

CONFIDENTIAL

CB-II No.

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

ELEVENTH REPORT

Presented to Lok Sabha on 20.2.2009
Laid in Rajya Sabha on 20.2.2009

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**LOK SABHA SECRETARIAT
NEW DELHI**

February, 2008/Phalguna, 1930 (Saka)

Price:

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

MEMBERS

Shri Chandra Bhushan Singh - Chairman

Lok Sabha

2. Shri Ananth Kumar
3. Shri Ashok Argal
4. Vacant
5. Shri Mohan Jena
6. Shri S.K. Kharventhan
7. Shri G. Nizamuddin
8. Shri Nikhilananda Sar
9. Shri Bharatsinh M. Solanki
10. Shri Sita Ram Yadav

Rajya Sabha

11. Shri Silvius Condpan
- *12. Dr. Abhishek Manu Singhvi
- *13. Shri Arun Jaitley
- &14. Shri P.R. Rajan
- @ 15. Dr. C. Rangarajan

Secretariat

Shri P.K. Grover	-	Joint Secretary
Shri R.S. Misra	-	Director
Shri R.D. Silawat	-	Deputy Secretary-II

* Elected by Rajya Sabha on 28.7.2006 vice Sarvashri Manoj Bhattacharya, Ram Nath Kovind and K. Rama Mohana Rao who retired w.e.f. 2.4.2006 and Shri Saif-ud-din-Soz resigned on 29.1.2006 consequent upon his appointment as Union Minister.

& Elected to the Committee on 4.5.2007 vice Shri Chittabrata Majumdar passed away on 20.2.2007.

@ Elected to the Committee on 29.10.2008 vice Shri N. Jothi retired from Rajya Sabha on 2.4.2008.

INTRODUCTION

I, the Chairman of the Joint Committee on Offices of Profit, having been authorised by the Committee to present the Report on their behalf, present this Eleventh Report of the Committee.

2. The matters covered in the Report were considered by the Joint Committee on Offices of Profit at their sitting held on 18 December, 2008. The Minutes of the sitting form part of the Report and is at Appendix I.

3. The Committee examined the composition, character, functions etc. of Board of Directors of Himachal Pradesh Tourism Development Corporation Ltd., Command Area Development Board for the Anjunem Irrigation Project, Goa and the State Rural Health Mission and District Health Missions, Rajasthan with a view to considering whether the holders of the offices of membership in these bodies would incur disqualification under Article 102 of the Constitution.

4. The detailed information regarding the composition, character, functions, emoluments and allowances payable to the members of these bodies was furnished by the State Governments of Himachal Pradesh, Goa and Rajasthan. The Committee wish to express their thanks to the State Governments of Himachal Pradesh, Goa and Rajasthan for furnishing the information desired by the Committee.

5. The Committee considered and adopted this Report at their sitting held on 17 February, 2009.

6. The observations/recommendations of the Committee in respect of the matters considered by them are given in the respective Chapters of this Report. The recommendations of the Committee will, however, remain advisory in nature and as such can not give any protection from disqualification under the law until the recommendations are given statutory effect by the Government by suitably amending the Parliament (Prevention of Disqualification) Act, 1959.

NEW DELHI;

February, 2008

Phalguna, 1930 (Saka)

**CHANDRA BHUSHAN SINGH,
Chairman,
Joint Committee on Offices of Profit**

REPORT

CHAPTER -I

Nomination of non-official members on Board of Directors of Himachal Pradesh Tourism Development Corporation Ltd.

The Government of Himachal Pradesh {General Administration Department (Confidential & Cabinet)} vide their letter dated 30.9.2008 furnished the detailed particulars relating to Himachal Pradesh Tourism Development Corporation Ltd. and requested to obtain the approval of Hon'ble Speaker, Lok Sabha regarding nomination of Shri Anurag Thakur, M.P. as Director of Board of Directors of Himachal Pradesh Tourism Development Corporation Ltd. The extracts of the information are reproduced below:

- the said Corporation has been constituted under Memorandum of Association of Himachal Pradesh Tourism Development Corporation Ltd.
- The business of the company is managed by the Board of Directors.
- The term of office of a member is 3 years .
- The Government shall have the right to fill any vacancy in the office of a Director caused by retirement, removal, resignation, death or otherwise and shall also be competent to sanction their leave and determine their terms and conditions of appointment. Exercise control over the appointment to and removal from the office.
- The Government shall have the powers to remove Director including the Chairman and Vice Chairman and the Managing Director from office at any time in its absolute discretion.
- The Director shall unless otherwise determined by the Government be appointed by the Company in general meeting.
- The remuneration (including sitting fees for attending Board meeting) of the Directors, Chairman, Vice Chairman and Managing Director shall from time to time be determined by the Government. Such reasonable additional remuneration or compensatory allowance as may be fixed by the Government may

be paid to any one or more of the Directors for extra or special services rendered by him or them.

