not exercise any control over the appointment to and removal from the office and over the performance and functions of the office. Only conveyance allowance is being paid to the Council members of the Asiatic Society for attending the meeting. No facilities including fees and remuneration, etc. are given or proposed to be given to the Member of Parliament as a member of the Council of Asiatic Society. Shri Pradip Bhattacharya as a member of the Society as well as the President of the Asiatic Employees Union does not take any sitting fee, daily allowance, travelling allowance, house rent, compensatory allowance, honorarium including conveyance allowance charges from the Asiatic Society, Kolkata.

6. The powers and duties of the Council are regulated as per Rule 41 of the Asiatic Society Act, 1984, Regulations and Bye-laws of the Asiatic Society **Annexure III**. It may be seen that the powers and duties of the Council are administrative and executive in nature.

7. In the context of instant case, it may be stated that Shri Pradip Bhattacharya has been elected as the President of the Employees Union and as per the constitution of the Asiatic Society, the President of the Union automatically become a member of the Council. The Council which acts as the Governing Body of the Society has not been listed in the Schedule of the Act of 1959 granting any exemption to its members from incurring disqualification. Further, as stated above, under section (m) of the Act of 1959, no explicit exemption has been granted to the member of the Governing Body of any registered society.

8. The Joint Committee on Offices of Profit took oral evidence of the Ministry of Culture on the issue at their sitting held on 22.09.2016.

9. At the outset, the Secretary of the Ministry of Culture briefed the Committee as under:

"Sir, to become the member of the Governing Council, there is a position of nomination of one person from the Employees Union of Asiatic Society. The hon. MP is the Chairperson or the Chairman of that Employees Union. So, he

has come on this. He is not paid any remuneration. He could have been given the conveyance allowance. Even that he is not taking."

10. When the Committee asked the question as to whether he accepted the remuneration or not but whether the provision is there or not, the Secretary of the Ministry responded as under:

"Provision is there to give the conveyance allowance only.

He also added as under:

"..So, as per us, he does not seem to fall in the disqualification category. He can be allowed."

11. On being asked by the Committee about the criteria for becoming a member of the Council, the General Secretary of the Asiatic Society, Kolkata stated as under:

" Post graduation degree and some research background. Every two years, this Council gets elected and there are six nominations: four from the Central Government representatives, one from the State Government, and one from – as in the case of Pradip Bhattacharya – the President of the Employees Union. So, he represents. Prof. Bhattacharya was in the same position for a long time; from the records it seems. He served the Society in very many capacities as elected member also sometimes and even as a member of the Planning Board which is the highest board for guiding the academic programmes and activities which our hon. President of India once held this position, Chairman of the Planning Board. So, as it stands – and I have studied the queries etc. – there is absolutely no financial benefit, no extension of other perks or any advantages either by way of having office or using car. There is absolutely nothing. He does not even take that whatever is nominal fees given for conveyance allowance to the members."

12. When asked by the Committee about the funding to the Asiatic Society, the General Secretary of the Asiatic Society, Kolkata responded as under:

"The Central Government fully funds it ever since it was started."



### Observations/Recommendations

13. The Committee note that Asiatic Society, Kolkata is a registered body under the West Bengal Societies Registration Act, 1961 and it was declared as an Institution of National importance by an Act of Parliament in the year 1984. Administration of the Society is run by the Council by virtue of the Asiatic Society Act, 1984 and is fully funded by the Government of India. 20 office bearers and the other members of the Council of the Asiatic Society are elected by members of the Society for two years and there are 6 nominated members , out of which 4 are nominees from Government of India, 1 is from Government of West Bengal and 1 is the representative from Asiatic society Employees' Union. As per Constitution of Asiatic Society, the President of Union automatically becomes the member of the Council. The Government does not control over to an removal of the office over the performance and function of the office. Only Conveyance Allowance is paid to the member of Asiatic Society, Kolkata for attending the meeting.

