

**JOINT COMMITTEE ON OFFICES OF PROFIT**

**(SIXTEENTH LOK SABHA)**

**TWENTY THIRD REPORT**

**Review of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 in respect of Bodies under the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs, Food and Public Distribution)**

Presented to Lok Sabha on 03.08.2017

Laid in Rajya Sabha on 03.08.2017



**LOK SABHA SECRETARIAT  
NEW DELHI  
August, 2017 / Sravana, 1939 (Saka)**

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

## CONTENTS

### PAGE

COMPOSITION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (iii)

INTRODUCTION..... (v)

### REPORT

<b>CHAPTER-I</b>	<b>Introductory.</b>	
<b>HAPTER-II</b>	<b>Ministry of Law and Justice</b>	
<b>HAPTER-III</b>	<b>Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs)</b>	
<b>HAPTER-IV</b>	<b>Ministry of Consumer Affairs, Food and Public Distribution (Department of Food and Public Distribution)</b>	

### APPENDICES

#### APPENDIX-I

Extracts of the Minutes of the Twenty Third Sitting of the Joint Committee on Offices of Profit (Sixteenth Lok Sabha) held on 20.01.2016.

#### APPENDIX-II

Minutes of the Forty Seventh Sitting of the Joint Committee on Offices of Profit (Sixteenth Lok Sabha) held on 30 June, 2017.

**\$ Dr. Satya Pal Singh - Chairperson**

## 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 Third Report of the Committee.

2. The Committee undertook the exercise of scrutiny of the Bodies under the administrative control of various Ministries/Departments of the Government of India or the State Governments, as the case may be from the angle of office of profit and update the list of bodies as reflected in the Schedule to the Parliament (Prevention of Disqualification) Act, 1959. Office Memoranda were issued to all the Union Ministries and Chief Secretaries of State Governments and Union Territories on 14.02.2015, inviting information pertaining to various Bodies falling under their respective administrative domain to facilitate their examination from the angle of "Office of Profit". In this context, the Committee decided to call the representatives of the various Ministries/Departments of the Government of India and State Governments in a phased manner, to undertake their evidence for the purpose. In pursuance of this decision of the Committee, the representatives of the Ministry of Consumer Affairs, Food and Public Distribution) were called to tender their oral evidence before the Committee on 20.01.2016. The representatives of the Ministry of Law and Justice were also called to remain present in the sitting of the Committee.

3. The Committee considered and adopted this Report at their sitting held on 30.06.2017.

4. The Committee wish to express their thanks to the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs, Food and Public Distribution) and the Ministry of Law and Justice for furnishing the requisite information to us in connection with the examination of the Bodies under the administrative domain of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs & Food and Public Distribution) from the angle of 'Office of Profit'.

5. The Observations/Recommendations made by the Committee in respect of the matters considered by them are given in this Report in bold letters.

**NEW DELHI:**

**DR. SATYAPAL SINGH**

**Chairperson,**

**Joint Committee on Offices of Profit**

**18 August, 2017**

**27 Sravana, 1939 Saka**

# REPORT

## Chapter - I

### Introductory

The concept of disqualifying a holder of Office of Profit under a Government for being chosen as, and for being, a Member of a Legislature originated from the need in a democratic form of Government to limit the control and influence of the Executive over the Legislature by means of an undue proportion of office holders being Members of the Legislature. Further holding of certain offices was considered incompatible with membership of legislatures due to physical impossibility of a person attending in two places or heavy duties being usually attached to those offices. Exception was, however, made in the case of Ministers and other members of a Government with a view to having effective coordination between the executive and the legislature.

1.2 In democracies, including the United Kingdom and U.S.A. , 'office of profit' holders under the Government, as a rule, are disqualified for being a Members of Legislature. In India, the principal is embodied in Articles 102(1)(a) and 191 (1)(a) of the Constitution of India in regards to the Members of Parliament and State Legislatures respectively. Article 102(1)(a) of the Constitution reads as under:

—A person shall be disqualified for being chosen as, and for being, a Member of either House of Parliament-

(a) 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.”

1.3 In pursuance of the above Article, the Parliament (Prevention of Disqualification) Act, 1959 (**Annexure I**) was enacted by the Parliament, laying down which offices would not disqualify holders thereof from the membership of Parliament. Briefly, this Act provides that if a member/Director of a statutory or non-statutory body /company is not entitled to any remuneration other than the compensatory allowance, she/he would not incur disqualification for receiving those allowances. 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 her/him to recoup any expenditure incurred by her/him in performing the functions of that office." The said Act has been amended from time to time to include office exempted from disqualification from the purview of the office of profit.

1.4 The expression "office of profit" has not been defined in the Constitution or in the Representation of the People Act, 1951 or in the Parliament (Prevention of Disqualification) Act, 1959, or in any Judgment rendered either by the High Court or Supreme Court evidently because it is not easy to frame an all embracing definition, covering all the different kinds of posts which exist under Government and those which might hereafter be created. Broadly speaking, it signifies that Government must not be in a position to influence a member by placing him in a position where he can exercise authority, where he thinks he is somebody important, even if he gets no pecuniary remuneration. Its scope has, therefore, to be gathered from the pronouncements on the subject made by courts, election tribunals and other competent authorities on what constitutes, "office", "profit", "office under the Government", and so on.

1.5 The term 'office' is not capable of being accurately defined. In the usual sense of the word an 'office' means a right to exercise a public or private employment and to take the fees and emoluments thereto belonging. The term connotes the elements of tenure, duration, emoluments and duties. It has also been held that an office is an employment on behalf of Government in any state or public trust and not merely transient, occasional or incidental. "Profit" normally connotes any advantage, benefit or useful consequences. Generally, it is interpreted to mean monetary gain but in some cases benefits other than monetary gain may also come within its meaning. "Office of Profit" is one to which some power or patronage is attached or in which the holder is entitled to exercise the executive functions, or which carries dignity, prestige or honour to the incumbent thereof.

1.6 Shri C.C. Biswas, the then Union Minister of Law and Minority Affairs, speaking on 24th December 1953 in the debate in the Lok Sabha relating to the Prevention of Disqualification (Parliament and Part C States Legislatures ) Bill, 1953 said:

"....As the disqualification mainly arises from the office being an office of profit, it is necessary to consider what profit means....Now, so far as profit is concerned, generally no doubt profit is interpreted in terms of rupees, annas, pies- it means monetary profit. But in some cases the view has been taken

that office includes something more than that. Even where it is not monetary profit, but other benefits, that also may come within the meaning of the word 'profit'. For instance, if the office is one to which some power or patronage is attached, the office is one in which the holder is entitled to exercise executive functions, an office of dignity, of honour that might be regarded also an office of profit, the idea being that Government must not be in a position to seduce a Member of Parliament by placing him in a position where he can exercise authority, where he thinks he is somebody and either he has got some money or he is otherwise been made very important. All these temptations must be removed. That being the object, the word 'profit' has been given a larger interpretation."

1.7 When a Member of a body is permitted to get some monetary benefit, the question of its quantum assumes importance and becomes a matter of serious consideration. This monetary benefit may be in the nature of a salary attached to the membership or office. When it is a salary attached to the office, it immediately and indisputably makes the office an 'office of profit', but when the monetary benefit is in the nature of an allowance or fee, it makes the question of declaring the office to be an 'office of profit' a bit difficult one.

If consideration is paid in the form of 'sitting fee' or 'attendance fee', not being daily allowance, it becomes a 'profit' even if it does not even purport to cover any actual expenses. Such consideration or remuneration is deemed to constitute 'profit' even though, on detailed accounting, it may be found that no financial advantage has, in fact, been gained by the member in question. Travelling allowance do not act as a disqualification if one draws not more than what is required to cover the actual out-of-pocket expenses. House rent allowance and conveyance are not profits as the allowances are utilised for the purposes of paying the house rent and meeting conveyance charges; they do not give a pecuniary benefit to the person to whom they are paid. If the quantum of daily allowance is such as not to be a source of income, no disqualification shall be incurred.

1.8 It is being contended that a person serving on a committee or holding an office, for which remuneration is prescribed, may not draw the allowance or remuneration and thus escape disqualification under the relevant provisions of law, However, Shri S.K. Sen (Chief Election Commissioner) in one of his judgement held that for the purpose of deciding the question of disqualification, so long as any profit was attached to any office, it did not matter whether the profit has in fact been appropriated or not and therefore, there was no distinction for the purpose between members who drew their allowance and those who did not.

1.9 Unless otherwise declared by Parliament by law, a person is 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. If any question arises as to whether a Member of Parliament has become subject to any of the disqualification laid down in the Constitution including the one whether she/he is holding an office of profit or not, the question is referred for the decision of the President and her/his decision is final. However, before giving any decision on any such question, the President is required to consult the Election Commission in terms of Article 103 (2) of the Constitution. and the Commission may make such enquiry as it deems fit. It is important to note that in this matter the President does not act on the aid & advise of his Council of Ministers.

1.10 The underlying object of this constitutional provision is to secure the independence of the Members of Parliament or a State Legislature and to ensure that Parliament or the State Legislature does not consist of persons who have received favours or benefits from the Executive Government and who consequently, being under the obligation to the Executive Government, might be amenable to its influence. Obviously, the provision has been made in order to eliminate or reduce the risk of conflict between duty and self-interest among the legislators.

