

CB-II No.536

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

FIRST REPORT

Presented to Lok Sabha on 02 December, 2010
Laid in Rajya Sabha on 02 December, 2010

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**LOK SABHA SECRETARIAT
NEW DELHI**

November, 2010/Kartika, 1932(Saka)

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CONTENTS

	PAGE
COMPOSITION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT	(iii)
INTRODUCTION.....	(v)

REPORT

Appointment of a Member of Parliament as a part-time member of the Board of PrasarBharati.

APPENDICES

- APPENDIX-I** Minutes of the sitting held on 12 March, 2010
- APPENDIX-II** Minutes of the sitting held on 15 April, 2010
- APPENDIX-III** Minutes of the sitting held on 1 July, 2010
- APPENDIX-IV** Extracts of the minutes of the sitting held on 20 October, 2010

**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. Vacant

SECRETARIAT

1. Shri A. Louis Martin - Joint Secretary
2. Shri J.M. Baisakh - Additional Director
3. Shrimati Maya Lingi - Deputy Secretary
4. Shri Harpal Singh - Committee Officer

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 First Report of the Committee.

2. The matter covered in the Report was considered by the Committee at their sittings held on 12 March, 15 April and 1 July, 2010. The Minutes of the sittings form part of the Report and are at Appendices I to III.

3. The Committee examined the composition, character, functions etc. of the Board of Prasar Bharati with a view to considering whether the part time membership of the Board would incur disqualification under Article 102 of the Constitution.

4. The detailed information regarding the composition, character, functions, emoluments and allowances payable to the part-time members of the Board was furnished by the Ministry of Information and Broadcasting. The Committee took oral evidence of Ministry of Law & Justice (Department of Legal Affairs and Legislative Department) and the Ministry of Information & Broadcasting at their sittings held on 15 April and 1 July, 2010.

5. The Committee considered and adopted this Report at their sitting held on 20 October, 2010 (Appendix-IV).

6. The Committee wish to express their thanks to the Ministry of Information and Broadcasting for furnishing the information desired by the Committee. They also wish to express their thanks to the Ministry of Information and Broadcasting and the Ministry of Law & Justice (Department of Legal Affairs and Legislative Department) for appearing before the Committee and placing their considered views in the matter.

7. For facility of reference, observation/recommendation of the Committee has been printed in thick type in the body of the report.

NEW DELHI;

18 November, 2010
27 Kartika, 1932 (Saka)

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

REPORT

Subject: Appointment of a Member of Parliament as a part-time member of the Board of Prasar Bharati.

A reference was received from the Rajya Sabha Secretariat (I.D.No.16(6)/2010-Coord. dated 8 February, 2010) quoting the communication of the Ministry of Information and Broadcasting that the name of Shri Shyam Benegal, Member, Rajya Sabha has been recommended for appointment as a part-time member of the Prasar Bharati Board by a Committee under the Chairmanship of the Chairman of the Council of States and seeking to know whether or not the proposed appointment would attract disqualification provisions of "office of profit" in terms of article 102 (1) (a) of the Constitution.

2. As the information furnished by the Ministry of Information and Broadcasting was incomplete to examine the matter from the angle of „office of profit“, they were requested to furnish detailed information in the matter. The Ministry of Information and Broadcasting furnished the desired information vide their letter No. 45011/2/10-BA(P) dated 15 February, 2010. The extracts of the information received from the Ministry are detailed below:-

A. Constitution and Composition of the Prasar Bharati Board

- Prasar Bharati Board was established under Section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.
- The Board consists of 6 part-time members besides Chairman, who is also a part-time member.
- The post of part time members on the Board of Prasar Bharati cannot be termed as adhoc.

B. Term of the Members:-

- The term of office of part-time members is 6 years. But one third of such part-time members retire on the expiration of every second year.