- Conveyance allowance and House Rent allowance is NIL
- Daily allowance and Travelling Allowance are provided as notified by Government from time to time.
- The Board shall have the following powers:
 - (i) to acquire property
 - (ii) works of capital nature
 - (iii) to pay for property in debentures etc.
 - (iv) to secure contracts by mortgage
 - (v) to appoint officers etc.
 - (vi) to appoint trustees
 - (vii) to bring and defend action etc.
 - (viii) to refer to arbitration
 - (ix) to give receipt
 - (x) to authorize acceptance etc.
 - (xi) to appoint attorneys
 - (xii) to invest moneys
 - (xiii) to give security by way of indemnity
 - (xiv) to give commission etc.
 - (xv) to make bye-laws
 - (xvi) to give bonus
 - (xvii) to create provident fund
 - (xviii) to make contracts etc.
 - (xix) to borrow moneys
 - (xx) to executive mortgages

1.2 The Joint Committee on Offices of Profit considered the matter at their sitting held on 18 December, 2008 (APPENDIX-I).

1.3. The Committee note from the information furnished by the Government of Himachal Pradesh that the post of Director in the Board of Directors of Himachal Pradesh Tourism Development Corporation Ltd. is an office under the Government since the Government exercise control over the appointment to and removal from the office. As regards remuneration, the Committee note that the remuneration (including the sitting fees for attending Board Meeting) of the Directors etc. would be as determined by Government from time to time. The Committee also observe that the Board exercises executive, legislative and financial powers.

1.4. In this connection, the Joint Committee on Offices of Profit also note their earlier recommendation in case of nomination of Smt. Chandresh Kumari, M.P. as a Director of the Himachal Pradesh Tourism Development Corporation Limited during Eighth Lok Sabha and also Gujarat Tourism Corporation and Meghalaya Tourism Development Corporation Limited during Seventh Lok Sabha that in view of executive and financial powers vested in them, the non-official Directors(including Chairman) of these Corporations should not be exempted from disqualification. Similarly, the Joint Committee on Offices of Profit (Fifth Lok Sabha) had recommended disqualification of non-official Directors of Kerala Tourism Development Corporation Limited and India Tourism Development Corporation vide their Eighth Report (5th Lok Sabha) and Fourth Report (5th Lok Sabha) respectively.

1.5 The Committee, therefore, feel that the Members of Parliament if nominated as a non-official member i.e. Director of Board of Directors of Himachal Pradesh Tourism Development Corporation Ltd. should not be exempted from disqualification for being chosen as, or for being a member of Parliament under Article 102 (1) (a) of the Constitution.

CHAPTER-II

Examination of Composition and Character of Command Area Development Board for the Anjunem Irrigation Project, Goa.

The Government of Goa, Law Department (Legal Affairs) vide their letter dated 6.5.2005 forwarded the particulars regarding the composition and character of the Command Area Development Board for the Anjunem Irrigation Project. The State Government furnished the detailed information regarding the Board vide their letters dated 01.02.2008 and 27.8.2008. The extracts of the information furnished by Government of Goa are given below:-

Constitution

- the Board has been reconstituted by Government order No.3/25-1/95-1 RRG dated 23.5.1995 to advise the Government in all matters pertaining to the Command Area Development of Anjunem Irrigation Project in Goa.
- the Hon'ble member of Parliament (North-Goa) is one of its member.

Term

- the term of the concerned Members of Parliament as Members of the Command Area Development Board shall be for a period of 5 years or so long as they continue to be the MPs of the concerned area, whichever is earlier.

Remuneration

- The Chairman and other members of the Command Area Development Board shall be entitled to Travelling Allowance/Dearness allowance at the rates specified in the Schedule as given below:-

SCHEDULE

- I. Chairman of the Command Area Development Board shall be entitled to TA and DA for his official journey at the following rates:-
- | | |
|---------------|--|
| By Air – | Actual expense of journey by Air |
| By Train- | Actual expense of journey by A.C. compartments of first class, as the case may be. |
| By Road – (i) | In case of journey by official car – Nil |

- (ii) In case of journey by hired car As per the official rate specified by the respective Government, in which State/Union Territory the journey takes place.

