

JOINT COMMITTEE ON OFFICES OF PROFIT

FIFTH REPORT
(SEVENTH LOK SABHA)



Presented to Lok Sabha on 4 March, 1983

Laid in Rajya Sabha on 4 March, 1983

**LOK SABHA SECRETARIAT
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LOK SABHA SECRETARIAT
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TO

THE FIFTH REPORT OF THE JOINT COMMITTEE
ON OFFICES OF PROFIT (SEVENTH LOK SABHA)

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JOINT COMMITTEE ON OFFICES OF PROFIT
(SEVENTH LOK SABHA)

COMPOSITION OF THE JOINT COMMITTEE

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

- *2. Shri Ajitsinh Dabhi
3. Shri Harish Kumar Gangwar
4. Shri Krishna Chandra Halder
5. Shri Virdhi Chander Jain
6. Shri Jamilur Rahman
7. Shri Rashid Masood
8. Shri S. A. Dora Sebastian
9. Shri N. K. Shejwalkar
10. Shri Nandi Yellalah

Rajya Sabha

11. Shri Syed Rahmat Ali
12. Shri Dinesh Goswami
13. Shri Robin Kakati
14. Shri Lakhan Singh
- **15. Shri Ram Bhagat Paswan

SECRETARIAT

Shri H. G. Paranjpe—*Joint Secretary.*

Shri S. D. Kaura—*Chief Legislative Committee Officer.*

Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

*Elected by Lok Sabha on the 21st July, 1982 vice Shri Jagan Nath Kaushal resigned from the Committee.

**Elected by Rajya Sabha on the 11th August, 1982, vice Prof. N. M. Kamble ceased to be member of the Joint Committee on his retirement from that house.

REPORT OF THE JOINT COMMITTEE ON OFFICES OF PROFIT

I

INTRODUCTION

1. 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 their Fifth Report of the Committee.

1.2 The matters covered by the Report were considered by the Committee at their sittings held on 6 August, 16 and 17 September and 3 November, 1982. Minutes of these sittings form part of the Report and are at Appendix I.

1.3 The Committee considered the Composition, character, functions etc. of 23 Committees/Boards/Councils/Corporations etc. constituted by the Central Government, State Governments and the Union Territory Administrations and the emoluments and allowances payable to their members.

1.4 The detailed information regarding the composition, character, functionst emoluments and allowances payable to the members of these bodies was furnished by the concerned Ministries/Departments of the Central Governments, State Governments and the Union Territory Administrations.

1.5 The Committee considered and adopted the Report on 17 December, 1982.

1.6 The observations/recommendations of the Committee in respect of the matters considered by them are given in the succeeding paragraphs.

II

COMMITTEES/BOARDS/COUNCILS/CORPORATIONS ETC. CONSTITUTED BY THE CENTRAL AND STATE GOVERNMENTS AND THE UNION TERRITORY ADMINISTRATIONS

Railways Reforms Committee—(Ministry of Railways)

2.1 The Committee note that the non-official members of the Railway Reforms Committee are entitled to draw sitting fee @Rs. 150/- for each meeting of the Committee and in addition they are paid D.A. @Rs. 28/- per day plus actual T.A. The payments thus made to the non-official members (including the Chairman) exceed the 'compensatory allowance', as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee also note that although it is a High Power Committee to examine and review the working of the Railways in a comprehensive manner, yet it does not enjoy executive or financial powers. However, in view of the payments made to them being more than the 'compensatory allowance', the Committee feel that the non-official members (including the Chairman) *ought not to be exempt from disqualification.*

Development Council for printing including Litho Printing Industry (Ministry of Industry—Department of Industrial Development)

2.2 The Committee note that the non-official members of the Development Council are entitled to draw actual T.A. only which is covered by the 'compensatory allowance'. Besides, the functions of the Committee are mainly advisory in nature. As such, the Committee feel that the membership of the Development Council *ought to be exempt from disqualification.*

(i) Board of Directors and (ii) Executive Committee of the Central Warehousing Corporation—(Ministry of Agriculture, Department of Food)

2.3 The Committee have been informed that the Central Warehousing Corporation finds a place in Part I of the Schedule to the Parliament (Prevention of Disqualification Act, 1959, disqualifying thereby only the Chairman of the said Corporation. But, as one of the functions of the Joint Committee on Offices of Profit is to

scrutinise from time to time the Schedule to the Act *ibid* and to recommend any amendment in the said Schedule whether by way of addition, omission or otherwise, the body has been examined by the present Committee.