1.11 If the Executive Government were to have untrammelled powers of offering to a Member any appointment, position or office which carries emoluments of one kind or the other with it, there would be a risk that an individual Member might feel herself/himself beholden to the Executive Government and thus lose her/his independence of thought and action and cease to be a true representative of her/his constituents.

1.12 Although certain enactments had been passed by Parliament, keeping in view the provision of Article 102(1)(a), it was widely felt that none of the Acts met comprehensively the needs of the situation. In this background, and following presentations from Members of Parliament, speaker G.V. Mavalankar, in consultation with the Chairman of Rajya Sabha, appointed, on 21 August, 1954, a Committee of Offices of Profit under the Chairmanship of Pt. Thakur Das Bhargava to:

—study various matters connected with disqualification of Members and to make recommendations in order to enable the Government to consider the lines along which a comprehensive legislation would be brought before the House; and collect facts, data and make suggestions as to how the matter should be dealt with.”

1.13 The Bhargava Committee in their Report had observed that ordinarily Members of Parliament should be encouraged to go on such Committees which are of an advisory

character and represent the local or popular point of view in a manner which will effectively influence the officials' point of view. Members of Parliament by virtue of their membership are in a position to say and represent certain matters with some authority and confidence, and their views are likely to go a long way in influencing the view-point of officials. It is at the same time felt that consistent with above view, Members of Parliament should not be permitted to go on Committees,

Commissions, etc. which jeopardise their independence or which will place them in a position of power or influence or in a position where they receive some patronage from Government or are themselves in a position to distribute patronage.

1.14. The Bhargava Committee recommended, inter-alia, the introduction of a comprehensive Bill having schedules enumerating the different offices which should not incur disqualification, offices to which exemption was to be granted, and offices which would disqualify. The Bhargava Committee felt that since a schedule of that nature could never be exhaustive or complete and frequent scrutiny would have to be made in cases of new bodies as well as the existing ones, a Standing Committee should be appointed to undertake the work of such continuous scrutiny. It also recommended that all proposed appointments of Members of Parliament to any office or Committee or Commission be communicated to the Standing Parliamentary Committee, for its consideration. Further, any future legislation undertaken affecting such office or Committees should be duly considered before a Bill is brought before Parliament.

1.15 In pursuance of the recommendations of the Bhargava Committee, the Government introduced in the Lok Sabha the Parliament (Prevention of Disqualification) Bill on 5 December, 1957. It was referred to a Joint Committee of the Houses and its Report was presented to the Lok Sabha on 10 September, 1958.

1.16 The Bill, as introduced, did not contain any Schedules as recommended by the Bhargava Committee. The Joint Committee felt that the enactment should contain a Schedule enumerating the Government Committee whose membership would disqualify. The Joint Committee, accordingly, proposed a Schedule to the Bill, Part I of which enumerated the Committees, membership of which would entail disqualification and Part II, the committees in which the office of Chairperson, Secretary, or Member of the Standing or Executive Committee would entail disqualification. The Bill, as further amended and passed by Parliament, received the assent of the President on 4 April, 1959.

1.17 On 18 August, 2006, a Joint Committee of 15 Members of Parliament (10 from Lok Sabha and 5 from Rajya Sabha) was constituted to examine the Constitutional and Legal

position relating to Office of Profit. The Committee inter-alia made certain observations and recommended the amendment of Article 102(1)(a) of the Constitution which provided for disqualification for Members of Parliament for being chosen as, and for being, a Member of either House of Parliament on certain well delineated and defined conditions. The amendment of Article 191(1)(a) (for Members of State Legislatures) was also suggested by the Committee for amendment on the similar lines- in order to maintain uniformity in the matter. The Committee submitted its Report to the Parliament on 22 December, 2008. The Report was also forwarded to the Government of India for necessary action on the recommendations of the Committee contained in the Report.

### **Guiding Principles**

1.18 In order to determine whether an office held by a persons is an office of profit under the Government, the Joint Committee on Offices of Profit, in their Tenth Report (7<sup>th</sup> Lok Sabha), presented to Lok Sabha on 7 May, 1984, 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 and 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 actually 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 disqualification as envisaged in the Constitution will become frustrated. This first basic principle would be the guiding factor in offering positions to a member of the Legislature.

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

- i. 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.)

- ii. 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 scholarships, etc. and
- iii. Whether the body in which an office held enables the holder to wield influence of power by way of patronage.

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

1.20 One of the functions of the Joint Committee on Offices of Profit is to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise. The Ministry of Law and Justice (Legislative Department) drafts Bill to amend the Parliament (Prevention of Disqualification) Act, 1959 so as to give effect to the recommendations of the Committee made from time to time. Before introducing a Bill in either House of Parliament, the Ministry of Law and Justice (Legislative Department) forwards to the Lok Sabha Secretariat a copy of the draft Bill to see whether it is fully in accord with the recommendations made by the Committee. On receipt, the Bill is examined by the Secretariat in the light of the recommendations of the Committee and then placed before the Committee, with the approval of the Chairperson. The Report of the Committee on the Bill is presented to the House and thereafter the Ministry of Law and Justice (Legislative Department) proceeds with the introduction of the Bill in Parliament.

1.21 The Joint Committee on Offices of Profit consisting of 10 Members of Lok Sabha and 5 Members of Rajya Sabha is constituted on a Government motion for the duration of the term of each Lok Sabha. The Joint Committee on Offices of Profit for the term of 16<sup>th</sup> Lok Sabha was constituted on 11 December, 2014 on the basis of the motion moved by the Government and adopted by Lok Sabha on 01.08.2014 and concurred by Rajya Sabha on 14.08.2014, After its constitution, the Committee in its first sitting held on 12 January, 2015, took note of various Committees/Bodies/Organisations mentioned in the Schedules annexed to the Parliament (Prevention of disqualification) Act, 1959 as

amended from time to time., which though exempted from the angle of office of profit, ceased to exist. However, these Committees/Bodies/ Organisations are still being reflected in the Schedule of the said Act. The Committee, therefore, decided to scrutinise the Schedule to the Act. The Committee also decided to obtain ab-initio information/data/status of each Committee/Commission/Body/Organisation referred to in the Schedule annexed to the Act from the concerned authorities. It was also decided that changes in the composition/character etc. of such Committee/ Commission/ Body/Organisation, since their inclusion in the Schedules, be also ascertained. Further, similar information be also obtained in respect of Government Bodies where Members of Parliament, have been nominated by virtue of specific Acts of Parliament. The Committee also took note of the fact that various Centrally sponsored Schemes/Programmes, such as MGNREGA and other flagship programmes, are under implementation where Members of Parliament play a pivotal role in the implementation/delivery mechanism of such Schemes/programmes. The Committee, therefore, desired that such schemes/Programmes be reviewed by them and role of Members of Parliament be considered in the implementation of these Schemes/Programmes, without attracting disqualification from the angle of Office of Profit and the relevant/appropriate information/data on the subject be obtained from the concerned authorities.

1.22 In pursuance of the said decisions of the Committee, this Secretariat vide their O.M. No.21/2/1/2015/CII dated 14.2.2015 asked information and comments from all Ministries/Departments of the Government of India and State Governments on the following points:-

- (a) The details of Committees/Boards/Corporations/Bodies, etc. included in the Schedule of the Act, 1959 as amended from time to time alongwith the present status of each such legal entity. In case such Committees/ Boards/ Corporations/ Bodies, etc. have ceased to operate/exist or nomenclature/title changed, details of changes in chronological order of such entities be furnished.
- (b) For the above said purpose, the information about the composition, character, etc. of all the other Committees/Boards/Corporations/ Bodies, etc. also be furnished wherein Members of Parliament have been nominated by virtue of some other specific Acts of Parliament i.e. other than the Parliament (Prevention of Disqualification) Act, 1959, as amended from time to time.
- (c) Further for the purpose of a thorough review, the complete details of all the other Centrally funded/sponsored schemes/programmes under the Administrative control of your Ministry for the implementation/monitoring of such schemes/programmes like Mahatma Gandhi National Rural Employment

Guarantee Act (MGNREGA), Member of Parliament Local Area Development (MPLAD) Scheme, etc. wherein there may/may not be a provision for the nomination/election of Members of Parliament along with other such future schemes/plans wherein inclusion of Members of Parliament is proposed.

1.23 The process of scrutinising the Schedule of the Parliament (Prevention of Disqualification) Act, 1959 was initiated by the Committee and in this context, the Committee decided to call the representatives of the various Ministries/Departments of the Government of India, in a phased manner, to undertake their evidence for the purpose. In pursuance of the decision of the Committee, the Committee called the representatives of the Ministry Of Consumer Affairs, Food and Public Distribution (Department Of Consumer Affairs & , Food and Public Distribution ) on 20.01.2016 to tender evidence before the Committee in connection with review of the Committees/Boards/Organisations etc. under the administrative domain of the Ministry. The representatives of the Ministry of Law and Justice ( Legislative Department and Department of Legal Affairs) were also called to remain present throughout the sitting of the Committee.

