

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

**TWENTY SECOND REPORT**

Presented to Lok Sabha on 28.07.2017

Laid in Rajya Sabha on 28.07.2017



**LOK SABHA SECRETARIAT  
NEW DELHI**

**July, 2017 / Shravana, 1939 (Saka)**

**Price : \_\_\_\_\_**

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

**\$ Dr. Satya Pal 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. Shri Sharad Yadav

**SECRETARIAT**

- |    |                       |                     |
|----|-----------------------|---------------------|
| 1. | Dr. Preeti Srivastava | Joint Secretary     |
| 2. | Smt Rita Jaikhani     | Director            |
| 3. | Smt. Maya Lingi       | Additional Director |
| 4. | 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 Sharad Yadav nominated as Member of the Committee *vide* Bulletin Part-II dated 02.08.2016 (Para No.3952).

## **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 Twenty First Report of the Committee.

2. At their sitting held on Thursday, 04<sup>th</sup> May, 2017 the Committee examined the term, composition, character, functions, etc., of the re-constitution of the Saharia Vikas Samittee with a view to consider as to whether the nomination of Shri Dushyant Singh, Member of Parliament to the re-constitution of the Saharia Vikas Samittee 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 Tuesday, 20<sup>th</sup> June, 2017.

4. The Committee wish to express their thanks to the Ministry of 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:**

**24 June, 2017**

**02 Ashadha, 1939 (Saka)**

**DR. SATYAPAL SINGH**

**Chairperson,**

**Joint Committee on Offices of Profit**

## REPORT

### **Nomination of Shri Dushyant Singh, Member of Parliament as a Member to the re-constitution of Saharia Vikas Samittee, Jaipur.**

.....

The Government of Rajasthan has sought the permission of Hon'ble Speaker, Lok Sabha for nomination of Shri Dushyant Singh, MP as a Member of the re-constitution of Saharia Vikas Samittee, Jaipur.

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 mount of daily allowance to which a Member of Parliament is entitled under the Salary, Allowance 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, in order to determine whether an office held by a person is an office of profit under the Government, the Joint Committee on Office of Profit, in their Tenth Report (7<sup>th</sup> Lok Sabha), presented to Lok Sabha on 7<sup>th</sup> May, 1984 (**Annexure-II**), laid down the following guiding principles: -

"The broad criteria for the determination of the question whether an office held by a person is an office of profit have been laid down in

judicial pronouncements. If the Government exercises control over the appointment to an dismissal from the office and over the performance and functions of the office and in case the remuneration or pecuniary gain, either tangible or intangible in nature, flows from such office irrespective of whether the holder for the time being receives such remuneration or gain or not, the office should be held to be an office of profit under the Government. Otherwise, the object of imposition of the disqualifications as envisaged in the Constitution will become frustrated. This first basic principle should be the guiding factor in offering positions to a member of the Legislature."

5. Keeping the above position in view, the Joint Committee on Office of Profit have been following the undernoted criteria to test the Committees, Commissions, etc., for deciding the question as to which of the offices should disqualify and which should not disqualify a person for being chosen as, and for being a Member of Parliament: -

- (i) whether 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, like sitting fee, honorarium, salary, etc. i.e. any remuneration other than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959;  
  
(The Principle thus is that if a member draws not more than what is required to cover the actual out of Pocket expenses and does not give him pecuniary benefit, it will not act as a disqualification).
- (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 licences, etc., or gives powers of appointment, grant of scholarship, etc.; and
- (iv) Whether the body in which an office is held wields influence or power by way of patronage.

If reply to any of the above criteria is in affirmative then the office in question will entail disqualification.