The Committee note that the non-official Directors other than M.Ps. and M.L.As., of the Central Warehousing Corporation are entitled to sitting fee of Rs 100/- for each sitting of the Board of Directors and Rs. 50/- for each sitting of the Executive Committee besides actual TA and DA to which they are entitled. Non-official Directors who are M.Ps are entitled to actual T.A. plus D.A. @Rs. 51/- per day and no sitting fees are payable to them. Similarly, M.L.As., are entitled to only T.A. and D.A. at the rate payable to Grade I Officers of the State. Thus, whereas the payments admissible to the non-official Directors other than M.Ps. and M.L.As., are more than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959, the payment admissible to M.Ps. and M.L.As is within the limit of 'compensatory allowance'. The Committee, however, note that the Board of Directors and the Executive Committee exercised executive and financial powers and are in a position to wield influence and patronage. As such, the Committee feel that all the non-official Directors of the Corporation *ought not to be exempt* from disqualification.

In this connection, the Committee have also learnt that the Joint Committee on Offices of Profit (Fifth Lok Sabha) had also made similar recommendations in the case of several State Warehousing Corporations, for example, in the case of Board of Directors of the Haryana Warehousing Corporation *vide* para 13 of their Nineteenth Report (Fifth Lok Sabha).

Editorial Board for the Defence Science Journal (Ministry of Defence)

2.4 The Committee note that the non-official members of the Editorial Board for the Defence Science Journal are entitled to TA & DA which are less than the 'Compensatory allowance'. Besides, the functions of the members of the Board are only advisory. As such, the Committee feel that the non-official members of the Board *ought to be exempt* from disqualification.

State Transport Authority, Uttar Pradesh

2.5 The Committee have considered the case of the proposed nomination of Shri Jitendra Prasada, M.P. to the State Transport

Authority, Uttar Pradesh by the Government of U.P. In this connection, the Committee note that the State Transport Authority, Uttar Pradesh consist of both officials and non-officials. The Chairman of the Authority is an official. The Committee also note that the payment of TA and DA to the non-official members of the Authority is at the same rates as are payable to Class I Officers of the State Government (exact rates not intimated by the State Government). The Committee further note that the State Transport Authority of Uttar Pradesh exercises the following powers:—

- (a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if any, of the State;
- (b) to perform the duties of a Regional Transport Authority where there is no such authority and, if it thinks fit or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions;
- (c) to settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities; and
- (d) to discharge such other functions as may be prescribed.

Besides, the Authority is also required to discharge, *inter alia*, the following functions under the Motor Vehicles Act, 1939:—

- (1) To grant permits for use of vehicles in any public place (Sec. 42).
- (2) To control road transport (Sec. 43).
- (3) To grant stage carriage permits (Sec. 48).
- (4) To grant Contract Carriage permits (Sec. 51).
- (5) To grant public carrier's permit (Sec. 56).
- (6) To cancel or suspend permits (Sec. 60).
- (7) To grant temporary permits (Sec. 62).

In this connection, the Committee also note that while reviewing their earlier recommendations regarding certain State and Regional Transport Authorities of Andhra Pradesh, Bihar, Gujarat, Haryana, Kerala, Madhya Pradesh Maharashtra, Punjab, Rajasthan, Delhi, Goa, Daman & Diu, Orissa and Dadar and Nagar Haveli, the Joint

Committee on Offices of Profit (Fifth Lok Sabha) had observed as under:—

“The Committee note that all the State Transport and Regional Transport Authorities have been constituted under the same Act, *viz.*, the Motor Vehicles Act, 1939, and have the same functions and powers. *Inter alia*, they possess the power to issue permits, and are in a position to wield influence. They can also exercise quasi-judicial powers. As such, the Committee feel that not only the Chairmanship and Secretaryship but even ordinary membership of all the Authorities mentioned in para 31 above ought not to be exempt from disqualification. The Committee desire that the Parliament (Prevention of Disqualification) Amendment Bill, 1974, now pending before Rajya Sabha should be amended to this effect.”

