

CB-II No. _____

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

SECOND REPORT

Presented to Lok Sabha on 30.8.2011
Laid in Rajya Sabha on 30.8.2011



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2011/Bhadrapada, 1933(Saka)

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

Shri Rewati Raman Singh - Chairman

**MEMBERS
LOK SABHA**

2. Shri Vijay Bahuguna
3. Shri P.C. Chacko
4. Shri Dara Singh Chauhan
5. Shri Sanjay Dhotre
6. Shri Prataprao Ganpatrao Jadhav
7. Shri Vishwa Mohan Kumar
8. Shri Rajendrasinh Rana
9. Shri Sarvey Sathyanarayana
10. Shri Ashok Tanwar

RAJYA SABHA

11. Shri S.S. Ahluwalia
12. Shri Janardan Dwivedi
13. Dr. Bharatkumar Raut
14. Shri P.R. Ranjan
15. Smt. Mohsina Kidwai

SECRETARIAT

1. Shri Deepak Mahna - Joint Secretary
2. Shri Shiv Kumar - Director
3. Shrimati Maya Lingi - Deputy Secretary

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 Second Report of the Committee.

2. The matter covered in the Report was considered by the Committee at their sittings held on 26 May, 2011. 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 Hindi Advisory Committee under the Ministry of Youth Affairs & Sports and Punjab Education Development Board with a view to consider as to whether the nomination of Members of Parliament to these bodies would attract disqualification from the angle of 'office of profit' under Article 102 (1) (a) 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 Ministry of Youth Affairs & Sports and the State Government of Punjab.

5. The Committee considered and adopted this Report at their sitting held on 24 August, 2011(Appendix-II).

6. The Committee wish to express their thanks to the Ministry of Youth Affairs & Sports and the State Government of Punjab for furnishing the information desired by the Committee.

7. The observations/recommendations of the Committee in respect of the matters considered by them are given at the end of each Chapter of this Report in bold words. 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;

August, 2011
Bhadrapada, 1933 (Saka)

REWATI RAMAN SINGH,
Chairman,
Joint Committee on Offices of Profit

REPORT

CHAPTER - I

Nomination of a Member of Parliament to the Hindi Advisory Committee constituted under the Ministry of Youth Affairs and Sports.

Rajya Sabha Secretariat (Committee Coordination Section) vide their I.D.No.12(3)/2008-Coord. dated 2 March, 2010 forwarded a request received by them from Shri Shreegopal Vyas, Member, Rajya Sabha regarding his nomination to the Hindi Advisory Committee as a Member. The matter before consideration of the Committee was that as to whether or not the said nomination of Shri Vyas to the aforesaid Committee could be considered as disqualification for being a Member of Parliament from the angle of 'office of profit'.

1.2 As the information furnished by the Ministry regarding the Hindi Advisory Committee was not adequate to examine the matter from the angle of 'office of profit', the Ministry of Youth Affairs and Sports were requested to furnish the detailed information in the matter. The Ministry furnished the detailed information on the matter the extracts of which are reproduced below:

- This Committee is constituted in accordance with the guidelines formulated on the recommendations of the Central Hindi Committee (chaired by the prime Minister)
- Hindi Advisory Committee is set up to advise on proper implementation of Official Language Policy of the Government of India.
- Normally, the tenure of the Committee is for 3 years. In special circumstances the tenure of the Committee may be curtailed or enhanced by the Ministry/Department concerned.
- The Committee is purely an advisory body.
- It does not perform executive, legislative or judicial functions.
- It does not confer powers of disbursement of funds, allotment of land etc.
- It would not wield influence or power by way of patronage.
- The role of Hindi Advisory Committee is to advise about the implementation of Rajbhasha as per Constitutional provisions, Official Language Act and Rules, decisions taken by Central Hindi Committee and directions/instructions issued by the Department of Official Language for the progressive use of Hindi.
- TA/DA will be payable to the MPs according to Government Rules. As Members of the Committee, MPs will have no other facility.