6. As per the information furnished by the Government of Rajasthan, the Saharia Vikas Samittee is constituted *vide* Government of Rajasthan Order No. F 25(43)Part-II Tad/77/5240-45 Jaipur dated 24<sup>th</sup> December, 1977. The Samittee is an *ad hoc* one and it runs during the tenure of each assembly. The re-constituted Samittee consist of following 20 members:-

S. No.	Name	Designation
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1.	Collector, Bara.	President
2.	Shri Dushyant Singh, MP (LS), Bara, Jhalwara.	Member
3.	Shri Nand Lal Suman, Chief Secretary, Bara.	-do-
4.	Shri Lalit Meena, MLA, Kishanganj, Shahbad.	-do-
5.	Ms. Nidhi Chandel, President Panchayat, Shahbad.	-do-
6.	Shri Seva Ram Mena, President Panchayat, Shahbad.	-do-
7.	President, Central Cooperative Bank, Bara.	-do-
8.	President, Bhoomi Vikas Bank, Bara.	-do-
9.	Shri Badri Lal Putra Bakshi, Resident, Saharia Sanwada.	-do-
10.	Shri Munna Lal Saharia, Resident Panavada Teh. Shahbad.	-do-
11.	Shri Kesri Lal Mehta, Resident Khushiyara Teh. Shahbad.	-do-
12.	Regional Manager, Bara.	-do-
13.	Deputy Director, Department of Agriculture, Bara.	-do-
14.	Superintendent Engineer, Department of Water, Bara.	-do-
15.	Zonal forest officer, Bara.	-do-
16.	Assistant Registrar, District Committee Bara.	-do-
17.	Superintendent Engineer, Department of Water, Kota.	-do-
18.	Chief Executive Officer, District Council, Bara	-do-
19.	Additional Commissioner, Department of Regional Tribal Development Udaipur.	-do-
20.	Additional District Collector and Planning Officer, Shahbad, Bara.	-do-

Shri Dushyant Singh will be Ex-officio Member of the Committee in his capacity as Member of Parliament and will remain so during his membership of Parliament.

7. The functions of the Samittee are advisory and are as follows :-

- (a) To identify the beneficiaries.
- (b) To do micro-planning on the basis of local circumstances and available resources of Plan Report.
- (c) To prepare annual budget, plans for construction work and identify the work places.
- (d) To survey for execution of plans.
- (e) To get the approval of plans for development of Regional Tribes and invite suggestions for new plans for changes in Reports.
- (f) To identify loan giving organisations and to fill up loan forms and execute them.
- (g) To organise training programmes for beneficiaries and others.
- (h) To identify the persons to whom loan can be given and extended its help for executive of the same.
- (i) To evaluate the execution of plans, related expenditure and its benefits.

8. As regards the remuneration payable to the Members of the Samittee, the State Government in their reply have stated that there is no provision of honorarium or any-payment to any member of the Committee.

9. The Ministry of Law and Justice (Department of Legal Affairs) *vide* their OM No.272460/LS/2017 dated 27<sup>th</sup> April, 2017 has opined :-

- 2. .... it appears that the Regional Development Department of the State Government of Rajasthan has proposed to reconstitute "Saharia Vikas Samittee" (which was originally constituted in terms of Government of Rajasthan order No.F-25(43) Part II-TAD/77/5240-45 dated 24-12-1977). In the reconstitution of the Committee it is proposed to nominate Shri Dushyant Singh, Hon. Member of Lok Sabha from Jhalawad Constituency, as a Member of the Samittee. The State Government of Rajasthan has sought concurrence from the Hon. Speaker, Lok Sabha for nomination of Shri Dushyant Singh.
- 3. They have examined the matter. As provided in Article 102(1) (a), of the Constitution, 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. The Parliament (Prevention of Disqualification) Act, 1959 has been enacted by the Parliament to declare that certain offices, holder of which do not disqualify on the ground of office of profit. Section 3(h) of the Act declares that holder of certain offices, if set up temporarily for advising the Government do not fall within the category of 'office of profit'. Section 3(h) reads as under :

"Section 3 - Certain offices of profit not to disqualify

It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament, namely --

(h) the office of chairman or member of a committee (whether consisting of one or more members), set up temporarily for the purpose of advising the Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry into or collecting statistics in respect of, any such matter, if the holder of such office is not entitled to any remuneration other than compensatory allowance."