[13R (JCOP-5LS), para 35, p. 11]

The Committee are of the view that the members of the said State Transport Authority, U.P. (including Shri Jitendra Prasada, M.P. on his appointment as member of the Authority) *ought not to be exempt* from disqualification.

Rajasthan State Agriculture Marketing Board, Jaipur (Govt. of Rajasthan)

2.6 The Committee note that the Chairman of the Marketing Board (if non-official) is allowed a monthly remuneration of Rs. 1250/- p.m. in addition to T.A., D.A. and sitting fee. The payment of monthly salary is not covered by the ‘compensatory allowance’. The other non-official members get first class fare as T.A. and D.A. @Rs 15/- per day and sitting fee for attending a meeting @ Rs. 15/- per day. These payments are however, less than the ‘compensatory allowance’. But the Board exercises executive and financial powers and is in a position to wield influence and patronage. As such, the Committee feel that the Chairman (if non-official) and non-official members of the Rajasthan State Agriculture Marketing Board *ought not to be exempt* from disqualification.

Transport and Communications Board (Government of Maharashtra)

2.7 The Committee note that the payments admissible to non-official members of the Maharashtra Transport and Communications Board (including MLA/MLCs, if any) other than the Chairman of a functional Board, by way of sitting fee (@ Rs. 50/- per

day for attending the meeting), T.A. (admissible by the highest class of transport) and D.A. (@Rs. 30/- per day), are more than the 'compensatory allowance'. However, in the case of a member of the State Legislature, if any, on the Board, T.A. is governed in accordance with the provisions contained in the Members of Bombay Legislature (Allowances) Rules, 1959, in respect of any journey undertaken within the area of the Bombay Metropolitan Region. Besides T.A. and D.A., the non-official Chairman of the Board is paid honorarium @Rs. 1000/- p.m. and he is also entitled to other perks like free telephone and official vehicle which are not covered by the 'compensatory allowance'. The functions of the Board are also of executive and financial nature. As such, the Committee feel that all the non-official members (including the Chairman) are likely to attract disqualification for being chosen as, and for being, a member of either House of Parliament under Article 102(1) (a) of the Constitution.

Water Resources Management Board (Government of Maharashtra)

2.8 The Committee note that the payments admissible to non-official members of the Water Resources Management Board (including MLAs and MLCs, if any) other than the Chairman of a functional Board, by way of sitting fee @Rs. 50/- per day for attending the meeting), T.A. (admissible by the highest class of transport) and D.A. (@Rs. 30/- per day), are more than the 'compensatory allowance'. However, in the case of a member of the State Legislature, if any, on the Board, T.A. is governed in accordance with the provisions contained in the Members of Bombay Legislature (Allowance) Rules, 1959, in respect of any journey undertaken within the area of the Bombay Metropolitan Region. Besides T.A. and D.A., the non-official Chairman of the Board is paid honorarium @Rs. 1000/- p.m. and he is also entitled to other perks like free telephone and official vehicle which are not covered by the 'compensatory allowance'. The functions of the Board are also of executive and financial nature. As such, the Committee feel that all the non-official members (including the Chairman) are likely to attract disqualification for being chosen as, and for being, a member of either House of Parliament under Article 102(1) (a) of the Constitution.

Housing Urban Renewal and Ecology Board (Government of Maharashtra)

2.9 The Committee note that the payments admissible to non-official members of the Housing, Urban Renewal and Ecology Board (including MLAs and MLCs, if any) other than the Chairman of

a functional Board, by way of sitting fee (@ Rs. 50/- per day for attending the meeting), T.A. (admissible by the highest class of transport) and D.A. (@ Rs. 30 per day), are more than the 'compensatory allowance'. However, in the case of a member of the State Legislature, if any, on the Board, T.A. is governed in accordance with the provisions contained in the Members of Bombay Legislature (Allowances) Rules, 1959, in respect of any journey undertaken within the area of the Bombay Metropolitan Region. Besides T.A. and D.A., the non-official Chairman of the Board is paid honorarium @ Rs. 1000/- p.m. and he is also entitled to other perks like free telephone and official vehicle which are not covered by the 'compensatory allowance'. The functions of the Board are also of executive and financial nature. As such, the Committee feel that all the non-official members (including the Chairman) are likely to attract disqualification for being chosen as, and for being, a member of either House of Parliament under Article 102(1) (a) of the Constitution.