1.3 The Committee considered the matter at their sitting held on 26 May, 2011(Appendix – I).

1.4 The Committee note that the Hindi Advisory Committee is constituted in accordance with the Guidelines formulated on the recommendations of the Central Hindi Committee (chaired by the Prime Minister). It is set up to advise on proper implementation of Official Language Policy of the Government of India. The Committee further note that the functions of the Hindi Advisory Committee are purely advisory in nature and it does not perform any executive, legislative or judicial functions. The nomination as a Member to the Hindi Advisory Committee does not confer powers of disbursement of funds, allotment of lands, etc. and as such the Member of this Committee can not wield influence or power by way of patronage. The Committee also note that the Members of Parliament as non-official Members are paid only TA/DA as per Government Rules, which falls under the definition of ‘Compensatory Allowance’ as defined in Section 2 (a) of Parliament (Prevention of Disqualification) Act, 1959. The Committee also took note of the similar stand taken by them in respect of Hindi Advisory Committees constituted under the Ministries of Law and Justice and External Affairs during Tenth Lok Sabha.

1.5 Having considered all aspects of the case, the Committee, therefore, feel that the Member of Parliament, if nominated to the Hindi Advisory Committee constituted by Ministry of Youth Affairs and Sports would not attract disqualification for being chosen as, or for being, a Member of Parliament under Article 102 (1) (a) of the Constitution.

CHAPTER - II

Nomination of Shri Naresh Gujral, Member, Rajya Sabha as a member of the Punjab Education Development Board, Government of Punjab.

Rajya Sabha Secretariat vide their I.D.No.12(1)/2003-Coord. dated 19 September, 2008 made a reference regarding the request of Government of Punjab for nomination of Shri Naresh Gujral, Member, Rajya Sabha as a Member of the Punjab Education Development Board for consideration and recommendation of the Joint Committee on Offices of Profit. The question for consideration was whether or not the proposed nomination of Shri Naresh Gujral as a Member of the Punjab Education Development Board by the State Government of Punjab would be deemed to be an office of profit and render him liable for disqualification for being chosen as, or for being a Member of Parliament.

2.2 The Government of Punjab furnished the detailed information regarding the Punjab Education Development Board vide their letter nos.3/170/07-5 Ed.4/1911 dated 3.6.2009 and 3/17/2007-3E4/64660 dated 14.10.2010, extracts of which are reproduced below:-

- The Punjab Education Development Board has been established under Section 3 (1) of the Punjab Education Development Act, 1998.
- The nomination is done by Chief Minister. Nomination is as a prominent Private Partner as defined in Clause (dd) of Section (2) of the Act.
- In the case of nominated members the Hon'ble Chief Minister, Punjab being the nominating authority has the right to remove/change the nominees.
- No remuneration in any form such as sitting fee, daily allowance, travelling allowance, House Rent Allowance, Compensatory Allowance, honorarium and other allowances are to be paid in the capacity as Member of Parliament.
- No facility is to be provided in the capacity as Member of Parliament from the Board.
- There is no provision to pay any remuneration in any form or facility in connection with the sitting of the board for any member of the Board.
- The Board exercises only the statutory powers given to it under the Punjab Education Development Act, 1998.
- The powers of disbursement of funds, allotment of lands, etc. are vested in the Board as a body.

- The Board would have powers of appointment/removal.
- The Board would wield no influence or power by way of patronage.
- The Board may, from time to time, with the previous approval of the Government make regulations not inconsistent with this Act and the rules made thereunder for the purposes of giving effect to the provisions of this Act.

2.3 The Committee considered the matter at their sitting held on 26 May, 2011 (Appendix – I).

2.4 The Committee note that the Punjab Education Development Board has been established under Section 3 (1) of the Punjab Education Development Board Act, 1998. Such nomination is done by the Chief Minister. The Committee further note that the Board exercises the Statutory powers given to it under the Punjab Education Development Board Act, 1998. The powers of disbursement of funds, allotment of lands, etc. are vested in the Board. What was more pertinent to note was that the Board also has powers of appointment/removal and also that the Board may from time to time with the previous approval of the Government make regulations not inconsistent with the Act and the rules made there under for the purposes of giving effect to the provisions of the Act. The Committee, however, also note that there is no provision to pay any remuneration in any form or facility in connection with the sitting of the Board for any Member. The Committee referred to their earlier recommendations in respect of Assam State Char Development Authority and Development Committees of Government Colleges in the State of Rajasthan examined during 10th Lok Sabha and 13th Lok Sabha, respectively.

2.5 Having considered all aspects of the case, the Committee, therefore, feel that the nomination of the Member of Parliament to the Punjab Education Development Board would attract disqualification from the angle of ‘office of profit’ under article 102 (1) (a) of the Constitution of India.

