

CB-II No. _____

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

FIFTH REPORT

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



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2012/Bhadrapada, 1934(Saka)

Price : _____

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

RAJYA SABHA

11. Shri Janardan Dwivedi
12. Dr. Bharatkumar Raut
13. Smt. Mohsina Kidwai
14. Vacant
15. Vacant

SECRETARIAT

1. Shri C.V. Gadgil - 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 Fifth Report of the Committee.

2. The matter covered in the Report was considered by the Committee at their sittings held on 18 October, 2011 and 02 May, 2012. The Minutes of the sittings form part of the Report and are at Appendix – I & II.

3. The Committee examined the composition, character, functions etc. of the State Level Vigilance and Monitoring Committee for the Rural Development Programmes, Mizoram and District Planning Committees, Rajasthan with a view to consider as to whether the nomination of Members of Parliament to these Committees as Members would attract disqualification for being chosen as, or for being, a Member of Parliament.

4. The detailed information regarding the composition, character, functions, emoluments and allowances payable to the Members of these Committees was furnished by the State Governments of Mizoram and Rajasthan.

5. The Committee considered and adopted this Report at their sitting held on 20 July, 2012.

6. The Committee wish to express their thanks to the State Governments of Mizoram and Rajasthan for furnishing the information desired by the Committee.

7. The observations/recommendations made by 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, 2012
Bhadrapada, 1934 (Saka)

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

REPORT

CHAPTER - I

Nomination of Members of Parliament to the State Level Vigilance and Monitoring Committee for the Rural Development Programmes, Mizoram

The Government of Mizoram (Parliamentary Affairs Department) vide its letter no.H.110131/1/2008-PAD dated 9 October, 2009 had forwarded a request as regards the nomination of two Members of Parliament namely Sarvashri Pu Lalhmingliana, M.P and Pu C.L. Ruala, M.P as Members of the State Level Vigilance and Monitoring Committee for the Rural Development Programmes of the State Government of Mizoram for examination and consideration by the Joint Committee on Offices of Profit.

1.2 Since information regarding daily allowance and sitting fee, etc. furnished by the Government of Mizoram was not found sufficient to examine the matter from the angle of „office of profit“ the State Government were requested again to submit further clarifications. The Government of Mizoram have since furnished the requisite information regarding the State Level Vigilance and Monitoring Committee for the Rural Development Programmes, Mizoram. The extracts of the detailed information furnished by the Government of Mizoram are reproduced below :-

CONSTITUTION:

- The Committee have been constituted as per the Guidelines for vigilance and Monitoring Committees at State and District Levels to monitor the Rural Development Programmes issued by the Government of India, Ministry of Rural Development (Department of Rural Development) and Government of Mizoram, Rural Development Department's Notification No.B.16011/7/2007-RD (Vigilance and Monitoring) dated 17.4.2009.

COMPOSITION:

- The Committee has 29 Members of which 19 members are officials and 10 Members are non-official members from amongst MPs, MLAs, etc.
- MPs are nominated either by the Government of Mizoram or the Government of India as per the Guidelines.

FUNCTIONS:

The terms of reference of the Committee shall be as follows:

- (i) The Vigilance & Monitoring Committee at State Level would supervise and exercise Vigilance & Monitoring on the implementation of all programmes of the Ministry of Rural Development.
- (ii) The Committee would monitor the flow of funds at various channels, including allocations, release, utilization and unspent balance.
- (iii) The Committee should ensure that the schemes are implemented as per the Guidelines issued by the Ministry of Rural Development and no addition or alteration is done.
- (iv) The Committee would look into complaints received by them in respect of the implementation of the programmes, including complaints of the misappropriation/diversion of the funds of various programmes of the Ministry and recommend follow up action.
- (v) The Committee would take all necessary measures to ensure the flow of programme benefit to the rural poor in full measures.
- (vi) The Committee would consider all Evaluation Reports, Area Officers' Reports and such other Reports sent to them by the Ministry of Rural Development and would cause to take necessary follow-up action and corrective measures wherever required.

- It performs executive functions and does not have any financial powers.
- The Committee is only advisory in the nature and it will act as social watchdog and auditor.

REMUNERATION:

- The daily sitting allowance of Rs.500 is given only to non-official members at the time of sitting of the Committee and that it is not similar to normal daily allowance.
- Daily allowance would not be admissible to non-official members on the days of payment of sitting fee (Rs.500) for attending the sitting of the Committee.

1.3 The Joint Committee on Offices of Profit considered the matter at their sitting held on 18 October, 2011 (APPENDIX – I).