The term 'compensatory allowance' has been defined in Section 2(a) which reads as under :-

"compensatory allowance" means 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 term 'Office of Profit' has not been defined either in the Constitution or in the Act of 1959. However, the Supreme Court, in its various judgments has held that in common parlance the expression "profit" connotes an idea of some pecuniary gain. (*Shibu Soren v. Dayanand Sahay*, (2001) 7 SCC). In *Jaya Bachchan V. Union of India*, (2006) 5 SCC 266 the Supreme Court has ruled that an office of profit is an office which is capable of yielding a profit or pecuniary gain. The Court has observed as under :-

*"An office of profit is an office which is capable of yielding a profit or pecuniary gain. Holding an office under the Central or State Government, to which some pay, salary, emolument, remuneration or non-compensatory allowance is attached, is "holding an office of profit".*

*"For deciding the question as to whether one is holding an office of profit or not, what is relevant is whether the office is capable of yielding a profit or pecuniary gain and not whether the person actually obtained a monetary gain. If the "pecuniary gain" is "receivable" in connection with the office then it becomes an office of profit, irrespective of whether such pecuniary gain is actually received or not. If the office carries with it, or entitles the holder to, any pecuniary gain other than reimbursement of out of pocket / actual expenses, then the office will be an office of profit for the purpose of Article 102(1)(a)."*

5. In *U.C. Raman v. P.T.A. Rahim*, (2014) 8 SCC 934 while following *Jaya Bachchan's* case, the Supreme Court observed :-

"This Court has given categorical clarification on more than one occasion that an "office of profit" is an office which is capable of yielding a profit or pecuniary gain. The word "profit" has always been treated equivalent to or a substitute for the term "pecuniary gain". The very context, in which the word "profit" has been used after the words "office of", shows that not all the offices are disqualified but only those which yield pecuniary gains as profit other than mere compensatory allowances, to the holder of the office. There is no requirement to make a departure from the long line of established precedents on this issue."

6. As per the information provided by the State Government of Rajasthan, Saharia Vikas Samittee is an *ad hoc* Committee. As per para 9 of Appendix I, functions of the Committee are stated to be advisory in nature. It is clearly mentioned in the Appendix I that there is no provision for honorarium, remuneration or any payment to any of the Member of the Committee. It is also stated therein that Shri Dushyant Singh will be ex-officio Member of the Committee in this capacity as Member of Parliament and will remain so during his membership of Parliament.

7. In view of the fact that there is no provision for payment of any kind of money or honorarium to the Hon. Member of Parliament for being nominated as a Member in the Saharia Vikas Samittee and also taking into account the functions of the Committee (which is stated to be advisory in nature), the Office of the Member of Saharia Vikas Samittee (for which Shri Dushyant Singh, Hon. MP is proposed to be included as Member) does not appear to fall within the ambit of Office of Profit in view of law laid down and provisions contained in Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959.
10. In this connection, the Ministry of Law and Justice (Legislative Department) *vide* OM F. No.17(1)/2017-Leg.III dated 3<sup>rd</sup> May, 2017 *inter-alia* has stated as follows:-
  3. .... it is seen that the Saharia Vikas Samittee was originally constituted by the Government of Rajasthan *vide* its order dated 24<sup>th</sup> December, 1977 and the same has been re-constituted *vide* order dated 'nil' by including Shri Dushyant Singh, MP as a Member to the said Samittee.
  4. The question under consideration is whether the nomination of Shri Dushyant Singh, Hon. Member of Parliament to the Saharia Vikas Samittee would attract disqualification from membership of the House under 'Office of Profit' under sub-clause (a) of clause (1) of article 102 of the Constitution.
  5. *Vide* paragraph 2 of the re-constitution order, functions of the Samittee have been detailed as serial numbers 1 to 9. The functions *inter alia* includes identification of beneficiaries', selection of persons who are eligible to get grants and also to make arrangement for approval of their grants, etc. Further, *vide* paragraph 4, it is stated that the functions include absolute authority / right to use the budget approved by the State Government. It is also stated in paragraph 5 that the State Government will be competent to give orders and directions to the Samittee and it is mandatory for the Samittee to comply with such orders and directions. In paragraph 6, it is stated that the Samiti shall have absolute administrative control over district level officers. Though it is stated in paragraph 7 that registration of