**1.24 This Report contains chapters pertaining to various Bodies/offices etc. under the administrative control of the Ministry of Consumer Affairs, Food and Public Distribution (Departments of Consumer Affairs & Food and Public Distribution). The detailed analysis along with Observations/Recommendations of the Joint Committee are stipulated at the end of each Chapter. The Joint Committee expect the Ministry of Law and Justice to undertake an exercise to draft a Bill enumerating clearly the Bodies/offices which would disqualify Members of Parliament, Bodies/ offices for which exemption need to be granted and Bodies/offices which would not incur disqualification of Members of Parliament, in the light of the Observations/Recommendations of the Joint Committee.**

## **Chapter II**

### **Ministry of Law and Justice**

2.1 Initiating the process of the scrutiny of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 the Secretary of the Ministry of Law and Justice during the sitting held on 31.03.2015, briefed the Committee as under:

—....The concept came into existence for the first time when British Parliament passed an Act of Settlement and second law was enacted by British Parliament in 1701. Under these two laws, for the first time this concept of office of profit germinated. Under that law, any office which was associated with any profit or any persons who was entitled to any royal pension was not allowed to be Member of the House of Commons. From here it began. It travelled through decades and after 300 years, there was an Act of 1957 in the United Kingdom.

In this regard, I would like to mention that after independence when our Constitution made provision under Article 102 and 191, three laws were enacted in 1950, 1951 and 1953. One law deleted some of the offices which were temporary in nature. These two other laws provided for certain offices which were considered and declared as offices of profit, not to contradict the provisions of Article 102 of the Constitution.

During those days, it was not considered appropriate that the three laws covered the area adequately and therefore representation was made in Parliament and on the basis of that representation, first time a Committee was constituted headed by Pandit Thakur Das Bhargava. The Committee went to examine in details all the issues relating to office of profit and made a detailed report on the basis of which a present law that we are considering today came into existence. This is the precise background, historical background.

In this law, the basic principles which were enunciated were, though there were certain offices which otherwise could constitute office of profit under constitutional provisions but if Parliament by law so declared that this office will not

constitute office of profit, then that office stands exempted from the provision of the Constitution. So this power has been given to Parliament to identify the offices.

In this regard, a number of Hon. Committees were constituted. All these Committees made recommendations on the basis of which from time to time many amendments have been carried out. It is not that we are the only country where such provision exists. Even in the US, there is a provision that if anybody holds an office of profit, he shall not become a Member of the House of Representatives. So, such provision also exists in other countries. The reason is that is envisaged under the constitutional provisions by the founding fathers of the Constitution that our Members of Parliament be independent of the Government. The Government should not have any control over the Parliament and representatives of the people. To ensure this, the provision has been made and it has been left to the Parliament to decide about the offices which would constitute office of profit or not.

It was not provided in the Constitution as to what would constitute office of profit, neither in the Act of 1959 nor in the Representation of People Act. Nowhere it is provided what would constitute, what would be the definition of office of profit. But it has been left exclusively with the Parliament to decide and enact a law.

Further, it envisaged three things- first one, there must be an office. Second, there is a control of the Government and third, there is some pecuniary benefit. A number of judgements have been pronounced since the Act came into existence and on the basis of those Judgements what emerges has been very nicely summarised by none else than Shri P.D.T. Achary, former Secretary General of Lok Sabha. He has summarised perhaps all the judgments in one paragraph as to what are the elements we should look for before we decide on any office whether it would constitute office of profit. If i may be permitted, i will just read that paragraph. That is a very small paragraph. This is from Chapter VI of the book Practice and Procedure of Parliament by Shri P.D.T. Achary. The relevant paragraph goes like this:

—It has also been held by the Supreme Court that all the determinative factors need not be conjointly present. The critical circumstances, not the total factors, prove decisive. A practical view, not pedantic basket of tests, should guide in arriving at a sensible conclusion.”

—the Supreme Court, in several decisions, has laid down the tests for finding out whether an office in question is an office under a Government and whether it is an office of profit.”

he has enumerated the tests as follows:

—these tests are whether the Government makes the appointment, whether the Government has the right to remove or dismiss the holder, whether the Government pays the remuneration, what are the functions of the holder, does he perform them for the Government, and does the Government exercise any control over the performance of those functions.”

These are the five questions which he has summarised on the basis of the judgements and these five questions, if answered in the affirmative constitute an office of profit. These are the five questions to be answered if you look at an office which he has summarised from the so many judgements he has covered in his book in this chapter. If the answer for these questions is a ‘No’, it is not an office of profit. He has very nicely summarised it in this chapter.

Why was a necessity felt to keep a provision in the Constitution? If we wade through the chapter and the background under which these provisions came into being, it was felt necessary that there are a number of statutory bodies, a number of non-statutory bodies where hon. Members of Parliament can guide the Executive and guidance given to the Executive will enable the people at large in formulating or taking any decision. It was considered necessary that in those bodies let Members of Parliament participate and guide the Executive in taking those decisions but at the same time it was appropriate to make a provision so that the Members of Parliament in no way come under the control of the Government. So, there is a balance which has to be harmonised or maintained and that has been left very eloquently with the Parliamentarians only; no authority has been envisaged under the Constitution to decide as to what constitutes and what does not constitute that. But it has been left with the Members of Parliament and it is for the Parliament to examine the offices whether those offices are useful, where the representation of the Members of Parliament in those offices are useful for guiding and providing guidance for the benefit of taking policy decisions. All this has been left to the Parliament meaning thereby that the Constitution though provides for disqualification with certain objections but there is a law permitting through parliamentary legislation to examine certain offices where representation is a must. This is the background and the

circumstances. In this background whatever suggestions come, if they require any amendments, we are available in the Legislative Department because the subject matter of office of profit as regards legislation is the concern of the Legislative Department. We are always available at your service.

2.2 In this context, the Secretary of the Ministry of Law and Justice also added as under:

—...Section 3 says that it is hereby declared that none of the following offices in so far as they relate to the office under the Government of India shall disqualify the holder from such and such. None of the following offices is plain and simple way of writing things and anybody can know the import of the provision. But when we sail through the clauses like (i), this not for the first time it is said. At the time when the bill was introduced particularly on this clause it was mentioned in the Statement of Objects and Reasons that this was the most controversial item in the entire Bill as it raised the question of desirability of appending a schedule to the bill enumerating the committees membership of which would entail disqualification. The Committee have given their most careful thought to the question and have come to the conclusion that law on the subject of disqualification of Members of Parliament should be clear and unambiguous.

The Committee, therefore, decided that on the model of the British House of Commons Disqualification Act, 1957, the bill should contain a Schedule which should enumerate the Committee whose membership should disqualify, the Committee have accordingly attached a Schedule to the Bill, the Part I of which enumerates the committee's Chairmanship of which would entail disqualification and Part II of the Committee in which the office of Chairman or Secretary of the Standing or the Executive Committee would entail disqualification but not the office of the member only. So, from the beginning this clause (i) was considered as a controversial item. We can, if we are given directions, try to make an attempt and come up with a simplified form that clause which makes it easier to understand."

2.3 When the Committee pointed out that this is a legislative defect, the Secretary of the Ministry of Law and Justice responded as under:

—Sjrl will not call it exactly a legislative defect because Parliament when enacted, then we have no right to say anything on this."

## **CHAPTER-III**

### **MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**

#### **(DEPARTMENT OF CONSUMER AFFAIRS)**

3.1 The Bodies/Committees etc. under the Department Of Consumer Affairs of the Ministry Of Consumer Affairs, Food and Public Distribution providing for nomination of Members are as under:

- (i) Central Consumer Protection Council (CCPC)
- (ii) Bureau of Indian Standards
- (iii) National Co-operative Consumer's Federation of India Ltd. (NCCF)

#### **Central Consumer Protection Council (CCPC)**

3.2 The Central Consumer Protection Council (CCPC) constituted under Section-4 of the Consumer Protection Act, 1986 provide for nomination of Members of Parliament. The Council does not find mention in the Schedule of the Parliament (Prevention of Disqualification) Act, 1959

Section-4 of the Consumer Protection Act, 1986, provides for establishment of CCPC and as such the Government has control over the constitution of the CCPC. Nomination of MPs into the council is done by the Ministry of Parliamentary Affairs on the request of the Department of Consumer Affairs. However, there is no provision under the Consumer Protection Act, 1986 for removal of Members from CCPC.

As per Rule-3(2) of the Consumer Protection Rules, 1987, term of the CCPC is three years from the date of its constitution and is a standing body. Hence, every Member including a Member of Parliament has a term of three years.

There are 2 Members of Parliament in CCPC.

3.3 As per Rule 3(d) of Consumer Protection Rules, 1987 there should be at least two Members of Parliament - One from Lok Sabha and One from Rajya Sabha into the Council.