D.A. - Within the State and outside the State — same rate as applicable to the Minister of the Government of Goa of Cabinet rank.

- II. Non-official members shall be entitled for travelling allowance charged by public transport vehicle and at rate fixed by the Government of Goa for its employees. The Dearness Allowance shall be at the rate entitled to First Class Gazetted officer of an Executive Engineers Grade of Irrigation Department, in scale of Rs.10,000-324-15,200.

Functions

The functions of the Command Area Development Board as per section 10 of Chapter III of the Goa Command Area Development Act, 1997 are given below:

- (i) To lay down policy guidelines for the implementation of CAD Programme;
- (ii) To disburse Central assistance and the Governments' share to Water Distribution Co-operative Societies for the works entrusted to them.
- (iii) To provide technical assistance and guidance to Farmers' Associations, Water Distribution Co-operative Societies;
- (iv) To coordinate the activities of different departments involved in the implementation of CAD Programme;
- (v) To maintain the accounts of amounts disbursed and to give utilization certificate to the Government and the Union Government;
- (vi) To guide, supervise and monitor the work of Water Distribution Co-operative Societies;
- (vii) To develop ground water to supplement surface irrigation;
- (viii) To help the Farmers' Associations, Water Distribution Co-operative Societies in selection and introduction of suitable cropping pattern;
- (ix) Carry out soil survey and prepare Geography Information System;
- (x) To develop marketing and processing facilities and communications;
- (xi) To organize annual agricultural fairs, seminars and workshops and exhibitions, etc. to motivate the farmers.

- (xii) To diversify agriculture and develop activities like animal husbandry, farming, poultry, etc.;
- (xiii) To carry out assessment and reclamation of water-logged areas;
- (xiv) To act as a catalyst for formation of Water Distribution Co-operative Societies;
- (xv) To determine the payment of compensation to the affected persons as provided in sub-section (4) of section 16 of this Act, through the CAD Circle Office;
- (xvi) To carry out on farm development works which includes construction of water courses, field channel, warabandhi, land leveling and shaping, scientific crop planning suitable to local soil and climatic condition;
- (xvii) Providing extension facilities like demonstration on farmers field and training of farmers;
- (xviii) To propose and initiate the work of realignment of field boundaries and or consolidation of holding and get the same carried out by the authorities concerned within the framework of the provisions of the Goa Land Revenue Code, 1968 (9 of 1969) and the rules made thereunder, to facilitate the viable units/holdings for economic and efficient water management.

2.2 The Joint Committee on Offices of Profit considered the matter at their sitting held on 18 December, 2008 (APPENDIX-I).

2.3 The Committee note from the information furnished by the Government of Goa that membership in Command Area Development Board for the Anjunem Irrigation Project is an 'office under the Government' since the Board has been reconstituted as per Government's order. The Committee also note that the non-official members (including Members of Parliament, if nominated) of said Board are entitled to TA/DA as per rules which are covered by the 'Compensatory Allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee further note that the Board has been conferred the powers of disbursement of funds although it performs functions which are advisory in nature.

2.4. In this connection, Joint Committee on Offices of Profit also took note of their earlier recommendation regarding Command Area Development Board for the Anjunem

Irrigation Project examined during 12th Lok Sabha and felt that the Committee had evidently given the exemption on the basis of conclusion that the function of the board was of advisory in nature.

2.5. The Committee note that so far as disbursement of funds is concerned it is confined to merely disbursing central Assistance and the Government's share to water Distribution Co-operative Societies for the works entrusted to them which could not perhaps be treated as wielding power in real sense of the term. The Committee, therefore, feel that the Members of Parliament, if nominated to the Command Area Development Board of Anjunem Irrigation Project should remain to be exempted from disqualification for being chosen as, or for being, a Member of Parliament under Article 102 (1) (a) of the Constitution.

CHAPTER-III

Nomination of MPs in the State Rural Health Mission and District Health Missions, Rajasthan.