14. The Committee also note that Shri Pradip Bhattacharya, MP, Rajya Sabha has been elected as President of the Union and therefore, as per the constitution of the Asiatic Society, he has automatically become the member of the Council of the Society. It was also informed to the Committee that only conveyance allowance is being paid to the Council members of the Asiatic Society for attending the meeting. No facilities including fees and remuneration, etc. are given or proposed to be given to the Member of Parliament as a member of the Council of Asiatic Society. Shri Pradip Bhattacharya as a member of the Society as well as the President of the Asiatic Employees Union does not take any sitting fee, daily allowance, travelling allowance, house rent, compensatory allowance, honorarium including conveyance allowance charges from the Asiatic Society, Kolkata.

15. The Committee also note that although, Asiatic Society is fully funded by the Central Government, the Government as such has no control over the appointment to or removal from the office and over the functions of the registered society. Further, under section (m) of the Parliament (Prevention of Disqualification) Act of 1959, the office of Chairman, President, Vice President or Principal Secretary or Secretary of the Governing Body of any society

registered under the Societies Registration Act, 1860 are exempted from incurring disqualification.

16. In view of the foregoing, the Committee are of the considered opinion that the nomination of Shri Pradip Bhattacharya, MP, Rajya Sabha, as representative from Asiatic Society Employees' Union, to the Council of the Asiatic Society, Kolkata 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.

**DR. SATYAPAL SINGH**

**NEW DELHI:**

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

**04 October, 2016**  
**12 Asvina, 1938 Saka**

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 Jaiikhani - Director
3. Smt. Maya Lingi - Additional Director

**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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**Panjab University, Chandigarh**

XX    XX    XX    XX

**Ministry of Culture**

- |    |                            |  |
|----|----------------------------|--|
| 1. | Shri Narendra Kumar Sinha  | Secretary (Culture)                              |
| 2. | Shri Pankaj Rag            | Joint Secretary (Culture)                        |
| 3. | Ms. Deepika Pokharan       | Director, MOC                                    |
| 4. | Dr. Satyabrata Chakrabarti | General Secretary, The Asiatic Society, Kolkata. |

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.

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3. The representatives of the Ministries of Law and Justice (Legislative Department), Human Resource Development and that of Panjab University thereafter ushered in.

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8. After brief welcome by the Chairperson, the representatives of Ministry of Culture and Asiatic Society were asked them to brief the Committee on the issue concerning nomination of Sh. Pradip Bhattacharya MP (Rajya Sabha) to the Council of Asiatic Society, Kolkata. Since Sh. Pradip Bhattacharya, being the President of the Employees Union has been nominated to the Council. He is not paid any remuneration though he is entitled for the conveyance allowance. The General Secretary, Asiatic Society further informed that Asiatic Society is an institution of national importance declared in 1994 by the Parliament Act. The Council is an elected body for two years looking after the administration. The Body have 26 members and 20 out of these are directly elected by the members of the Society. Every two years, this Council gets elected and there are six nominations: four from the Central Government representatives, one from the State Government, and one from – as in the case of Pradip Bhattacharya – the President of the Employees Union.

9. While taking note of the fact that the Government has no control over the registered societies and the position taken by the Committee in the past in the context of Dr. Anupam Hazara, Professor of Vishwa Bharti University, the registered Societies are exempted from disqualification, the Committee unanimously held the view that the nomination of the Hon<sup>ble</sup> MP to the Asiatic Society would not attract disqualification from the angle of „Office of Profit“.

10. The Witnesses then withdrew.

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

The Committee then adjourned.

**EXTRACTS OF MINUTES OF THE THIRTY SEVENTH SITTING OF**  
**THE JOINT COMMITTEE ON OFFICES OF PROFIT (SIXTEENTH LOK SABHA)**  
**HELD ON 04 OCTOBER, 2016**

The Committee met on Tuesday, 04 October, 2016 from 1100 hrs to 1200 hrs. in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi.

**PRESENT**

Dr. Satya Pal Singh - Chairperson

**MEMBERS**

**LOK SABHA**

2. Shri T.G. Venkatesh Babu
3. Smt. Meenakshi Lekhi
4. Shri M.K. Raghan
5. Kunwar Pushpendra Singh Chandel
6. Shri. Janardan Mishra

**RAJYA SABHA**

7. C.P. Narayanan

**SECRETARIAT**

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

## 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

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# Matter not related to this subject.