Like any other Member, a Member of Parliament is to attend the meetings of CCPC and take part in the proceedings of CCPC the object of which is to promote and protect the rights of the consumers.. As per Rule 3 of Consumer Protection Rules, 1987, the CCPC shall consist of the following Members not exceeding 35, namely:-

- (a) the Minister in-charge of Consumer Affairs in the Central Government who shall be the Chairman of the Central Council;
- (b) the Minister of State (where he is not holding independent charge) or Deputy Minister in charge of Consumer Affairs in the Central Government who shall be the Vice-Chairman of the Central Council;
- (c) the Minister in-charge of Consumer Affairs of two of the States from each region as mentioned in Schedule I to be changed by rotation on expiration of the term of the Council on each occasion;
- (c) an administrator (whether designated as administrator or Lieutenant Governor), of a Union Territory, to represent a Union Territory, as mentioned in Schedule II, to be changed by rotation on expiration of the term of the Council on each occasion;
- (d) two Members of Parliament — one from the Lok Sabha and one from the Rajya Sabha;
- (f) Representatives of the Central Government Departments and autonomous organisations concerned with consumer interests — not exceeding five;
- (fa) The Registrar, National Consumer Disputes Redressal Commission, New Delhi.
- (g) Representatives of the Consumer Organisations from amongst the Indian members of the International Organisation, namely, Consumer International – not exceeding six, to be nominated by the Central Government;
- (ga) representatives with proven expertise and experience who are capable of representing consumer interests, drawn from amongst consumer organizations, consumer activists, women, farmers trade and industry – not exceeding five, one from each of the regions specified in Schedule annexed to these rules;
- (j) the Secretary in-charge of Consumer Affairs in the State to be nominated by the Central Government – not exceeding three;
- (k) the Secretary in-charge of Consumer Affairs in the Central Government shall be the member – secretary of the Central Council.

3.4 Like any other Member, a Member of Parliament is to attend the meetings of CCPC and take part in the proceedings of CCPC, the object of which is to promote and protect the

rights of the consumers. As per Rule 4(6) of Consumer Protection Rules, 1987, Members of Parliament attending meetings of the Council or its Working Group shall be entitled to travelling and daily allowances at such rates as are admissible to such members. They are not entitled to any other facility.

3.5 During the evidence of the Department on 20.01.2016 the Secretary of the Department stated as under:

"We have three bodies where we have hon. Members of Parliament. The first is the Central Consumer Protection Council. This is constituted under the Central Consumer Protection Act. It is a body of 35 members. The Chairman is the hon. Minister. The Vice-Chairman is the Minister of State. There are other members where we have two Members of Parliament: one from Lok Sabha, Shri Paresh Raval; and one from Rajya Sabha, Shri Mansukhbhai Mandaviya. This is the Central Council which is an advisory body which meets at least once in a year and gives advice on various matters related to consumer affairs."

3.6 When the Committee observed that Central Consumer Protection Council is being formed under the Consumer Protection Act, responded as under:

"Yes, it is given in the Act. There are two Members of Parliament. It is very specific that there would be no remuneration and only TA and DA. We are paying incidental charges of Rs. 5,000 per meeting."

3.7 The Secretary further added as under:

"Yes, they are paid TA and DA of Rs. 5,000 per sitting called 'incidental charges'."

3.8 When the Committee sought clarifications as to whether payment of incidental charges is part of the rule under the Act, the Secretary of the Department stated as under:-

"In consumer protection Rules it is mentioned that Members of Parliament attending the meeting of the Council or its working Group shall be entitled to travelling and daily allowances at such rates as are admissible to such members."

3.9 The Secretary of the Department also quoted the rule as under: -

"It says:

"In connection with journeys undertaken by the non-official members attending the Council, they shall be entitled to economy class air fare, they shall be entitled to a sum of Rs. 2,000, which is increased to Rs. 5,000, per each day of meeting as incidental charges to cover their expenses ..."

3.10 When the Committee sought clarification about the rule concerning MPs, the Secretary of the Department stated as under:-

"It says: Members of Parliament attending meetings of the Council or its Working Group shall be entitled to travelling and daily allowances at such rates as are admissible to such members.]"

3.11 When the Committee pointed out that these posts have not been included in the Schedule of the Act, the Secretary of the Department stated as under:-

"We also went through this and we thought that under 3(h) which says: —the office of Chairman and Members of Committee set up temporarily for the purpose of advising the Government.."

3.12 On being inquired by the Committee as to whether there was ever a proposal to ban this council, the Secretary of the Department responded as under:

"No"

3.13 The CCPC does not exercise executive, legislative or judicial powers. The recommendations of the Council are advisory in nature..As per section 6 of the Consumer Protection Act 1986, the objects of the CCPC are to promote and protect the rights of the consumers as enumerated there under. As per Rule 4(7) of the Consumer Protection Rules, 1987, resolutions passed by the CCPC shall be recommendatory in nature.

3.14 When the Committee asked as to whether the Ministry has ever visualized to associate Members of Parliament for implementation/monitoring various Centrally sponsored/Central scheme, including Statutory and Non- Statutory bodies, the Ministry in a written reply stated as under:-

"so far as CPU is concerned, the Ministry has not visualized to associate Members of Parliament for implementation/monitoring various centrally sponsored/Central schemes. The Central schemes are implemented through State Governments as per the guidelines of the schemes and there is no provision in the guidelines to associate Members of Parliament."

3.15 The Department is of the view that there is no need to include the CCPC under either Part-I or Part-II of the Schedule of the Act, as the Hon'ble Union Minister of Consumer Affairs, Food and Public Distribution is the ex-officio Chairman and Secretary of the Department of Consumer Affairs is ex-officio Member-Secretary of the Council.

3.16 On being asked about the present status of nominating MPs on CCPC, the Department in its written reply stated as under:-

"Shri Paresh Raval; and one from Rajya Sabha, Shri Mansukhbhai Mandaviya. This is the Central Council which is an advisory body which meets at least once in a year and gives advice on various matters related to consumer affairs."

### **Bureau of Indian Standards (BIS)**

3.17 Rule (3)(1)(e) of BIS Rules, 1987 under BIS Act, 1986 provides for nomination of the Members of Parliament in the Bureau. It does not find mention in the Schedules of the Parliament (Prevention of Disqualification) Act, 1959. Bureau of Indian Standards (BIS), the National Standards Body of India is a permanent statutory organization and is engaged in work of formulation of National Standards for various sectors. It exercises the executive powers to perform duties assigned under the BIS Act. However, it does not exercise legislative or judicial powers. A reference is sent to Ministry of Parliamentary Affairs for nomination of two Members of Parliament from both houses, as Members of Governing Body of Bureau of Indian Standards.

3.18 As per Rule 4 of BIS Rules, 1987, term of members of Bureau is two years from the publication of Notification or till they cease to be the Member of Parliament, whichever is earlier .

3.19 Two vacancies of Member of Bureau have been specified for Member of Parliament under Rule 3(1) of the BIS Rules, 1987. Being a member of the Bureau, they participate in the proceedings of the Bureau to monitor and provide general directions to BIS with regard to its functioning as provided in the BIS Act, 1986.

3.20 Governing Body of the Bureau of Indian Standards is constituted as per the Section 3 of the BIS Act, 1986. The body consists of 25 Members out of which two are Members of Parliament (one from Lok Sabha and one from Rajya Sabha) as given below .

-As per Rule 3 of The Bureau of Indian Standards Rules, 1987, the Bureau shall consist of the following members, namely -

(a) the Minister in charge of the Ministry or Department of the Central Government having administrative control of the Bureau who shall be *ex-officio* President of the Bureau;

(b) the Minister of State or a Deputy Minister, if any, in the Ministry or Department of the Central Government having administrative control of the Bureau who shall be *ex-officio* Vice-President of the Bureau, and where there is no such Minister of State or Deputy Minister, such person as may be nominated by the Central Government to be the Vice-President of the Bureau;

(c) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the Bureau *ex-officio*;

(d) the Director General of the Bureau, *ex-officio*;

(e) two Members of Parliament of whom one shall be from the House of the People and one from the Council of States;

(f) three persons representing the Ministries and Departments of the Central Government dealing with important subjects of interest to the Bureau;

(g) five representatives - one each from five zones of State Governments and the Union Territories on rotation basis who shall be, -

i. the Minister in charge of the Department having administrative control over quality and standards in the case of States and Union Territories having a Council of Ministers; and

ii. the Administrator or the Chief Executive Councilor, as the case may be, in the case of Union Territories, not having a Council of Ministers;

(h) two persons either representing recognized Consumer Organizations which in the opinion of the Central Government are active and effective in their operations, or are in the opinion of that Government are capable of representing consumer interests;

(i) one person, who, in the opinion of the Central Government, is capable of representing farmers' interests, to be nominated from amongst farmers or farmers associations;

(j) five persons representing the industry and trade and their associations and public sector enterprises to be chosen as follows:-

i. Presidents of three industry associations or federations of all-India level;

ii. Chief Executive of one Central or State Public Sector Enterprise related to subjects of importance to the Bureau;

iii. Chairman or Managing Director of one industrial organization other than the Public Sector who is awardee for the Rajiv Gandhi National Quality Award;

(k) three persons representing the scientific and research institutions, technical, educational and professional organizations related to subjects of importance to the Bureau;”

3.21 Powers and Functions of the Bureau are given under Chapter IV, Section 10 of BIS Act, 1986. Section 10 from the BIS Act alongwith other relevant provisions connected with the matter may be reproduced as under:

" 10. (1) The Bureau may exercise such powers and perform such duties as may be assigned to it by or under this Act and, in particular, such powers include the power to -

- a. establish, publish and promote in such manner as may be prescribed the Indian Standard, in relation to any article or process;
- b. recognise as an Indian Standard, in such manner as may be prescribed, any standard established by any other Institution in India or elsewhere, in relation to any article or process;
- c. specify a Standard Mark to be called the Bureau of Indian Standards Certification Mark which shall be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard;
- d. grant, renew, suspend or cancel a licence for the use of the Standard Mark;
- e. levy fees for the grant or renewal of any licence;
- f. make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without a licence;
- g. seek recognition of the Bureau and of the Indian Standards outside India on such terms and conditions as may be mutually agreed upon by the Bureau with any corresponding institution or organisation in any country;
- h. establish, maintain and recognise laboratories for the purposes of standardisation and quality control and for such other purposes as may be prescribed;
- i. undertake research for the formulation of Indian Standards in the interests of consumers and manufacturers;
- j. recognise any institution in India or outside which is engaged in the standardisation of any article or process or the improvement of the quality of any article or process;
- k. provide services to manufacturers and consumers of articles or processes on such terms and conditions as may be mutually agreed upon;

- l. appoint agents in India or outside India for the inspection, testing and such other purposes as may be prescribed;
- m. establish branches, offices or agencies in India or outside;
- n. inspect any article or process, at such times and at such places as may be prescribed in relation to which the Standard Mark is used or which is required to conform to the Indian Standard by this Act or under any other law irrespective of whether such article or process is in India or is brought or intended to be brought into India from a place outside India;
- o. coordinate activities of any manufacturer or association of manufacturers or consumers engaged in standardisation and in the improvement of the quality of any article or process or in the implementation of any quality control activities;
- p. perform such other functions as may be prescribed.

(2) The Bureau shall perform its functions under this section in accordance with, and subject to, such rules as may be made by the Central Government.

11. (1) No person shall use, in relation to any article or process, or in the title of any patent, or in any trade mark or design the Standard Mark or any colourable imitation thereof, except under a licence.

(2) No person shall, notwithstanding that he has been granted a licence, use in relation to any article or process the Standard Mark or any colourable imitation thereof unless such article or process conforms to the Indian Standard.

12. No person shall, except in such cases and under such conditions as may be prescribed, use without the previous permission of the Bureau, -

- a. any name which so nearly resembles the name of the Bureau as to deceive or likely to deceive the public or which contains the expression "Indian Standard" or any abbreviation thereof; or
- b. any mark or trade mark in relation to any article or process containing the expressions "Indian Standard" or "Indian Standard Specification" or any abbreviation of such expressions.

13. (1) Notwithstanding anything contained in any law for the time being in force, no registering authority shall -

- a. register any company, firm or other body of persons which bears any name or mark;  
or
- b. register a trade mark or design which bears any name or mark; or
- c. grant a patent, in respect of an invention, which bears a title containing any name or mark

if the use of such name or mark is in contravention of section 11 or section 12.

(2) If any question arises before a registering authority whether the use of any name or mark is in contravention of section 11 or section 12, the registering authority may refer the question to the Central Government whose decision thereon shall be final.

14. If the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient so to do, in the public interest, it may, by order published in the Official Gazette, -

- a. notify any article or process of any scheduled industry which shall conform to the Indian Standard; and
- b. direct the use of the Standard Mark under a licence as compulsory on such article or process.

*Explanation* - For the purposes of this section, the expression "scheduled industry" shall have the meaning assigned to it in the Industries (Development and Regulation) Act, 1951."

3.22 The Committee were informed that Two Central Sector Schemes being implemented by BIS during the 12<sup>th</sup> Five Year Plan under the supervision of the Governing Body of the Bureau.

- 1 National System for Standardization
- 2 Setting up Gold Hallmarking/Assaying Centre in India"

3.23 As regards the remuneration paid to the Member of the Committee the Department in its written reply stated as under:-

"The entitlement of allowances for attending the Bureau meetings are guided by provisions of Rules 6A of the BIS rules, 1987, the relevant extracts are reproduced below:

6A. Travelling and Daily Allowances to Bureau and Executive Committee Members –

(4) If any member is a Member of Parliament, he shall not be entitled to any allowances other than compensatory allowance, as defined in clause (a) of section 2 of the Parliament(Prevention of Disqualification)Act, 1959(10 of 1959);

Provided that such Member shall not be entitled to any allowance except for meetings held during the intersession period. Explanation: Intersession period means the interval between the adjournment of a House of Parliament of which he is a Member and the re-assembly of that House.

3.24 During the evidence, representative of the Department stated as under:-

"--Here, there are two Members in the Bureau – Shri Tarun Vijay from Rajya Sabha and Shri Bhola Singh from Lok Sabha. They are given travel by economy class, lodging charges, DA equivalent to the highest grade of civil servant and sitting fee which is Rs.3000."

3.25 When the Committee pointed out that the Member of Parliament is entitled to Rs.2000, the representatives of the Department explained as under:-

"The BIS Act of 1986 has a provision of constitution of Bureau. The rules tell 25 members will be there, out of which, one will be from Rajya Sabha and one MP will be from Lok Sabha. The rules say that if any member is a Member of Parliament he shall not be entitled to any allowance other than compensatory allowance as defined in clause (a) of the Section 2 of Prevention of Disqualification Act, 1959. It also says that provided such Member shall not be entitled to any allowance except for meeting held during the inter-session period."

3.26 On being asked by the Committee as to why the Department is paying Rs3000/-, the representatives of the Department explained as under:-

"When we look into the compensatory allowance it implies that we are supposed to give them travelling if they stay overnight or something and hotel accommodation. We have segregated that kind of a thing. But the spirit of the rules is that it takes care of the disqualification."

3.27 When the Committee enquired as to whether there are members who are not Members of Parliament, the representative of the Department replied as under:-

"There are 25 in all. Most of them are official members and some are the representatives from the State Governments, farmers' representative and one of them is Rajiv Gandhi National Quality Award winner. They do not get anything. Only the member from the farmers' community which gets it and two of the MPs get it. Otherwise, they are paid from their respective associations."

3.28 On being asked by the Committee as to whether the same is mentioned in two rules, the representatives of the Department stated as under:-

"It is mentioned that travelling and daily allowance to members and persons associated with the Bureau and executive committee other than those specified in

sub-rule 1. Now sub-rule 1 says that all members and persons associated with Bureau and the executive committee representing the Central Government, State Governments, union Territories, statutory and autonomous bodies, public sector undertakings, trade and industry and their association shall not be eligible to draw any travelling or daily allowance from the funds of the Bureau. So the rules are very clear on that."

3.29 The representative of the Department also mentioned as under:-

"What we are giving right now is this. We give fare by road, air or train, local conveyance, DA what is available to the highest civil servant – for Delhi it is Rs.260 only; then hotel accommodation, if claimed, to a medium range hotel like India Habitat Centre, Lodhi Hotel, etc. A sitting fee was introduced only in 2012 by a decision of the Executive Committee to give them a sitting fee of Rs.3000."

3.30 When the Committee observed that sittings are held in Delhi only, the representative of the Department responded as under:-

"Yes Sir, But if it is intersession, then they claim the air fare also."

3.31 In its O.M.No.14/1/2016-BIS dated 27.01.2016 the Department of Consumer Affairs stated as under:

"At present the actual allowances paid/reimbursed are as per Executive Committee decisions taken in EC 109 meeting dated 17.09.2012 (copy enclosed). TA/DA are being paid to Hon'ble M.Ps at par with non-official members and at the rates as applicable for High Power Committee as given in Supplementary Rules 190 (copy of relevant portion of FR/SR enclosed (Annexure-I). The Details of allowances paid are as below:-

- (a) Air/Rail/Road fare
- (b) Daily allowance at the rate of Rs.260/- in Delhi.
- (c) Sitting fee of Rs. 3000/- to the outstation members as approved by EC in its 109th meeting in 2012.

"as per our understanding based on reading of the Parliament (Prevention of Disqualification) Act, 1959 and the guidance received during the Parliamentary

Committee meeting on 20.01.2016, the BIS rules are consistent with Parliament (Prevention of Disqualification) Act, 1959. However, the Executive Committee has decided on allowances beyond the BIS rules as well as Parliament Act, 1959."

3.32 The Department is of the view that there is no need to include BIS under either Part-I or Part-II of the Schedule of the Act, as it is already covered under 3(i) of the Act. Being Members of a statutory Bodies, the holder of such office is not entitled to any remuneration other than compensatory allowance.

### **National Co-operative Consumer's Federation of India Ltd. (NCCF)**

3.33 The National Co-operative Consumer's Federation of India Ltd. (NCCF) is an apex standing body of consumer cooperatives in the country. The Board of Directors of the NCCF is constituted under Article 25 of the Bye-Laws of NCCF. The latest Board was constituted by the NCCF on 06.02.2015. The members of the Board are elected by the Member Societies and Government nominates three Directors in the Board by virtue of Section 48 of the Multi State Cooperative Societies Act, 2002. There is no provision for exclusive nomination of the Hon'ble Members of Parliament on the Board of NCCF. NCCF finds mention under the Table in the Schedule.