2.10 While arriving at the decision in respect of the Boards mentioned in paragraph 2.7, 2.8 & 2.9 above, the Committee have taken note of the fact that in terms of Section 10(1) of the Bombay Metropolitan Region Development Authority Act, 1974, under which the said Boards have been constituted, a member (including the Chairman or Vice-Chairman) of the Authority or any of its Committees or bodies shall not be disqualified under Article 191 of the Constitution for being chosen as, and for being, a member of the State Legislature or any local authority merely by reason of the fact that he is a member of the Authority or any of its Committees or Boards.

Maharashtra State Legal Aid and Advice Board (Government of Maharashtra)

2.11 The Committee note that the executive Chairman of the Maharashtra State Legal Aid and Advice Board is entitled to receive an honorarium of Rs. 1000—1500 p.m. which is not covered by the 'Compensatory allowance'. The other non-official members (including one Member of Parliament) are entitled to TA and DA which do not exceed the 'compensatory allowance'. The functions of the Board are, however, executive and financial in nature and its members are in a position to wield influence. As such, the Committee feel that the non-official members (including the executive Chairman) of the Board *ought not to be exempt* from disqualification.

Bombay Metropolitan Region Development Authority—(Government of Maharashtra)

2.12. The Committee note that the payments admissible to non-official members of the Bombay Metropolitan Region Development Authority (including MLAs/MLCs), other than the Chairman of a functional Board, by way of sitting fee, T.A. and D.A. are more than the 'compensatory allowance'. Besides, the functions of the said Authority are also of executive and financial nature. As such, the Committee feel that the non-official members of the Authority are likely to attract disqualification under article 102(1) (a) of the Constitution and ought to be disqualified. Before arriving at this decision, the Committee have taken note of the fact that in terms of Section 10(1) of the Bombay Metropolitan Region Development Authority Act, 1974, under which the said Authority has been constituted, a member (including the Chairman or Vice-Chairman) of the said Authority or any of its Committees or bodies shall not be disqualified under Article 191 of the Constitution for being chosen as, and for being, a member or councillor of the State Legislature or any local Authority merely by reason of the fact that he is a member of the Authority or any of its Committees or Boards.

Tamil Nadu Wakf Board—(Government of Tamil Nadu).

2.13 The Committee note that the Joint Committee on Offices of Profit (Fifth Lok Sabha) had examined the Marathwada Wakfs Board and recommended *vide* paragraph 16 of their Sixteenth Report (Fifth Lok Sabha) as follows:

"The Committee note that the payment admissible to the members of the Marathwada Wakfs Board (Maharashtra) (other than the Chairman) is less than the 'compensatory allowance'. But an honorarium of Rs. 300/- per month is paid to the Chairman of the Board. This amount does not come within the ambit of 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Also, the Board carries executive and financial powers. However, in view of the provision of Section 24 of the Wakf Act, 1954, which declares that the Offices of Chairman and Members of a State Board shall not disqualify, and shall be deemed never to have disqualified, the holders thereof for being chosen as, or for being Members of Parliament, the Committee feel

that the Membership of the Board (including Chairmanship) ought to remain exempt from disqualification for membership of Parliament."

[16R (JCOP-5LS), paragraph 16, p. 4]

The Committee further note that in the case of the Tamil Nadu Wakf Board also, the payment admissible to the members of the Board is less than the 'compensatory allowance'. However, the Board performs executive and financial powers. The Committee also note that under Section 24 of the Wakf Act, 1954, the offices of Chairman and members of a State Board have been declared as not to disqualify, and should be deemed never to have disqualified, the holders thereof for being chosen as or for being, Members of Parliament. Hence, the Committee feel that the non-official members of the Tamil Nadu Wakf Board *ought to be exempt* from disqualification for membership of Parliament.