The Government of Rajasthan (Medical & Health (Group-V) vide their letter dated 20.4.2007 requested for permission of Hon'ble Speaker, Lok Sabha for nomination of MPs to the Rajasthan State Rural Health Mission at State Level and District Health Missions at district level for all 32 districts of Rajasthan to review the activities and other policies/programmes of the health sector. The State Government furnished the detailed information on certain points vide their letter dated 15.10.2008. The extracts of the information are given below:-

- Mission is a standing body for the Mission period.
- Mission has been constituted as per Government of India guidelines.
- The appointment of MPs is not on ex-officio basis but it is by name.
- The MPs are to be appointed in the capacity of members.
- The MPs are to be nominated as non-official members by Hon'ble Chief Minister.
- No remuneration is payable to the MPs as non-official members of the Mission.
- No TA/DA is payable to the non-official members.
- The Mission exercises executive power.
- Mission confers power of disbursement of funds for activities approved in the Annual Programme Implementation Plan of the State by Government of India
- It would have power of appointing members to the State Health Society.
- The rule for the State Health Mission as described in the NHRM Implementation Framework of Government of India is given as follows:-
 - (i) To provide support to District Health Mission as per need.

- (ii) To ensure support for development of capacity at all levels.
- (iii) To appraise District Health Plans and finalise them based on resource availability.
- (iv) To determine planning norms and suggested interventions for the State, keeping space for innovation.
- (v) To release resources to districts and to meet accounting and auditing standards and requirements.
- (vi) To engage professionals, NGOs, as per need to ensure that the finest Human Resources meet the needs of the Mission
- (vii) To guide and train health team at all levels and to arrange for quality technical assistance to districts.
- (viii) To get independent studies done to see progress against benchmarks.
- (ix) To establish transparent, timely and quality procurement procedures.
- (x) To finalize formats for survey and reports and to ensure timely submission.
- (xi) To converge with other departments and seek facilitating administrative instructions for effective action.
- (xii) To promote culture of transparency, accountability and effectiveness.
- (xiii) To involve non-governmental providers and to develop models of effective risk pooling.

3.2. The Joint Committee on Offices of Profit considered the matter at their sitting held on 18 December, 2008 (APPENDIX-I).

3.3 The Committee note from the information furnished by the Government of Rajasthan that the membership in the State Rural Health Mission and District Health Missions is an “office under the Government” since the appointment of MPs is to be made by the Chief Minister of the State. The Committee further note that no remuneration including TA/DA etc. is payable to MPs as non-official Members of the

Mission. The Committee also note that the Mission exercises executive power. It also confers power of disbursement of funds for activities approved in the Annual Programme Implementation Plan of the State by the Government of India. It would also have power of appointing members to the State Health Society.

3.4 The Committee, therefore, feel that Members of Parliament if nominated to the State Rural Health Mission and District Health Missions should not be exempted from disqualification for being chosen as, or for being, a member of Parliament under Article 102 (1) (a) of the Constitution.

NEW DELHI;

February, 2008
Phalguna, 1930 (Saka)

CHANDRA BHUSHAN SINGH,
Chairman,
Joint Committee on Offices of Profit

APPENDIX-I

(Vide paras 1.2, 2.2, and 3.2 of Chapters I, II and III of the Report respectively)

EXTRACTS OF THE MINUTES OF THE TWENTIETH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT

(FOURTEENTH LOK SABHA)

The Committee sat on Thursday, 18 December, 2008, from 1500 hrs. to 1545 hrs in Chairman's Room No. 136, First Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Chandra Bhushan Singh - Chairman

MEMBER (LOK SABHA)

2. Shri Ananth Kumar
3. Shri Mohan Jena
4. Shri S. K. Kharventhan
5. Shri Nikhilananda Sar

SECRETARIAT

Shri P.K. Grover - Joint Secretary
Shri R.S. Misra - Director
Shri Kusal Sarkar - Deputy Secretary-II

2. At the outset, the Chairman welcomed the members to the sitting of the Committee.

3. Thereafter, the Committee considered Memorandum No. 30 regarding nomination of Shri Anurag Thakur, M.P. as non-official member i.e. Director of Board of Directors of Himachal Pradesh Tourism Development Corporation Ltd. The Committee noted from the information furnished by the Government of Himachal Pradesh that the post of Director in the Board of Directors of Himachal Pradesh Tourism Development Corporation Ltd. was an office under the Government since the Government exercised control over the appointment to and removal from the office. As regards remuneration, the Committee noted that the remuneration (including the sitting fees for attending Board Meeting) of the Directors etc. would be given as determined by Government from time to time. The Committee also observed that the Board exercised executive, legislative and financial powers.