At present, there are 10 members in the Board of Directors of NCCF which includes 3 Government nominees and there is no change in the composition of the Board. NCCF is a Multi-State Cooperative Consumers Society registered under The Multi-State Co-operative Societies Act, 2002. The Board of NCCF is having all powers to take decisions for day to day affairs and policy matters of the society.

3.34 The Secretary of the Department briefed the Committee as under:-

The second one is a simpler one which is the National Cooperative Consumer Federation. This is included in the Table at Sl.No.5. So, it gets covered under exemption under Section 3(k) of the Act. Here we have one nominated Member from the National Cooperative Union of India, Shri Chandrapal Singh Yadav. He is a Member of the Rajya Sabha and he is a Member of this body by virtue of his being President of the National Cooperative Union of India. Here, they provide for attending the meetings of the Board Rs.2,500 as sitting fee and for the local resident, Rs.1000 as conveyance charges. Boarding and lodging is provided. Travelling charges are paid as per actual or economy class air fare. This is what the NCCF gives. This is covered by the Table of the Disqualification Act. of 1959.

3.35 When asked as to whether the Department has ever visualized to associate Members of Parliament for implementation/monitoring various Centrally sponsored/Central scheme, including Statutory and Non- Statutory bodies, the Ministry in its written submission stated as under:

**"Consumer Protection Unit**

So far as CPU is concerned, the Ministry has not visualized to associate Members of Parliament for implementation/monitoring various centrally sponsored/Central schemes. The Central schemes are implemented through State Governments as per the guidelines of the schemes and there is no provision in the guidelines to associate Members of Parliament.

## **RECOMMENDATIONS/ OBSERVATIONS OF THE COMMITTEE**

### **Central Consumer Protection Council (CCPC)**

3.36 The Committee note that Central Consumer Protection Council (CCPC) constituted under Section- 4 of the Consumer Protection Act, 1986 provides for nomination of Members of Parliament. As per Rule 3 (2) of the Consumer Protection Rules, 1987, the term of CCPC is three years from the date of its constitution. Hence every member including a Member of Parliament has a term of three years. Hon'ble Union Minister of Consumer Affairs, Food and Public Distribution is the ex-officio Chairman of the Council. According to the Department, the Government exercises control over constitution of CCPC-Nomination of MPs into the Council is done by the Ministry of Parliamentary Affairs on the request of the Department of Consumer Affairs. The object of CCPC is to promote and protect the rights of the consumers. The Committee also note that as per Rule 4(6) of Consumer Protection Rules, 1987, Members of Parliament attending meetings of the Council or its Working Group are entitled to travelling and daily allowances at such rates as are admissible to such members and are not entitled to any other facility. The CCPC does not exercise executive, legislative or judicial powers and its recommendations are advisory in nature. The Council does not find mention in the Schedule of the Parliament (Prevention of Disqualification) Act, 1959. During the course of evidence, the Secretary of the Department informed the Committee that member of CCPC are being paid incidental charges to Rs.5000 per meeting, which, the Committee feel that, is not in accordance with Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959 which defines 'compensatory allowance' payable to the holder of an office by way of TA/DA etc. The Committee are of the view that if Members of Parliament are paid incidental charges of Rs.5000 then they would incur disqualification unless they are saved from incurring disqualification. The Committee are also of the view that nature of the CCPC is permanent and its set up cannot be treated as temporary simply because its term is fixed for 3 years. The Department of Consumer Affairs is of the view that there is no need to include CCPC under either Part-I or Part-II of the Schedule of the Act of 1959. However, the Committee do not agree with the views expressed by the Department.

The Committee, therefore, recommend that CCPC may appropriately be listed in the Schedule to the Act of 1959 and the action may accordingly be initiated by the Department for the purpose.

### **Bureau of Indian Standards (BIS)**

3.37 The Committee note that Bureau of Indian Standards (BIS), the National Standards Body of India is a statutory organization formulating National Standards for various sectors. It exercises the executive powers to perform duties assigned under the BIS Act. Rule (3)(1)(e) of BIS Rules, 1987 under BIS Act, 1986 provides for nomination of two Members of Parliament in the Bureau. One shall be from the House of People and other from the Council of States. The term of Members of Bureau is two years from the publication of Notification or till they cease to be the Member of Parliament, whichever is earlier. Being a member of the Bureau, Member of Parliament participate in the proceedings of the Bureau to monitor and provide general directions to BIS with regard to its functioning as provided in the BIS Act, 1986. The Committee have been informed that being the Members of Statutory Body the holder of such office is not entitled to any remuneration other than compensatory allowance. BIS does not find mention in the Schedule of the Parliament (Prevention of Disqualification) Act, 1959.

The Committee also note that as per Rule 6A of the BIS rules, 1987, Member of Parliament, is not entitled to any allowances other than compensatory allowance, as defined in clause (a) of section 2 of the Parliament(Prevention of Disqualification)Act, 1959(10 of 1959) , except for meetings held during the intersession period. According to the department, there is no need to include BIS under either Part-I or Part-II of the Schedule of the Act, as it is already covered under Section 3(i) of the Act of 1989. However, the Committee also note that TA/DA are being paid to Members of Parliament at par with non-official Members and at the rates as applicable for High Powered Committee as given under Supplementary Rules 190. Accordingly, Members of Parliament are paid Air/Road/Rail fare, Daily allowance at the rate of Rs.260/- in Delhi and sitting fee of Rs.3000/- to the outstation members as approved by the Executive Committee in its 10th meeting in 2012. As rightly accepted by the Department, while BIS Rules are consistent with the Parliament (Prevention of Disqualification) Act, 1959, the decision of the Executive

Committee to grant sitting fee of Rs.3000/- or Daily Allowance of Rs.260/- is not in accordance with the provisions of the BIS rules as well as the Parliament Act of 1959. As a consequence, membership of BIS will entail disqualification for being chosen as or for being, a Member of Parliament. Further, since BIS exercises executive powers to perform duties assigned under BIS Act, its membership would entail disqualification, unless otherwise.

The Committee are of the opinion that remunerations being paid to Members of Parliament as member of BIS should strictly be in accordance with the provisions of Parliament (Prevention of Disqualification) Act, 1959 to avoid disqualification. The Committee are also of the view that the office of BIS should be listed in the Table under Section 3 (K) of the Schedule to the Act of 1959 in order to save the membership of Members of Parliament from disqualification. The Committee, therefore, recommended that the Department may take appropriate action to enlist BIS in the Schedule to the Act of 1959.

#### **National Co-operative Consumer's Federation of India Ltd. (NCCF)**

3.38 The Committee note that the National Co-operative Consumer's Federation of India Ltd. (NCCF) is an apex standing body of consumer cooperatives in the country. NCCF is a Multi-State Cooperative Consumers Society registered under the Multi State Co-operative Societies Act, 2012. The Board of Directors of the NCCF is constituted under Article 25 of the Bye-laws of NCCF. The latest Board was constituted by NCCF on 06.02.2015. The members of the Board are elected by the Member Societies and Government nominates three Directors in the Board by virtue of Section 48 of the Multi State Cooperative Societies Act, 2002. The Board of NCCF has all powers to take decisions for day to day affairs and policy matters of the society. There is no provision for exclusive nomination of the Members of Parliament on the Board of NCCF. However, during the course of evidence, the Secretary of the Department informed the Committee that there is one nominated Member from National Cooperative Union of India, Shri Chandrapal Singh Yadav. He is a Member of Rajya Sabha and he is a member of NCCF by virtue of his being President of the National Cooperative Union of India. He is provided a sitting fee of Rs.2500 for attending the meetings of the Board and for local resident, Rs.1000 as conveyance charges is paid. Travelling charges are paid as per actual or economy

class airfare. Boarding and lodging facility is also provided to him. The Members of Board of NCCF has been accorded protection under Table under Section 3 (K) of the Schedule to the Act of 1959. As a consequence, the office of Chairman, Secretary or member of Board of NCCF are exempted from disqualification as for being a Member of Parliament. The Committee, therefore, recommend that NCCF may continue to be listed in the Table under Section 3 (k) of the Act of 1959. As a consequent, the office of Chairman, Secretary or member of Board of NCCF are exempted from disqualification as for being a Member of Parliament. The Committee, therefore, recommend that NCCF may continue to be listed in the Table under Section 3 (k) of the Act of 1959.

## CHAPTER- IV

### MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

#### (DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION)

4.1 There are eight bodies under the administrative control of Department of Food and Public Distribution of the Ministry which are as given below:-

- (i) Central Warehousing Corporation (CWC)
- (ii) Food Corporation of India (FCI)
- (iii) Development Council for Sugar Industry (DCSI)
- (iv) State/UT level Consultative Committees for the Food Corporation of India.
- (v) Central Warehouse Company Ltd. (CRWC)
- (vi) Warehousing Development and Regulatory Authority (WDRA)
- (vii) Hindustan Vegetable Oils Corporation Ltd. (HVOC)
- (viii) National Sugar Institute (NSI), Kanpur

Out of these eight bodies Central Warehousing Corporation (CWC) & Development Council in Sugar Industry have been listed in the Schedule of the Parliament (Prevention of Disqualification) Act, 1959. However, Development Council for Sugar Industry (DCSI) has ceased to exist. The Hindustan Vegetable Oil Corporation Ltd. (HVOC) is another sick PSU, under liquidation. None of these bodies have specific provisions for nomination of MPs. except State/UT level Consultative Committee for FCI wherein, a Member of Parliament is to be nominated by the Central Government as the Chairperson.