C. Mode of Appointment

- The Chairman and other Members, except the ex-officio Members, the nominated Members and the elected Members are appointed by the President of India on the recommendation of a Committee consisting of:-

- (a) The Chairman of the Council of States
- (b) The Chairman of the Press Council of India
- (c) One nominee of the President of India

D. Functions:

- The general superintendence, direction and management of the affairs of the Corporation vests in the Prasar Bharati Board which exercises all such powers and do all such acts and things as are done by the Corporation.
- The Board has power to make regulations under Sec.33 of the Act provided they are not inconsistent with the Act and rules made under it. In respect of regulations on the matters specified in Sec.33 (2) (c) and (d) of the Act, the regulations are to be made with the approval of the Central Government.
- The Corporation has powers to acquire, hold and dispose of property, both movable and immovable, and to contract, and to sue and be sued.
- The corporation shall have its own Fund and all the receipts of the Corporation (including the amounts which stand transferred to the Corporation under Section 16) shall be credited to the Fund and all payments by the Corporation shall be made therefrom.
- The Corporation may spend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund of the Corporation.
- For the purposes of appointment to the posts carrying scales of pay which are not less than that of a Joint Secretary to the Central Government, the Recruitment Board shall consist of the Chairman, other Members, the ex-officio Members, the Nominated Member and the elected Members.
- The Corporation may associate with itself, in such manner and for such purposes as may be provided by regulations, any person whose assistance or advice it may need in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purposes for which he has been associated, but shall not have the right to vote.
- The functions of the Board are not purely advisory. It has powers to general superintendence, direction and management of the affairs of the Corporation.
- The Chairman and the part-time members on the Board of Prasar Bharati have voting powers on all issues pertaining to the management of the Corporation.

E. Remuneration

- (i) The Chairman and Part-time Members shall receive a meeting allowance at the rate of Rs.2000/- per meeting subject to a maximum of Rs.5000/- per month.
- (ii) The Chairman and Part-time Members are entitled to reimbursement of actual taxi fare incurred, if no office transport is provided for attending each meeting.
- (iii) The Chairman, while on tour (including the journey undertaken to attend a meeting of the Corporation) is entitled to travelling allowance and daily allowance at the same rates as are applicable to the Secretary to the Government of India provided that the expenses on hotel accommodation shall not exceed Rs.5000/- per night.
- (iv) A part-time Member while on tour (including the journey undertaken to attend a meeting of the Corporation) is entitled to travelling allowance and daily allowance at the same rates as are applicable to the Additional Secretary to the Government of India provided that the expenses on hotel accommodation shall not exceed Rs.5000/- per night.

3. As per the information furnished by the Ministry of Information and Broadcasting, there is no specific provision in the Act for appointing a member of Parliament as Chairman or part-time member and till date no member of Parliament has been appointed as either Chairman or part-time member of the Prasar Bharati.

4. The Committee considered the matter at their sitting held on 12 March, 2010 (Appendix-I). At their sittings held on 15 April, 2010 (Appendix-II) and 1 July, 2010 (Appendix-III), the Committee also held discussions with the Ministry of Law and Justice and the Ministry of Information & Broadcasting in the matter.

5. The Committee note that the office of part time members of Prasar Bharati Board is an office under the Government as the appointment is made by the President of India. The Committee also note that the functions of the Board are executive, legislative and financial in nature and the Board confers powers of disbursement of funds, allotment of land etc. Since the part time members have voting power on all issues pertaining to the management of the Corporation, the Committee feel that the Board may wield influence or exercise power by way of patronage. The Committee also note that meeting allowance of Rs.2000/- per

meeting (subject to a maximum of Rs.5000/- per month) paid to the part time members besides TA/DA etc. is in excess of the compensatory allowance defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959, as amended. Thus, the provision of meeting allowance payable to the part-time members of the Board could be termed as a pecuniary gain. The Committee, therefore, feel that Shri Shyam Benegal, Member, Rajya Sabha, if appointed as a part time member of the Board of Prasar Bharati may attract disqualification from the angle of 'office of profit' in terms of Article 102 (1) (a) of the Constitution.