In this connection, the Joint Committee on Offices of Profit also noted their earlier recommendation in case of nomination of Smt. Chandresh Kumari, M.P. as a Director of the Himachal Pradesh Tourism Development Corporation Limited during Eighth Lok Sabha and also Gujarat Tourism Corporation, Meghalaya Tourism Development Corporation Limited during Seventh Lok Sabha that in view of executive and financial powers vested in them, the non-official Directors(including Chairman) of these Corporations should not be exempted from disqualification. Similarly, the Joint Committee on Offices of Profit (Fifth Lok Sabha) had recommended disqualification of non-official Directors of Kerala Tourism Development Corporation Limited and India Tourism Development Corporation vide Eighth Report (5th Lok Sabha) and Fourth Report (5th Lok Sabha) respectively.

The Committee, therefore, felt that the Members of Parliament if nominated as a non-official member i.e. Director of Board of Directors of Himachal Pradesh Tourism Development Corporation Ltd. might not be exempted from disqualification for being chosen as, or for being a member of Parliament.

4. Thereafter the Committee considered Memorandum No.31 regarding examination of Composition and Character of Command Area Development Board for Anjunem Irrigation Project, Goa. The Committee noted from the information furnished by the Government of Goa that membership in Command Area Development Board for the

Anjunem Irrigation Project was an ‘office under the Government’ since the Board had been reconstituted as per Government’s order. The Committee also noted that the non-official members (including Members of Parliament, if nominated) of said Board are entitled to TA/DA as per rules which are covered by the ‘Compensatory Allowance’ as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee further noted that though the Board appeared to be advisory in nature, it conferred powers of disbursement of funds.

In this connection, Joint Committee on Offices of Profit also took note of their earlier recommendation regarding Command Area Development Board examined during 12th Lok Sabha and felt that the Committee had evidently given the exemption on the basis of conclusion that the function of the board was of advisory in nature. It had apparently overlooked the fact that the board also wielded powers to disburse funds.

The Committee mulled over this issue and noted that so far as disbursement of funds was concerned it was confined to merely disbursing central Assistance and the Government’s share to water Distribution Co-operative Societies for the works entrusted to them which could not perhaps be treated as wielding power in real sense of the term.

The Committee, therefore, felt that the Members of Parliament, if nominated to the Command Area Development Board of Anjunem Irrigation Project may remain to be exempted from disqualification for being chosen as, or for being, a member of Parliament.

5. Thereafter, the Committee considered Memorandum No.32 regarding nomination of MPs in the State Rural Health Mission and District Health Missions, Rajasthan. The Committee noted from the information furnished by the Government of Rajasthan that the office of membership in the State Rural Health Mission and District Health Missions was an “office under the Government” since the appointment of MPs was to be made by the Chief Minister of the State. The Committee further noted that no remuneration including TA/DA etc. was payable to MPs as non-official Members of the Mission. The Committee also noted that the Mission exercised executive power. It also conferred power of disbursement of funds for activities approved in the Annual Programme

Implementation Plan of the State by the Government of India. It would also have power of appointing members to the State Health Society.

The Committee, therefore, felt that Members of Parliament if nominated to the State Rural Health Mission and District Health Missions might not be exempted from disqualification for being chosen as, or for being, a member of Parliament.

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The Committee then adjourned.

APPENDIX-II

XXI

MINUTES OF THE TWENTY FIRST SITTING OF THE
JOINT COMMITTEE ON OFFICES OF PROFIT
(FOURTEENTH LOK SABHA)

The Committee sat on Tuesday, 17 February, 2009 at 1500 hrs. in Chairman's Room No. '136', First Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Chandra Bhushan Singh - Chairman

MEMBER (LOK SABHA)

2. Shri S. K. Kharventhan
3. Shri Nikhilananda Sar

MEMBER (RAJYA SABHA)

4. Shri Silvius Condpan
5. Dr. C. Rangarajan

SECRETARIAT

Shri R.S. Misra - Director
Shri R.D. Silawat - Deputy Secretary-II

2. At the outset, the Chairman welcomed the members to the sitting of the Committee. Subsequently, the Chairman also welcomed Dr. C. Rangarajan the newly elected member to the Committee.

3. The Committee, then took up the draft Eleventh Report for consideration and adopted the same without any modification. Thereafter, the Committee authorised the Chairman to present the same to Parliament.

The Committee then adjourned.