4.2 The following centrally funded/sponsored schemes come under the administrative control of the Department.

Plan Scheme:-

S.NO.	Name of the Scheme/Programme
1.	Construction of Storage Godowns by FCI/State Govt.
2.	End to end Computerisation of TPDS operations
3.	National Sugar Institute, Kanpur
4.	Assistance to Warehousing Development & Regulatory Authority (WDRA)
5.	Strengthening of PDS & Capacity Building, Quality Control, Consultancies & Research

Non-Plan Scheme:-

Sl. No.	Name of the Scheme/Programme
1(a)	Subsidy payable to FCI & Others on foodgrains transactions
1(b)	Subsidy payable to FCI & others on foodgrains transactions
2(a)	Subsidy payable to State Government on decentralized procurement of foodgrains
2(b)	Subsidy payable to State Government on decentralized procurement of foodgrains under NFSA
3	Sugar subsidy payable to FCI & others on account of Levy Sugar, import of sugar etc.
4.	Subsidy for Imported Edible Oils for Distribution through States/UTs Government
5.	Subsidy for maintenance of Buffer stocks of Sugar
6.	Reimbursement of Internal transport and freight charges to sugar factories on export shipment of sugar and payment of other permissible claims
7.	Scheme for Extending Financial Assistance to sugar undertakings (SEFASU) 2014.
8.	Incentive on Marketing and Promotion Services of Raw Sugar Production
9.	Interest subvention on scheme for extending soft loan to sugar mills
10.	Loans for Rehabilitation/Modernisation of sugar mills
11.	Loans to Sugar Mills for Cane Development
12.	Loans to sugar factories for Bagasse based cogeneration power projects
13.	Loans to sugar factories for production of anhydrous alcohol or ethanol from alcohol
14.	Ways & Means advance payable to FCI
15.	Central Assistance to States/UTs for meeting expenditure on intra-state movement, handling of foodgrains and FPS dealers margin under NFSA (Grants-in-aid General)

4.3 The Special Secretary of Department of food & Public Distribution during the oral evidence of the Ministry, briefed the Committee as under:-

"We have a CPSE called the Central Warehousing Corporation where there is a Board of Directors. Then we also have Food Corporation of India which has a Board of Directors. The Central Railside Warehouse Company is a subsidiary of the Central Warehousing Corporation and it has a Board of Directors. The Warehousing Development and Regulatory Authority is also an a regulatory body under the Department. It has an authority consisting of a Chairman and two members. Then we have a company called Hindustan Vegetable Oils Corporation Ltd., which has been declared sick and is being wound up right now. We have a National Sugar Institute which is located at Kanpur. It is basically an educational institute which is providing technical and educational inputs. These are the bodies created under various statutory processes."

**(i) Central Warehousing Corporation (CWC):**

4.4 CWC is a standing body constituted under Warehousing Corporation Act, 1962 replacing the Agricultural Produce (Development and Warehousing) Corporation Act, 1956 (28 of 1956) under which CWC was originally created. The appointment of Directors to its Board is done as per the guidelines of Department of Public Enterprises. There is no provision for appointments of a Member of Parliament as Director in the Board of CWC. Hence, there does not seem to be any rationale for its inclusion under the Act.

4.5 CWC has been listed in Part I of the Schedule to Parliament (Prevention of Disqualification) Act, 1959. When the Committee enquired as to whether any MPs and MLAs are on the Board of CWC, the representatives of the Department responded as under:-

"No. Sir, there are not."

4.6 The Representative of the Department also added as under:

"It is in the schedule, Sir, where the exempted categories have been placed. We have been trying to find out whether there were any hon. MPs prior to this but I am afraid we could not trace in the near past."

4.7 On being enquired by the Committee about non-official Director cum part time Chairman the Ministry representative of the Department replied as under:

"Then non-official Directors are selected through the process laid down by the Department of Public Enterprise. So, panel usually goes from the Ministry to the Department of Public Enterprise. There is a search Committee which selects them. There is a criteria laid down by the Department of Public Enterprise on whom is eligible to become a non-official Director. And that is subsequently submitted to the ACC for approval. "

4.8 When the Committee asked as to whether none of these posts are available for MPs or MLA, the representatives of the Department stated as under: -

"There is no provisions specifically for MPs.

On being enquired about the nomination of MPs earlier, the representatives of the Department answered as under:

"No Madam."

4.9 Central Warehousing Corporation (CWC) has not undergone any change in the nature, character and composition of Board of Directors of CWC after they got included in the Act. The Department in its written submission has stated that entity CWC can be considered for removal from the Schedule to the Parliament (Parliament of Disqualification) Act, 1959, as there is no provision for nomination of MPs to the Board of Director.

#### **(ii) Food Corporation of India**

4.10 The Food Corporation of India was set up under the Food Corporation Act, 1964. FCI is the nodal agency of the Government of India responsible for executing food policies of the Central Government. The functions of FCI primarily consist of purchase, procurement at Minimum Support Price (MSP) from farmers, storage, movement, transportation, distribution and sale of foodgrains on behalf of the Central Government. FCI co-ordinates its function through a country wide network of offices with Headquarters at New Delhi. The appointment of Directors to its Board is done as per the provisions of Food Corporations Act, 1964 and guidelines of the Department of Public Enterprises. There is no specific provision for appointment of a Member of Parliament as Director in the Board of FCI.

4.11 The representatives of the Department briefed the Committee about FCI as under:-

"It is an Act again, Sir, Food Corporation of India Act 1964, which lays down the procedure and the number of members on the Board. This is again headed by a Chairman and there are nonofficial Directors on it again. There are four directors who are Government nominees. Basically, that would mean the administrative Ministry gives two officers to be on the Board and there is one officer from the Department of Agriculture, Cooperation & Farmers Welfare. Then the MD of the Central Warehousing Corporation is an ex-officio director. Two Principal Secretaries from State Government who handle Food are also directors on the board of the Food Corporation of India. Apart from that, we have four non-official directors' posts out of which one is filled and three are vacant as of now. Out of three, two are pending with the Department of Public Enterprise for selection."

4.12 When the Committee enquired as to whether there is any proposal to make an MP a non-official Director in FCI, the representatives of the Department responded as under:

"No Sir".

4.13 When the Committee who enquired as to whether there is any proposal to make an MP as the Chairman of FCI, the representatives of the Department answered as under:

" Generally, in last decade or so, the posts chairman and Managing director have been clubbed together and an IAS officer has been posted. But before that, I recall the chairman was made separate for a certain period of time. To my knowledge, which I would have to check and verify once again, hon. MP has not been posted as chairman there."

4.14 When the committee again asked as to whether there is any proposal to make an MP as an non-official Director, the Special Secretary of the Department responded as under:

"There is no such proposal. The Ministry had taken a decision long back to appoint consultative committee at State level and UT level and we have 36 such committees. On the recommendations of Ministry of Parliamentary Affairs Hon'ble MPs of Rajya Sabha/Lok Sabha are nominated as Chairpersons of these committees State-wise and UT-wise. Most of the posts are filled."

**(iii) Development Council For Sugar Industry (DCSI)**

4.15 The body was last constituted vide notification of the Government of India, Department of Food and Public Distribution number G.S.R.2043(E) dated the 5<sup>th</sup> September,2011 for the period of two years. But subsequently the Government thought that the Development Council for Sugar Industry (DCSI) should cease to exist in the public interest. Hence the body was dissolved vide Gazette notification dated the 12<sup>th</sup> March, 2015. The composition of the last Council constituted on 5.09.2011 had following three Members of Parliament:-

- (a) Shri Vilas Baurao Mattemwar, M.P.(Lok Sabha)
- (b) Shri Rajendra Aggarwal, M.P.(Lok Sabha)
- (c) Shri Avinash Pande, M.P.(Rajya Sabha)

Hence DCSI has ceased to exist and its inclusion in the Schedule has become redundant.

(iv) **State/UT level Consultative Committees for the Food Corporation of India**

4.16 There is a provision for Constitution of ST/UT level Consultative Committees in each State/UT for FCI to protect the interests of producers as well as consumers and to advise the FCI on various matters relating to procurement, storage and distribution of food grains. A Member of Parliament to be nominated by the Central Government shall be its Chairperson. The Chairperson is appointed on the recommendations of the Ministry of Parliamentary Affairs. The tenure of the Chairperson will be co-terminus with his tenure as a Member of Parliament. Residential accommodation for Chairpersons (MP) when on tour for inspections shall be arranged by the FCI in State Guest Houses or in Guest Houses maintained by the FCI as far as possible. A Member of Parliament shall be entitled to daily allowance and travelling allowance on the same scale as admissible to him under section 3 & 4 of the Salary, Allowances and Pension of Members of Parliament Act, 1954. "

According to the Department then Consultative Committees exercise executive/advisory powers.