Samiti is done under the Rajasthan Registration of Society Act, 1958 and that regulation / monitoring of various programmes of the Samittee will be done as per the Memorandum of Association, the State Government of Rajasthan has neither stated against serial number 3 in Annexure I nor provided any documents to this Department evidencing that the Samittee is registered as a Society. Copy of the Memorandum of Association referred in paragraph 7 of the order is also not enclosed for reference. In this regard, the attention of the Committee is drawn to the order dated 24<sup>th</sup> December, 1977 under which the Samittee was originally constituted. The functions and other points discussed above are similar in the said order also. It is stated in the said Order also that the Samittee is registered under the Rajasthan Registration of Society Act, 1958 and regulation / monitoring various programmes of the Samittee will be done as per the Memorandum of Association.

6. In Appendix-I forwarded by the State Government, it is stated against serial number 2 that the Samittee is an *ad hoc* one and it runs during the tenure of each Assembly. Further, against serial number 6, it is stated that there is no provision to pay honorarium, payment of remuneration or any type of profitable payment. However, no orders / circulars regarding the same are forwarded by the State Government. Against serial number 9, it is stated that the functions of the Samittee are advisory in nature. It is pertinent to mention herein that the enclosures received from the State Government of Rajasthan did not contain the list of points which is usually being forwarded by the Committee to this Department for opinion.
7. Now, on going through the re-constitution Order, it is seen that powers and functions of the Samittee are executive and financial in nature, and, therefore come within the criteria consistently adopted by the Joint Committee on Offices of Profit for disqualifying a person for being chosen as and for being a Member of Parliament. Further, it is stated in the said Order in paragraph 5 that the State Government shall be competent to give orders and directions to the Samittee and it shall be compulsory for the Samittee to adhere to the rules and directions.

8. In this context, the attention of the Committee is also drawn to the Ninth Report of the Joint Committee on Offices of Profit, (Tenth Lok Sabha) which had examined the proposal to nominate Shri Dau Dayal Joshi, MP Lok Sabha as a Member to Saharia Vikas Samittee for all round development of Saharia tribes of Rajasthan in which the Committee had recommended as follows :-

"3.3 The Committee further note that the Saharia Vikas Samittee has been set up for an all round development of Saharia tribes. For this purpose the Samittee might identify the beneficiaries, prepare annual budget, conduct regulate, monitor and evaluate the amount spent and benefit earned from the programme etc.

3.4 The Samittee would also have full powers to utilise funds provided in the budget approved by the State Government. In the matters of implementation, the Samittee has full administrative control over the District Level Officers. The funds received from the Government of India and the State Government would be given to the Samittee. As such, the functions performed by the Samittee are executive and financial in nature.

3.5 In this connection, attention of the Committee was drawn to their own recommendations made in Tenth Report (Seventh Lok Sabha) presented to Lok Sabha on 7<sup>th</sup> May, 1984 that if the Body, in which office is held exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarship etc. then the office in question will entail disqualification.

3.6 Keeping in view the aforesaid, the Committee recommend that non-official members (including Members of Parliament, if nominated) of the said Samittee may not be exempted from disqualification for being chosen as, or for being, a Member of Parliament."

9. The Committee had come to such a conclusion on the basis of the functions of the said Samittee which include identification of beneficiaries, prepare annual budget, conduct survey for perfect planning and implementation, prepare credit plans and regulate, monitor and evaluate the amount spent and benefit earned from the

programme etc.

10. The functions of the re-constituted Samittee are also similar in nature and for the same reasons as held by the Committee in its earlier decision, this Department is of the view that the nomination of Shri Dushyant Singh, Member of Parliament to Saharia Vikas Samittee, Jaipur may also entail disqualification.