REWATI RAMAN SINGH
Chairman
Joint Committee on Offices of Profit

NEW DELHI
18 November, 2010
27 Kartika, 1932 (Saka)

APPENDIX-I

MINUTES OF THE FOURTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON 12 MARCH, 2010

The Committee sat on Friday, 12 March, 2010 from 1500 hrs to 1545 hrs in Committee Room No.'139', First Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS **LOK SABHA**

2. Shri P.C. Chacko
3. Shri Vishwa Mohan Kumar
4. Shri Rajendrasinh Rana

RAJYA SABHA

5. Shri S.S. Ahluwalia
6. Shri P.R. Rajan
7. Shri Bharkumar Raut

SECRETARIAT

- | | | | |
|----|-------------------|---|---------------------|
| 1. | Shri P.K. Grover | - | Joint Secretary |
| 2. | Shri R.S. Misra | - | Director |
| 3. | Shri J.M. Baisakh | - | Additional Director |
| 4. | Shri Hoti Lal | - | Deputy Secretary |

At the outset, the Chairman, welcomed the members to the sitting of the Committee and briefly mentioned about the agenda for the sitting. The Committee then took up for consideration memorandum No.3 relating to appointment of Shri Shyam Benegal, M.P., Rajya Sabha as a part-time member of the Board of Prasar Bharati. The matter was elaborately discussed in the light of the information made available by the Administrative Ministry i.e. the Ministry of Information & Broadcasting. Before arriving at a conclusion about the proposed appointment of the Member from the angle of 'office of profit', the Committee decided to hear the views of the Ministry of Law and Justice (Legal Affairs) and the Ministry of Information & Broadcasting in the matter. It was accordingly decided that the representatives of both the Ministries be called to appear before the Committee at their next sitting to be decided by the Hon'ble Chairman.

The Committee then adjourned.

APPENDIX-II

MINUTES OF THE FIFTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON 15 APRIL, 2010

The Committee sat on Thursday, 15 April, 2010 from 1500 hrs to 1545 hrs in Committee Room „C“, Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri P.C. Chacko - In the Chair

MEMBERS LOK SABHA

2. Shri Sanjay Dhotre
3. Shri Prataprao Ganpatrao Jadhav
4. Shri Vishwa Mohan Kumar

RAJYA SABHA

5. Shri P.R. Rajan
6. Shri Bharatkumar Raut

SECRETARIAT

1. Shri P.K. Grover - Joint Secretary
2. Shri R.S. Misra - Director
3. Shri J.M. Baisakh - Additional Director
4. Shri Hoti Lal - Additional Director

2. In the absence of Chairman, the Committee chose Shri P.C. Chacko, M.P. to act as Chairman for the sitting under Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee then heard the views of the representatives of the Ministries of Law and Justice (Department of Legal Affairs) and Information and Broadcasting on the issue regarding the proposed appointment of Shri Shyam Benegal, Member, Rajya Sabha as a part-time member on the Board of Prasar Bharati. The Members also sought certain clarifications which were explained by the representatives of both the Ministries. However, the deliberations remained inconclusive and the Committee decided to have further discussion in the matter and if required, the representatives of both the Ministries may also be called at a later date.

The witnesses then withdrew

4. The Verbatim proceedings of the sitting of the Committee have been kept on record.

The Committee then adjourned.

APPENDIX-III

MINUTES OF THE SIXTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON 1 JULY, 2010

The Committee sat on Thursday, 01 July, 2010 from 1500 hrs to 1615 hrs in Committee Room „B“, Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS **LOK SABHA**

2. Shri Sanjay Dhotre
3. Shri Prataprao Ganpatrao Jadhav
4. Shri Vishwa Mohan Kumar
5. Shri Rajendrasinh Rana

RAJYA SABHA

6. Shri S.S. Ahluwalia
7. Shri Janardan Dwivedi
8. Shri Bharatkumar Raut

SECRETARIAT

5. Shri A. Louis Martin - Joint Secretary
6. Shri J.M. Baisakh - Additional Director
7. Smt. Maya Lingi - Deputy Secretary