**Central Railside Warehouse Company Ltd. (CRWC)**

4.17 CRWC is a non-statutory body functioning as per the Companies Act. The appointment of Directors to its Board is done as per the guidelines of the Department of Public Enterprises. There is no specific provision for appointment of a Member of Parliament as Director in the Board of CRWC.

4.18 The representatives of the Department briefed the Committee as under:-

"Next one is the Central Railside Warehouse Company Ltd. It is a non-statutory body which is functioning under the Companies Act. It has been created as a subsidiary of Central Warehousing Corporation. The appointment of directors to this Board is made by the Department of Public Enterprise. Since this was created under the Companies Act, it is as per the provision of Companies Act that the Board has been constituted. There is no specific provision for appointment for hon. MP on the board of this company."

**Warehousing Development and Regulatory Authority (WDRA)**

4.19 WDRA is a statutory body controlled under The Warehousing (Development And Regulation) Act, 2007. It comprises of one Chairman and two members, who are

appointed as per the Rules notified under the Act. They are full time paid functionaries. Hence, there is no provision of posting of Member of Parliament in WDRA.

4.20 The representatives of the Department briefed the Committee as under:-

"Warehousing Development and Regulatory Authority has been created under an Act in which we have one Chairman and two members. These are full time functional posts and they draw a full salary against the function they are delivering."

#### **Hindustan Vegetable Oils Corporation (HVOC)**

4.21 HVOC is not a statutory body. It has been formed under Companies Act. IT is a sick PSU is under liquidation and there is no regular Board for the company at present. Officers of this Ministry are being appointed on additional charge basis as Directions of the Company.

#### **National Sugar Industry (NSI), Kanpur**

4.22 National Sugar Institute (NSI), Kanpur is premier Scientific and Technical Institute in the Country which conducts Post Graduate and Certificate level courses in Sugar Technology, Sugar Engineering and Alcohol Technology disciplines. Under the NSI, there is no provision for nomination/election of Members of Parliament.

4.23 The representatives of the Department briefed the Committee as under:-

"Sir, we have an advisory board for the National Sugar Institute which is largely composed of academicians and technocrats who are working in the field of sugar industry. There is one chairman who is nominated by the Department of Food and Public Distribution

It is normally the Joint Secretary who handles the sugar sector. There are 10 other members, out of which two are from the Department, one from IIT Kanpur, one from Indian Institute of Sugarcane Research Lucknow, one from the UP Council of Sugar Research and five representatives of various sugar mills and other associations and the Director of the Institute is the Member-Secretary.

4.24 When the Committee asked as to whether there is any proposal to have an MP, the Special Secretary of the Department stated the following:-

"Long back, there used to be an advisory committee for sugar where an hon. Member used to be a member. That was disbanded because sugar sector was deregulated. It is an open market item now. There is no need to monitor the production or sale and the institute is an academic institute. So, there has been no thought about including Members of Parliament."

4.25 When asked about the powers/functions of these Committees, the Department in its written reply furnished as under:-

" The Consultative Committee shall discuss and make recommendations on the following matters:-

- (i) Procurement and distribution of foodgrains;
- (ii) Quality of foodgrains'
- (iii) Storage of foodgrains;
- (iv) Transit and storage losses;
- (v) Interface of the FCI with State Government on functioning of the Targeted Public Distribution System (TPDS) including allocation. off take and actual distribution of foodgrains for Antyodaya, BPL and APL families and for various welfare schemes being operated by the Central or State Government;
- (vi) Sale and disposal of stocks;
- (vii) Any other matter referred to it by the Ministry of Consumer Affairs, Food and Public Distribution or the Food Corporation of India for its consideration."

4.26 On being asked about the expenses payable to Member of Parliament as member of the State/UT level Consultative Committee for the FCI, the Department in its written reply stated as under:-

"The Members of Parliament are not entitled for payment of any lump sum honorarium. A Member of Parliament shall be entitled to daily allowance and traveling allowance on the same scale as admissible to him under section 3 and 4 of the Salary, Allowances and Pension of Members of Parliament Act, 1954."

4.27 The allowances payable to the Member of Parliament as a Member of the Committee are covered under the Compensatory Allowance defined Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959.

4.28 When asked about the facilities, other than the remuneration given or proposed to be given to the Member of Parliament as a member of the Committee, the Department in its written reply furnished the following details:

“Residential accommodation for Chairpersons of the Consultative Committee when on tour for inspections shall be arranged by the FCI in State Guest house or in the Guest Houses maintained by the FCI as far as possible.

- ❖ A member of Parliament shall be entitled to traveling allowance and daily allowance on the same scale as admissible to him under section 3 and 4 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 respectively.
- ❖ FCI shall provide office facilities and secretarial assistance to the Chairperson only when he visits the Regional office for either the meeting or for the purpose of inspections. The secretariat staff shall consist of one stenographer and one peon and will be provided only for the duration of the meeting and not on a permanent basis. —

4.29 The allowances payable to the Member of Parliament as a Member of the Committee are covered under the Compensatory Allowance defined Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959.

4.30 When the Committee observed that the Consultative Committees are part of parliamentary procedure in which Parliament appointing the Chairman, the Special Secretary responded as under:-

"It is the committee of the FCI but it is done by the Ministry. We approach the Ministry of Parliamentary Affairs for nomination purpose."

\*\*\*\*\*

## **OBSERVATIONS/RECOMMENDATIONS**

### **Central Warehousing Corporation (CWC):**

4.31 The Committee note that CWC is a statutory body constituted under Warehousing Corporation Act, 1962 which had replaced the main Act of 1956 (28 of 1956). The appointments of Director in the board of CWC are being done in accordance with the guidelines of the Department of Public Enterprises. CWC has been included in the Schedule Part I of the Parliament (Prevention of Disqualification) Act, 1959 providing protection to Member of Parliament from disqualification. However, the Committee note that there is no provision for appointment of Member of Parliament as Director in the CWC Board. During the course of evidence the Committee was informed that they could not find any trace in the past where Member of Parliament was appointed in CWC Board. According to the Department, there does not seem to be any rationale for its inclusion under the Act of 1959.

Since no Member of Parliament had been appointed as member of the Board of CWC and also there is no provision for their appointment in the Board of CWC, the Committee feel that its inclusion under Part I of the Schedule is superfluous. The Department has also proposed for consideration for removal of CWC from the Schedule of the Act., therefore, recommend that entry of CWC may be deleted from the Schedule of the Act of 1959 for which action may be initiated by the Department accordingly.

### **Development Council for Sugar Industry (DCSI)**

4.32 The Committee also note that DCSI has been listed in Part II of Schedule to Parliament (Prevention of Disqualification) Act, 1959. The Committee also note that Development Council for sugar Industry (DCSI) stands dissolved in public interest vide Gazette notification dated 12th March, 2015. The Committee further note that DCSI has been listed in Part II of Schedule to the Parliament (Prevention of Disqualification) Act, 1959. Hence its inclusion in the Schedule to the Act of 1959 has become redundant. The Committee therefore recommend that entry to this effect may be deleted from the Schedule and the action may be initiated by the Department accordingly.

## **State /UT level Consultative Committees for the FCI**

**4.33 The Committee note that State/UT level Consultative Committees in each State/UT for FCI are constituted to protect the interests of producers as well as consumers and to advise the FCI on various matters relating to procurement, storage and distribution of foodgrains.**

**The Committee also note that a Member of Parliament nominated to the State/UT level Consultative Committee for FCI acts as its Chairperson. The Chairperson is appointed on the recommendations of the Ministry of Parliamentary Affairs. A member of Parliament is also entitled for TA/DA on the same scale as admissible to him under Section 3 and 4 of the Salary allowances and pension of Members of Parliament Act, 1954. As per Section 3 (i) of the Parliament (Prevention of Disqualification) Act, 1959, the holder of office of Chairman has been exempted from disqualification provided he/she is not entitled for any other remuneration other than compensatory allowance as defined under Section 2 (a) of the Act of 1959. However, the Committee note that Chairpersons of the Consultative Committee are provided facilities like residential accommodation by FCI during tour for inspections. FCI also provide them office facilities and Secretarial assistance during their visits to regional office for either the meeting or for the purpose of inspection. In the case of *Jaya Bachchan Vs. Union of India*, the Supreme Court held an office of profit is an office which is capable of yielding a profit or pecuniary gain. Holding office under the Central State Government, to which some pay, salary, emoluments, remuneration or non-compensatory allowance is attached, is holding an office of profit; Nomenclature is not important.**

**In view of the foregoing, the Committee are of the view that holding of office of Chairman of the State/UT level Consultative Committee by the Members of Parliament may entail disqualification unless they are saved by granting exemption from disqualification under the Act of 1959. The Committee recommend that State/UT level consultative Committee may appropriately be listed in the Schedule to the Act of 1959 and action may be taken by the Department accordingly. The Committee in this regard would also like to be apprised about the prospects of establishing a National Level Committee under FCI to ensure enhanced protection of the interests of the producers as well as of consumers.**

**DR. SATYAPAL SINGH**

**Chairperson,**

**Joint Committee on Offices of Profit**

**New Delhi**

**17 August, 2017**

**26 Sravana, 1939 (Saka)**