1.4 The Committee note from the information furnished by the Government of Mizoram that since nomination of MPs to the State Level Vigilance and Monitoring Committee, Mizoram is done by the State Government, holding the membership by MPs in this Committee becomes an „office under the Government.” The Committee further note that the Monitoring Committee is advisory in nature and acts as a social watchdog and auditor. Nomination as Members to the Committee neither confers powers of disbursement of funds, allotment of lands, issue of licence, etc. nor they can wield any influence or power by way of patronage. The Committee note in particular that the Committee does not have any financial powers and it performs executive functions. The Committee, however, further observe that the non-official Members are paid only the daily sitting Allowance of Rs 500 which is not similar to normal Daily Allowance. The Daily Allowance, however, is not admissible to non-official members on the days when they receive payment of sitting fee (Rs.500/-) for attending the sitting of the Committee.

1.5 Against the backdrop of the payment of sitting fee, the Joint Committee on Offices of Profit recalled the decision of the Hon“ble High Court of Mysore in S.S.Inamdar Vs. A.S.Andanappa case, where a member was entitled to a sitting fee for attending the meetings of a Board, subject to the condition that on the days he was entitled to sitting fee, D.A would not be admissible to him. In that case it was held that in the circumstances the payment going by the name of the sitting fee should be construed to be a payment like that of Daily Allowance, and, it may be seen as another name for the Daily Allowance.

1.6 The Joint Committee on Offices of Profit also recalled the earlier stand taken by the Committee during the Thirteenth Lok Sabha regarding State Level Vigilance and Monitoring Committee and District Level Vigilance and Monitoring Committees in Rajasthan wherein the Committee had felt that the nomination of non-official members (including Members of Parliament) to the proposed State Level Vigilance and Monitoring Committee and District Level Vigilance and Monitoring committees in Rajasthan did not appear to attract disqualification.

1.7 Having considered all aspects of the case, the Committee are of the view that the nomination of MPs as Members to the State Level Vigilance and Monitoring Committee for Rural Development Programmes, Mizoram would not attract disqualification from the angle of „office of profit“.

CHAPTER - II

Nomination of Members of Parliament as Members to the District Planning Committees, Rajasthan.

The Government of Rajasthan (Department of Parliamentary Affairs) vide their letter no.F15(1) Parliament/2009 Part-2 dated 10 November, 2010 had forwarded a request to obtain the consent of Hon^{ble} Speaker, Lok Sabha for nomination of Members of Parliament as Members to the District Planning Committees constituted for each district of Rajasthan.

2.2 The Government of Rajasthan have furnished detailed information regarding the District Planning Committees, Rajasthan, the extracts of which have been reproduced below:

- District Planning Committees have been constituted for each district of the State of Rajasthan under Rajasthan Panchayatl Raj Act, 1994 and Rajasthan Panchayati Raj Rules, 1996.
- District Planning Committees comprise 25 Members out of which 20 Members are elected by the elected representatives of Zila Parishads and Municipal bodies amongst themselves in proportion to population of the rural and urban areas. The remaining 5 Members are nominated Members. Out of these nominated Members, 2 Members are nominated from amongst the MPs/MLA or the persons representing Voluntary Agencies nominated by the State Government.
- The MPs are nominated by Hon^{ble} Chief Minister on behalf of the State Government.
- They shall represent District Planning Committee as a Member till they retain their membership in Parliament.
- There is no provision for remuneration payable to the Members of the Committees.
- The main functions of the Committees is to consolidate the Annual Plans prepared by the Panchayati Raj Institutions and Municipalities in the District and to prepare draft development plan of the district as a whole for forwarding the same after the approval to the State Government.

2.3 The Committee considered the matter at their sitting held on 02 May, 2012 (APPENDIX – II).

2.4 The Committee note from the information furnished by the Government of Rajasthan that the office of a Member to the District Planning Committee is the “office under the Government” since the nomination of Members is done by the State Government. The Committee further note that the Members of the District Planning Committees are not entitled to get any remuneration and the functions of the Committee would be advisory in nature only. In this case, the Committee also referred to the opinion of the Joint Committee on Offices of Profit expressed in respect of a previous such case concerning the State Planning Board, Rajasthan which was examined by the Joint Committee during the 10th Lok Sabha. In that case the Committee had recommended to exempt the non-official Members (including the Members of Parliament) of the State Planning Board, Rajasthan from disqualification for being chosen as, or for being, the Members of Parliament.

2.5 Having considered all aspects of the matter, the Committee feel that the Members of Parliament, if nominated to the District Planning Committees in each district of Rajasthan should be exempted from disqualification for being chosen as, or for being, a Member of Parliament.