11. In this connection, the Joint Committee on Offices of Profit called the representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) for oral evidence on Thursday, 04<sup>th</sup> May, 2017. During the evidence, the representatives of the Legislative Department briefed the Committee as under :

"Sir, the Samittee will have absolute control over the District level officers who are dealing with the disbursement of grants, etc. It was said that this Samittee was constituted or registered under the Rajasthan Registration of Societies Act, 1958 but unfortunately, we do not have any records to show that this was a registered society. The State Government has not sent any documents to us in this regard. Also, Sir, we do not have any copy of the memorandum of association which lays down the rules of this society.

The function of this society tends to show that is an *ad hoc* committee. Though it is an *ad hoc* committee, it is said that it runs during the whole tenure of the Legislative Assembly.

Sir, the most important thing is that this august Committee had on occasion to deal with the nomination of one of the Hon. Members Shri Dau Dayal Joshi and in its Report in 1995, the Committee came to a conclusion that the function of the Committee tends to show that the Member would be disqualified under the Act and the Constitution. So, a finding has already been done there. We do not have any documents to show that any of the functions have been changed. So, going by the same analogy, we are of the opinion that we have to go by the earlier decision of this Committee."

12. Further, the Committee stated that the Samittee is constituted for development of Saharia Community. Funds have been allocated by the State Government for identifying the beneficiaries thus the functions of the Samittee are executive in nature, would influence by way of patronage. The Committee also

observed that it would not be appropriate for a Member of Parliament to work under the Chairmanship of District Collector.

13. While the representative of the Ministry of Law and Justice, Department of Legal Affairs stated as under :

"According to the information received from the State Government, there is no monetary benefit given to the Hon. Member and the work of Samittee is advisory in nature. Therefore, we came to the conclusion that it does not attract the office of profit.

It has three ingredients. There should be an office, office attached with profit and office under the Government. Here, I would like to tell that this office is not attached with profit. You know, if a thing does not fulfil all its ingredients then it will not fall in that category.

We have to see it both ways. If any one of the ingredients fulfil then it will fall under Office of Profit or any one of the ingredients does not fulfil then it will not be covered under Office of Profit."

The representative further clarified as under :

"Sir, my submission is that the tests are whether the Government makes the appointment, whether the Government has right to remove or dismiss the holder, whether the Government pay remuneration, what are the functions of holder? Does he perform them for the Government? Does the Government exercise any control over the performance of those functions? What the member is talking, we are well aware with that. There is control, but if office is not attached with Profit. Sir, I have still doubt about it."

### Observations/Recommendations

14. The Committee note that the Saharia Vikas Samittee is an *adhoc* one and it runs during the tenure of each assembly. The re-constituted Samittee consist of 20 members and Shri Dushyant Singh will be Ex-officio Member of the Committee in his capacity as Member of Parliament and will remain so during his membership of Parliament. The functions of the Samittee are to identify the beneficiaries; to do micro-planning on the basis of local circumstances and available resources of Plan Report; to prepare annual budget, plans for construction work and identify the work places; to survey for execution of plans; To get the approval of plans for development of Regional Tribes and invite suggestions for new plans for changes in Reports; to identify loan giving organisations and to fill up loan forms and execute them; To organise training programmes for beneficiaries and others; To identify the persons to whom loan can be given and extended its help for executive of the same and To evaluate the execution of plans, related expenditure and its benefits.