*State Organising Committee on Nehru Yuvak Kendras, Tamil Nadu
(Government of Tamil Nadu)*

2.14 The Committee note that the Joint Committee on Offices of Profit (Fifth Lok Sabha) had examined a similar body known as State Organising Committee for Nehru Yuvak Kendra, Port Blair (Andamans) and recommended that membership of that body *ought to be exempt* from disqualification for membership of Parliament *vide* Eighteenth Report (Fifth Lok Sabha), paragraph 26, pp. 10-11 (Item No. 25).

The Committee further note that the non-official members of the Tamil Nadu State Organising Committee are entitled to T.A. and D.A. which are less than the 'compensatory allowance'. Besides, the functions of the Committee are mainly advisory in nature. As such, the Committee feel that the non-official members of the Tamil Nadu State Organising Committee *ought to be exempt* from disqualification.

State Council of Vocational Education, Karnataka (Government of Karnataka)

2.15 The Committee note that the non-official members of the State Council of Vocational Education, Karnataka are entitled to TA and DA which are less than the 'compensatory allowance'. Besides, the functions of the State Council are mainly advisory in nature. Hence, the Committee feel that the membership of the said Council *ought to be exempt* from disqualification.

Holding of office of Chairman, Government Fruit preservation Factory, Singtam—clarification sought by Shri L. S. Saring, M.P. (Rajya Sabha)—whether it would involve an office of profit resulting in disqualification of membership of Rajya Sabha.

2.16 Shri L. S. Saring, Member, Rajya Sabha, in his letter dated 16 July, 1982 addressed to the Secretary-General, Rajya Sabha, stated that he had been approached by the Government of Sikkim to accept the post of Chairman, Government Fruit Preservation Factory, Singtam (a State Government owned Organisation). He desired to know whether holding of the said Office of the State owned Factory would come within the ambit of 'Office of Profit' and whether his acceptance of the said office would amount to disqualification as a member of Rajya Sabha.

His aforesaid letter, in original, was forwarded by the Rajya Sabha Secretariat to the Lok Sabha Secretariat for placing the matter before the Joint Committee on Offices of Profit for advice.

From the particulars furnished by the State Government on 23 August, 1982, on a reference made to them, the Committee have observed that the Members of the Board are paid sitting fee at the rate of Rs. 100/- per sitting which exceeds the 'compensatory allowance'. In addition, the Chairman receives a rent free house or a house rent allowance of Rs. 400/- p.m. in lieu thereof and free use of a Government vehicle or a conveyance allowance @ Rs. 350/- p.m. in lieu thereof. Besides, the Board exercises executive and financial powers. As such, the Committee feel that the Chairman and non-official members, if appointed on the said Board, are likely to attract the provisions of Article 102(1) (a) of the Constitution.

While arriving at the above decision, the Committee have taken note of the fact that the Sikkim Legislative Assembly Members Removal of Disqualifications (Amendment) Act, 1981, prevented M.L.As. from incurring disqualification for holding the office of Chairman or a member of the Board of Directors of the Government Fruit Preservation Factory.

In this connection, the Committee have also noted the case of nomination of Shri K. D. Sultanpuri, M.P. by the State Government of Himachal Pradesh as Vice-Chairman of H.P. Scheduled Castes Development Corporation. In that case the Committee had, in paragraph 2.17 of their First Report (Seventh Lok Sabha), held that Shri Sultanpuri, on his nomination as Vice-Chairman of the said Corporation, ought not to be exempt from disqualification be-

cause of the functions and powers to be exercised by him as Vice-Chairman being of executive and financial nature and also in view of the regular monthly payments of Rs. 300/- p.m. by way of conveyance allowance and Rs. 400/- p.m. as an allowance in lieu of the semifurnished residence.

Pondicherry State Sports Council (Pondicherry)

2.17 The Joint Committee on Offices of Profit, at their sitting held on 14 April, 1982, held over consideration of Memorandum No. 42 regarding the Pondicherry State Sports Council pending receipt of further information on the following points:

“Whether before nominating two Members of Parliament as members of the said Sports Council, the Government of Pondicherry had examined the question whether their nomination to the said Sports Council would attract the provisions of Article 102(1) of the Constitution, and thereby they might be deemed to hold an ‘Office of Profit’ under the Government.”