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

**NEW DELHI
August, 2012
Bhadrapada, 1934 (Saka)**

APPENDIX-I

(Vide para 1.3 of Chapter I of the Report)

EXTRACTS OF THE MINUTES OF THE SIXTEENTH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON 18 OCTOBER, 2011

The Committee met on Tuesday, 18 October, 2011 from 1500 hrs to 1545 hrs in Committee Room No. 074, Ground Floor, Parliament Library Building, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

MEMBERS LOK SABHA

2. Shri Vijay Bahuguna
3. Shri P.C. Chacko
4. Shri Vishwa Mohan Kumar
5. Shri Ashok Tanwar

RAJYA SABHA

6. Shri Janardan Dwivedi
7. Dr. Bharatkumar Raut
8. Smt. Mohsina Kidwai

SECRETARIAT

1. Shri Deepak Mahna - Joint Secretary
2. Shri Shiv Kumar - Director
3. Shri M.D. Tuteja - Under 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. 14 regarding nomination of Members of Parliament to the State Level Vigilance and Monitoring Committee for Rural Development Programmes, Mizoram. The Committee noted from the information furnished by the Government of Mizoram that since nomination of MPs to the State Level Vigilance and Monitoring Committee, Mizoram is done by the Government, holding the Membership by MPs in this Committee becomes an „office

under the Government.” The Committee also noted that the Committee is advisory in nature which acts as a social watchdog and auditor. It neither confers powers of disbursement of funds, allotment of lands, issue of licence, etc. nor wields influence or power by way of patronage so far. However, though the Committee does not have any financial powers it performs executive functions. The Committee further noted that the non-official Members are paid only the daily sitting Allowance of Rs.500 which is not similar to normal Daily Allowance. The Daily Allowance would not be admissible to non-official Members on the days of payment of sitting fee (Rs.500/-) for attending the sitting of the Committee.

3. In regard to the payment of sitting fee, the Committee noted the decision of the **High Court of Mysore in S.S.Inamdar Vs. A.S.Andanappa case**, where a candidate was entitled to a sitting fee for attending the meetings of a Board, subject to the condition that on the days he was entitled to sitting fee, D.A would not be admissible to him. The Court held that in the circumstances the payment going by the name of the sitting fee should be construed to be a payment as the Daily Allowance, and, it may, thus, be seen as another name for the Daily Allowance.

4. In view of the foregoings, the Committee concluded that the nomination of MPs as Members to the State Level Vigilance and Monitoring Committee for Rural Development Programmes, Mizoram would not attract disqualification from the angle of „office of profit“.

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The Committee then adjourned.

APPENDIX-II

(Vide para 2.3 of Chapter II of the Report)

**EXTRACTS OF THE MINUTES OF THE SEVENTEENTH SITTING OF THE JOINT
COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON
02 MAY, 2012**

The Committee met on Wednesday, 02 May, 2012 from 1500 hrs to 1645 hrs in Committee Room „D“, Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Rewati Raman Singh - Chairman

**MEMBERS
LOK SABHA**

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

RAJYA SABHA

5. Dr. Bharatkumar Raut

SECRETARIAT

5. Shri C.V. Gadgil - Joint Secretary
6. Shri Shiv Kumar - Director
7. Smt. Maya Lingi - Deputy Secretary
8. Shri M.D. Tuteja - Under Secretary

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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5. Thereafter, the Committee took for consideration Memorandum No.18 regarding nomination of Members of Parliament as Members to the District Planning Committees, Rajasthan. The Committee noted from the information furnished by the Government of Rajasthan that the office of a Member to the District Planning Committee is the “office under the Government” since the nomination of Members is done by the State

Government. The Committee further noted that the Members of the District Planning Committees are not entitled to get any remuneration. The Committee also noted that the functions of the Committee would be advisory in nature. The Committee also recalled and referred to the opinion of the Joint Committee on Offices of Profit given in respect of previous case concerning the State Planning Board, Rajasthan examined by the Joint Committee during the 10th Lok Sabha. The Committee had recommended, in that case, to exempt the non-official Members (including the Members of Parliament) of the State Planning Board, Rajasthan from disqualification for being chosen as, or for being, Members of Parliament.

2. Having considered all aspects of the matter, the Committee felt that the Members of Parliament, if nominated to the District Planning Committees in each district of Rajasthan should be exempted from disqualification for being chosen as, or for being, a Member of Parliament.

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The Committee then adjourned.

APPENDIX-III

MINUTES OF THE TWENTIETH SITTING OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTEENTH LOK SABHA) HELD ON 20 JULY, 2012

The Committee met on Friday, 20 July, 2012 from 1200 hrs to 1230 hrs in Committee Room „C“; 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
6. Shri Sarvey Sathyanarayana

RAJYA SABHA

7. Shri Janardan Dwivedi
8. Dr. Bharatkumar Raut

SECRETARIAT

1. Shri C.V. Gadgil - Joint Secretary
2. Shri Shiv Kumar - Director
3. Smt. Maya Lingi - Deputy Secretary

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

3. Thereafter, the Committee took up the draft Fifth and Sixth Reports for consideration and adopted the same without any modification.

4. The Committee also placed on record their appreciation of the valuable assistance rendered to them by the officers and staff of the Secretariat.

The Committee then adjourned.