15. According to the Ministry of Law and Justice (Legislative Department) the Samittee is an *adhoc* one and it runs during the tenure of each Assembly and there is no provision to pay honorarium, payment of remuneration or any type of profitable payment. The powers and functions of the Samittee are executive and financial in nature, therefore, come within the criteria consistently adopted by the Joint Committee on Offices of Profit for disqualifying a person for being chosen as and for being a Member of Parliament. Further, it is stated that the State Government shall be competent to give orders and directions to the Samittee and it shall be compulsory for the Samittee to adhere to the rules and directions. In this context, the representatives of the Legislative Department have drawn the attention of the Committee which have earlier examined the proposal to nominate Shri Dau Dayal Joshi, MP Lok Sabha as a Member to Saharia Vikas Samittee for all round development of Saharia Tribes of Rajasthan during Tenth Lok Sabha and presented its Ninth Report in which the Committee recommended that non-official members (including Members of Parliament, if nominated) of the said Samittee may not be exempted from disqualification for being chosen as, or for being, a Member of Parliament. Therefore, going on the same analogy, the



Legislative Department held the nomination of Shri Dushyant Singh, MP to Saharia Vikas Samittee entail disqualification.

16. The Committee observed that as funds have been allocated to the Saharia Vikas Samittee by State Government of Rajasthan and the Samittee would identify the beneficiaries. The function is of executive nature, may influence by way of patronage and the local MP may get political benefit. The Committee also felt that it would not be appropriate for a Member of Parliament to work under the Chairmanship of the District Collector.

17. As per the opinion expressed by the Ministry of Law and Justice (Department of Legal Affairs), Saharia Vikas Samittee is an *ad hoc* Committee and the functions of the Committee are stated to be advisory in nature. It is clearly mentioned that there is no provision for honorarium, remuneration or any payment to any of the Member of the Committee and Shri Dushyant Singh will be ex-officio Member of the Committee in his capacity as Member of Parliament and will remain so during his membership of Parliament. Thus, the nomination of Shri Dushyant Singh, MP to the Saharia Vikas Samittee does not appear to fall within the ambit of Office of Profit in view of the laid down and provisions contained in Section 3(h) of the Parliament (Prevention of Disqualification) Act, 1959.

18. The opinion expressed by the Department of Legal Affairs was contrary to the views of the Legislative Department. But the Committee unanimously accepted the views of the Legislative Department and set aside the opinion of the Department of Legal Affairs.

19. In view of the foregoing, the Committee are of the considered opinion that the nomination of Shri Dushyant Singh, MP to the Saharia Vikas Samittee may incur disqualification for being chosen as and for being a Member of Parliament under Article 102 (1) (a) of the Constitution of India.

New Delhi

DR. SATYA PAL SINGH

20 June, 2017  
30 Jyaistha, 1939 (Saka)

Chairperson,  
Joint Committee on Offices of Profit

**EXTRACTS OF THE MINUTES OF THE FORTY FIFTH SITTING OF THE JOINT  
COMMITTEE ON OFFICES OF PROFIT (SIXTEENTH LOK SABHA) HELD  
ON 04 MAY, 2017**

The Committee met on Thursday, 04<sup>th</sup> May, 2017 from 1500 hrs. to 1545 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

## PRESENT

Dr. Satya Pal Singh - Chairperson

## MEMBERS

**LOK SABHA**

2. Shri M.K. Raghavan
3. Prof. Saugata Roy
4. Kunwar Pushpendra Singh Chandel
5. Shri Janardan Mishra

**RAJYA SABHA**

6. Shri Sukhendu Sekhar Roy

**SECRETARIAT**

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

## REPRESENTATIVES OF THE MINISTRY

**MINISTRY OF LAW AND JUSTICE**  
**(i) DEPARTMENT OF LEGAL AFFAIRS**

- |    |                          |                      |
|----|--------------------------|----------------------|
| 1. | Shri Ramayan Yadav       | Additional Secretary |
| 2. | Shri Rajveer Singh Verma | Deputy Legal Adviser |

## (ii) LEGISLATIVE DEPARTMENT

- |    |                        |   |
|----|------------------------|---|
| 1. | Shri K.R. Saji Kumar   | Joint Secretary and Legislative Counsel |
| 2. | Shri R.S. Jayakrishnan | Assistant Legislative Counsel           |

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 take oral evidence of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) regarding the nomination of Shri Dushyant Singh, Member of Parliament as a Member to the Re-constitution of Saharia Vikas Samittee, Jaipur from the angle of Office of Profit and election/nomination of Member of Parliament to District Public Grievances-cum-Vigilance Committee in each district of the state of Rajasthan.