On the matter being taken up with the Government of Pondicherry (Revenue Department), the Committee have been informed by them in this connection as follows:—

“ . . . the membership of the Members of Parliament (both Rajya Sabha and Lok Sabha) of Pondicherry, on the Pondicherry State Sports Council is only honorary. Their nomination as members of the Sports Council does not involve any appointment to any office as such. In the circumstances, the nomination of the members of Lok Sabha and Rajya Sabha of Pondicherry on the governing body of the Pondicherry State Sports Council does not attract the provisions of Article 102(1) (a) of the Constitution.”

The Committee have, however, noted that the function and powers of the said Sports Council include, *inter alia*, sanction of financial assistance to sports and youth welfare organisation; acceptance of Grants-in-aid from the State and Central Governments and to receive donations; raising of funds in any manner and to utilise the funds for the objects of the grant. The Council also organises, establishes and runs coaching or training centres for training of coaches physical education teachers, players and athletes.

The Committee further note that though no remuneration is paid to the non-official members of the Council yet it exercises executive

and financial powers and its members wield influence and power by way of patronage. Hence, the Committee feel that the non-official members of the Council *ought not to be exempt* from disqualification.

*Steering Committee under National Rural Employment Programme,
Pondicherry*

2.18 The Committee note that the payment admissible to non-official members (including MPs/MLAs, if any) of the Steering Committee by way of TA/DA does not exceed the 'compensatory allowance'. Besides, the functions of the Committee are also advisory in nature. Hence, the Committee feel that the non-official members of the Steering Committee under the National Rural Employment Programme, Pondicherry *ought to be exempt* from disqualification.

*State Level Selection Committee, Andaman and Nicobar Islands
(Union Territory of Andaman and Nicobar Islands)*

2.19 At their sitting held on 2 February, 1982, the Joint Committee on Offices of Profit deferred consideration of Memorandum No. 29 regarding the State Level Selection Committee of Andaman and Nicobar Islands pending receipt of further information on the following points:--

- “(i) the purpose for which the State Level Selection Committee selects an individual/institution who/which has done the best work in the year in the cause of children/in any branch of child welfare;
- (ii) the benefit which the selected one gets; and
- (iii) the rules/guidelines, if any, for the Selection Committee to guide them in such selection.”

The Andaman and Nicobar Administration, *vide* their communication dated 10 May, 1982, has furnished the requisite information as contained in Appendix II.

From the perusal of the said information, the Committee have noted that no remuneration is payable to the non-official members of State Level Selection Committee. The functions of the Committee are also limited to the extent of selecting an individual and an institution who have done best work in the cause of children and in any branch of child welfare. The final selection in the matter, however, rests with the National Committee. Hence, the Committee feel that the non-official members of the State Level Selection Committee *ought to be exempt* from disqualification.

Co-ordination Committee for Integrated Child Development Services Scheme, Dadra and Nagar Haveli

2.20 The Committee note that the payment admissible to the non-official members of the Co-ordination Committee for Integrated Child Development Services Scheme in Dadra and Nagar Haveli is less than the 'compensatory allowance'. The functions of the Committee are also mainly advisory in nature. As such, the Committee feel that the non-official members of the Co-ordination Committee ought to be exempt from disqualification.

Food Adulteration Advisory Committee, Dadra and Nagar Haveli

2.21 The Committee note that the non-official members of Food Adulteration Advisory Committee in Dadra and Nagar Haveli are not entitled to any remuneration. The functions of the Committee are also mainly advisory in nature. As such the Committee feel that the non-official members of the Food Adulteration Advisory Committee ought to be exempt from disqualification.

Implementation of Recommendations of the Committee

2.22 The Chairman informed the Committee that at their sitting held on 26 February, 1981, the Committee had urged the Ministry of Law, Justice and Company Affairs (Legislative Department) to draft a comprehensive Bill, based on the recommendations of the Committee made in their various Reports during the Second, Third, Fourth and Fifth Lok Sabha and place the same before the Committee for their scrutiny and comments. The Ministry were accordingly requested to finalise a comprehensive Bill and submit the same for scrutiny of the Committee at an early date. In their reply, the Ministry had informed that the Bill was under preparation. Thereafter, the Ministry had been intimating different dates, from time to time, for finalising the Bill and placing it before the Committee for their scrutiny. In their last communication dated 26 July, 1982, the Ministry of Law, Justice and Company Affairs stated as follows:—

“ . . . As we are busy presently with the current work of the Parliament session, it may be possible for us to take up drafting of the Bill only after the end of the current session of Parliament.