WITNESSES

I Representatives of Ministry of Information & Broadcasting

1. Shri Raghu Menon, Secretary

II Representatives of Ministry of Law & Justice

(Department of Legal Affairs)

1. Shri D.R. Meena, Law Secretary

(Legislative Department)

1. Shri V.K. Bhasin, Legislative Secretary
2. Shri N.K. Nampoothiry, Additional Secretary

2. At the outset, the Chairman welcomed the members to the sitting of the Committee and briefly mentioned about the agenda for the sitting. The Committee then heard the views of the representatives of the Ministries of Law and Justice (Legislative Department and Department of Legal Affairs) and Information and Broadcasting on the issue regarding the proposed appointment of Shri Shyam Benegal, Member, Rajya Sabha as a part-time member in the Board of Prasar Bharati.

3. The Secretary, Ministry of Information and Broadcasting apprised the Committee that Shri Shyam Benegal, M.P. Rajya Sabha was approved for appointment as a part-time member in the Prasar Bharati Board on the recommendation of a Committee consisting of the Vice-President of India (Chairman of the Committee), the Chairman of the Press Council of India and one nominee of the President. The Secretary stated that no notification had been issued regarding his appointment since the matter needed consideration whether the office of a part-time member would come under the purview of the office of profit. The Secretary further stated that Shri Shyam Benegal, M.P. had been selected for this post on the ground that he is an eminent public figure who is well versed in the field of broadcasting and films for the last so many years and the Ministry felt that he would be able to make a good contribution as a part-time member of the Prasar Bharati Board.

4. The Law Secretary stated that in view of the powers of the Prasar Bharati Board as are enumerated in the Prasar Bharati Act, the powers to be exercised by the Board and the powers available to the part-time members, it would appear that the office of the part-time member is an office under this Act. The holder of the office is entitled to remuneration which could be termed as a pecuniary gain in connection with the office. According to the Law Secretary, it prima facie appears that the office of the part-time member of Prasar Bharati Board may be termed as office of profit for the purpose of article 102 (1) (a) of the Constitution.

5. The members also raised certain points which were responded to by the representatives of the Ministries.

The witnesses then withdrew.

The Verbatim proceedings of the sitting of the Committee have been kept on record.

The Committee then adjourned.

APPENDIX-IV

MINUTES OF THE EIGHTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON 20 OCTOBER, 2010

The Committee sat on Wednesday, 20 October, 2010 from 1500 hrs to 1545 hrs in Committee Room „C“, Ground Floor, Parliament House Annexe , New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS LOK SABHA

2. Shri Vijay Bahuguna
3. Shri P.C. Chacko
4. Shri Sanjay Dhotre
5. Shri Rajendrasinh Rana
6. Shri Sarvey Sathyanarayana

RAJYA SABHA

7. Shri S.S. Ahluwalia
8. Shri Bharatkumar Raut

SECRETARIAT

1. Shri A. Louis Martin - Joint Secretary
2. Smt. Neera Singh - Director
3. Shri J.M. Baisakh - Additional Director
4. Smt. Maya Lingi - Deputy Secretary

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

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4. Thereafter, the Committee took up for consideration the draft Report regarding appointment of a Member of Parliament as a part-time member of the Board of Prasar Bharati. After deliberations at length, the Committee adopted the draft report subject to deletion of para 6 of the report shown below:-

“6. The Committee, however took cognizance of the fact that Shri Shyam Benegal is an eminent person in the field of broadcasting and films and he would be able to make valuable contribution to the successful functioning of the Prasar Bharati Board, if appointed as part-time member of the Board. The Committee, therefore, recommend that the Parliament (Prevention of Disqualification) Act, 1959 or the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 should be suitably amended so as the holder of the office of the part-time member of the Board of Prasar Bharati is exempted from disqualification for being chosen as, or for being a Member of Parliament, if the holder of such office is not entitled to any remuneration other than compensatory allowance.”

The Committee then authorized the Chairman to present the Report to Parliament as adopted.

The Committee then adjourned.