3. Thereafter, the representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) ushered in.

4. At the outset the Chairperson welcomed the representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) to the sitting of the Committee and apprised them about the agenda. The representatives of the Ministry of Law and Justice (Legislative Department) stated that as per the Re-constitution order, one of the functions of the Samittee is to identify the beneficiaries of various schemes by the Government. The Samittee will have absolute control over the District Level Officers who are dealing with the disbursement of grants, etc. It was stated that the Samittee was constituted or registered under the Rajasthan Registration of Societies Act, 1958. They further state that the State Government of Rajasthan has not sent any documents in this regard. The functions of this Society tend to show that it is an *ad hoc* Committee but it runs during the whole tenure of the Legislative Assembly. They further submitted that Committee had earlier dealt with nomination of Shri Dau Dayal Joshi, MP to the Saharia Vikas Samittee in the year 1995 and in its Report stated that the Member would be disqualified under the Act and the Constitution. Therefore, by going by the same analogy of that Report nomination of Shri Dushyant Singh, MP as a Member to the Saharia Vikas Samittee would attract disqualification under Article 102 (1) (a) of the Constitution.

5. The representatives of the Ministry of Law and Justice (Department of Legal Affairs) stated that as per the information received from the state Government, there is no monetary benefit given to Hon. Member and the work of Samittee is advisory in nature, thus it does not attract the Office of Profit.

6. The Ministry of Law and Justice (Both Legal and Legislative) Departments had given contradictory opinion in this regard. The Committee also felt that Samittee is constituted for development of Saharia Community. State Government allocates funds. It is the duty of the Samittee to identify the beneficiaries in this regard which is the Committee felt, executive in nature and this may render Member of Parliament

disqualified. The Committee also observe that it would not be appropriate for a Member of Parliament to work under the Chairmanship of District Collector.

7.      XX                              XX                              XX                              XX

8.      Thereafter, the Chairperson thanked the representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs).

9.      The Committee then adjourned.

10.     A copy of the verbatim proceedings of the sitting of the Committee has been kept on record.

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XX      Does not pertain to this Report.

**EXTRACTS OF THE MINUTES OF THE FORTY SIXTH SITTING OF THE JOINT  
COMMITTEE ON OFFICES OF PROFIT (SIXTEENTH LOK SABHA) HELD  
ON 20<sup>TH</sup> JUNE, 2017**

The Committee met on Tuesday, 20<sup>th</sup> June, 2017 from 1500 hrs. to 1530 hrs. in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

## PRESENT

Dr. Satya Pal Singh - Chairperson

## MEMBERS

**LOK SABHA**

2. Shri T.G. Venkatesh Babu
3. Adv. Sharad Bansode
4. Smt. Meenakashi Lekhi
5. Shri M.K. Raghavan
6. Prof. Saugata Roy
7. Kunwar Pushpendra Singh Chandel
8. Shri Janardan Mishra

**RAJYA SABHA**

9. Shri Dilipbhai Pandya

**SECRETARIAT**

- |    |                       |   |                     |
|----|-----------------------|---|---------------------|
| 1. | Dr. Preeti Srivastava | - | 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, i.e to consider (i) Draft Report regarding nomination of Shri Ram Swaroop Sharma, Member of

Parliament to the Himachal Pradesh Tribes Advisory Council and (ii) Draft Report on nomination of Shri Dushyant Singh, Member of Parliament as a Member to the re-constitution of Saharia Vikas Samittee, Jaipur.

3. The Committee then considered the above mentioned draft Reports of the Committee and adopted without any modification. The Committee authorised the Chairperson to finalise and present the same to the Parliament during the ensuing Monsoon Session 2017.

4. XX XX XX XX

5. The Committee then adjourned.

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XX Does not pertain to this Report.