Therefore, we would be able to send the Draft Bill by the end of September, 1982 . . . ”

2.23 The Committee regret to observe that the question of introducing a comprehensive Bill to give effect to the recommendations of the Committee has been pending since long. The Committee

express their distress that despite the extension granted by them to the Ministry of Law, Justice and Company Affairs to finalise the draft legislation by the end of September, 1982 without asking for further extension of time in this regard, the Ministry has miserably failed to do so. The Committee cannot help expressing their displeasure over the unjustified delay in finalising the proposed legislation by the Ministry and placing its draft before the Committee for their scrutiny and comments before an amending Bill is introduced by the Government in Parliament to give effect to their recommendations. The Committee exhort the Ministry of Law, Justice and Company Affairs to finalise the proposed legislation now latest by 31 January, 1983 so that the same could be considered by the Committee well in time and a report thereon presented to the House during the ensuing Budget Session.

NEW DELHI;

December, 17, 1982

Agrahayana 26, 1904 (Saka)

GULSHER AHMED

Chairman,

Joint Committee on Offices
of Profit

APPENDIX I

(Vide para 1.2 of the Report)

MINUTES OF THE JOINT COMMITTEE ON OFFICES OF PROFIT

(SEVENTH LOK SABHA)

XXIV

(TWENTY-FOURTH SITTING)

The Committee met on Friday, 6 August, 1982 from 15.00 to 15.50 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Harish Kumar Gangwar
3. Shri Virdhi Chander Jain
4. Shri S. A. Dorai Sebastian
5. Shri N. K. Shejwalkar

Rajya Sabha

6. Shri Syed Rahmat Ali
7. Shri Robin Kakati

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer*

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5. The Committee then took up for consideration Memorandum No. 80 regarding nomination of Shri Jitendra Prasada, M.P. to the State Transport Authority, Uttar Pradesh by the Government of U.P.

***Omitted portions of the Minutes are not covered by this Report.

6. The Committee noted that the State Transport Authority, Uttar Pradesh consisted of both officials and non-officials. The Chairman of the Authority was an official. The Committee also noted that the payment of TA and DA to the non-official members of the Authority was at the same rates as were payable to Class I Officers of the State Government (exact rates not intimated by the State Government). The Committee further noted that the State Transport Authority of Uttar Pradesh exercised the following powers:—

- (a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if any, of the State;
- (b) to perform the duties of a Regional Transport Authority where there is no such authority and, if it thinks fit or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions;
- (c) to settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities; and
- (d) to discharge such other functions as may be prescribed.

7. Besides, the Authority was also required to discharge, *inter alia*, the following functions under Motor Vehicles Act, 1939:—

- (1) To grant permits for use of vehicles in any public place (Sec. 42).
- (2) To control road transport (Sec. 43).
- (3) To grant stage carriage permits (Sec. 48).
- (4) To grant Contract Carriage permits (Sec. 51).
- (5) To grant public carrier's permit (Sec. 56).
- (6) To cancel or suspend permits (Sec. 60).
- (7) To grant temporary permits (Sec. 62).

8. In this connection, the Committee also noted that while reviewing their earlier recommendations regarding certain State and Regional Transport Authorities of Andhra Pradesh, Bihar, Gujarat, Haryana, Kerala, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Delhi, Goa, Daman and Diu, Orissa and Dadra and Nagar Haveli, the Joint Committee on Offices of Profit (Fifth Lok Sabha) had observed as under:—

“The Committee note that all the State Transport and Regional Transport Authorities have been constituted under the same Act, *viz.*, the Motor Vehicles Act, 1939, and have the

same functions and powers. *Inter alia*, they possess the power to issue permits, and are in a position to wield influence. They can also exercise quasi-judicial powers. As such, the Committee feel that not only the Chairmanship and Secretaryship but even ordinary membership of all the Authorities mentioned in para 31 above ought not to be exempt from disqualification. The Committee desire that the Parliament (Prevention of Disqualification) Amendment Bill, 1974, now pending before Rajya Sabha should be amended to this effect."