NEW DELHI

**August, 2011
Bhadrapada, 1933 (Saka)**

REWATI RAMAN SINGH

Chairman

Joint Committee on Offices of Profit

APPENDIX-I

(Vide paras 1.3 and 2.3 of Chapters I and II of the Report respectively)

MINUTES OF THE ELEVENTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON 26 MAY, 2011

The Committee met on Thursday, 26 May, 2011 from 1500 hrs to 1530 hrs in Committee Room '53', First Floor, Parliament House, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS LOK SABHA

2. Shri Vishwa Mohan Kumar
3. Shri Rajendrasinh Rana
4. Shri Ashok Tanwar

RAJYA SABHA

5. Shri S.S. Ahluwalia
6. Shri Janardan Dwivedi
7. Dr. Bharatkumar Raut

SECRETARIAT

1. Shri Deepak Mahna - Joint Secretary

At the outset, the Chairman welcomed the members to the sitting of the Committee and apprised them about the agenda of the sitting.

2. The Committee then took up for consideration Memorandum No.8 regarding nomination of a Member of Parliament to the Hindi Advisory Committee constituted under the Ministry of Youth Affairs and Sports. The Committee noted that the said Advisory Committee was constituted in accordance with the guidelines formulated on the recommendations of the Central Hindi Committee (chaired by the Prime Minister). It was set up to advise on proper implementation of Official Language Policy of the Government of India. The Committee further noted that the functions of the Hindi Advisory Committee were purely advisory in nature. It did not perform any executive, legislative or judicial functions. The nomination as a Member to this Committee does not confer powers of

disbursement of funds, allotment of lands etc. and as such the Member of this Committee can not wield influence or power by way of patronage. The Committee also noted that the Members of Parliament as non-official Members would be paid only TA/DA as per Government Rules which falls under the definition of 'Compensatory Allowance' as defined in Section 2 (a) of Parliament (Prevention of Disqualification) Act, 1959. The Committee also noted that they had taken similar stand in respect of Hindi Advisory Committees constituted under the Ministries of Law and Justice and External Affairs during Tenth Lok Sabha.

3. Thus, having considered all aspects of the case, the Committee felt that a Member of Parliament, if nominated to the Hindi Advisory Committee constituted by Ministry of Youth Affairs and Sports would not attract disqualification for being chosen as, or for being, a Member of Parliament.

4. The Committee then took up for consideration Memorandum No.9 regarding nomination of Shri Naresh Gujral, Member, Rajya Sabha as a Member of the Punjab Education Development Board. The Committee noted that the Punjab Education Development Board had been established under Section 3 (1) of the Punjab Education Development Board Act, 1998. Such nomination is done by the Chief Minister. The Committee further noted that the Board exercises the statutory power given to it under the Punjab Education Development Board Act, 1998. The powers of disbursement of funds, allotment of lands, etc. are vested in the Board. The Board also had powers of appointment/removal. The Board may from time to time with the previous approval of the Government make regulations not inconsistent with the Act and the rules made thereunder for the purposes of giving effect to the provisions of the Act. The Committee also noted that there was no provision to pay any remuneration in any form or facility in connection with the sitting of the Board for any member. The Committee also noted their earlier recommendations in respect of Assam State Char Development Authority and Development Committees of Government Colleges in the State of Rajasthan examined during 10th Lok Sabha and 13th Lok Sabha, respectively.

5. Thus, having considered all the aforesaid aspects of the case, the Committee felt that the nomination of a Member of Parliament to the Punjab Education Development Board would attract disqualification from the angle of 'office of profit' under article 102 (1) (a) of the Constitution of India.

The Committee then adjourned.

APPENDIX – II

MINUTES OF THE FIFTEENTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON 24 AUGUST, 2011

The Committee met on Wednesday, 24 August, 2011 from 1500 hrs to 1530 hrs in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi. \

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS LOK SABHA

2. Shri Vijay Bahuguna
3. Shri Sanjay Dhotre
4. Shri Ashok Tanwar

RAJYA SABHA

5. Dr. Bharatkumar Raut

SECRETARIAT

1. Shri Deepak Mahna - Joint Secretary
2. Shri Shiv Kumar - Director

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

3. The Committee, then took up the draft Second, Third and Fourth Reports 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.