[13R (JCOP-5LS), para 35, p. 11].

9. After some discussion, the Committee were of the view that the members of the said Authority (including Shri Jitendra Prasada, M.P.) on their appointment as members of the Authority, *ought not to be exempt* from disqualification.

10. Thereafter, Shri Harish Kumar Gangwar, M.P. pointed out that on certain committees/bodies set up by State Governments, a member of State legislature could be nominated without incurring any disqualification whereas the Joint Committee on Offices of Profit had been taking the view that membership of those committees/bodies in the case of Members of Parliament would incur disqualification.

11. The Committee were informed that Parliament and State legislatures had their own Prevention of Disqualification Acts. The Parliament (Prevention of Disqualification) Act, 1959 was applicable to Members of Parliament only. Similarly, State enactments on the subject were applicable to members of the respective State Legislatures. The Committee then desired that copies of State Acts relating to Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra and Uttar Pradesh which gave exemption to M.L.As of those State Legislatures from disqualifications under Article 191 of the Constitution, might be procured from the State Governments concerned and made available to members of the Committee for their perusal.

Implementation of recommendations of the Committee

12. Thereafter, the Chairman informed members that the Committee at their sitting held on 26 February, 1981, had desired the Ministry of Law, Justice and Company Affairs (Legislative Department) to draft a comprehensive Bill, based on the recommendations of the Committee made in their various Reports during the Second, Third, Fourth and Fifth Lok Sabha and place the same before the Committee for their scrutiny and comments. The Ministry were

accordingly requested on 28 February, 1981 to finalise a comprehensive Bill and submit the same for scrutiny of the Committee at an early date. In their reply, the Ministry had informed that the Bill was under preparation. Thereafter, the Ministry had been intimating different dates, from time to time, for finalising the Bill and placing it before the Committee for their scrutiny. In their last communication dated 26 July, 1982, the Ministry of Law, Justice and Company Affairs stated as follows:—

“....As we are busy presently with the current work of the Parliament session, it may be possible for us to take up drafting of the Bill only after the end of the current session of Parliament.

Therefore, we would be able to send the Draft Bill by the end of September, 1982....”

13. The Committee observed that the question of introducing a Comprehensive Bill to give effect to the recommendations of the Committee had been pending since long. The Committee emphasised that the proposed legislation should be finalised by the Ministry by the end of September, 1982 positively and no further extension of time be allowed to them in the matter.

The Committee then adjourned.

XXV
TWENTY-FIFTH SITTING

The Committee met on Thursday, 16 September, 1982 from 15.00 to 16.20 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Virdhi Chander Jain
4. Shri Rashid Masood
5. Shri S. A. Dorai Sebastian
6. Shri N. K. Shejwalkar

Rajya Sabha

7. Shri Syed Rahmat Ali
8. Shri Dinesh Goswami
9. Shri Robin Kakati
10. Shri Lakhan Singh
11. Shri Ram Bhagat Paswan

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer*
2. Shri T. E. Jagannathan—*Senior Legislative Committee Officer*

2. The Committee took up for consideration Memoranda Nos. 81 to 89 relating to the following Committees/Boards/Councils etc. constituted by Central and State Governments and Union Territory Administrations:

Pondicherry State Sports Council—(Memorandum No. 81)

3. The Joint Committee on Offices of Profit at their sitting held on 14 April, 1982, had held over consideration of Memorandum No. 42 regarding the Pondicherry State Sports Council pending receipt of further information on the following points:—

“Whether before nominating two Members of Parliament as members of the said Sports Council, the Government

of Pondicherry had examined the question whether their nomination to the said Sports Council would attract the provisions of Article 102(1) of the Constitution, and thereby they might be deemed to hold an 'Office of Profit' under the Government."

4. The Committee were informed that the Government of Pondicherry (Revenue Department) with whom the matter was taken up had furnished the following information in that connection:—

"...the membership of the Members of Parliament (both Rajya Sabha and Lok Sabha) of Pondicherry, on the Pondicherry State Sports Council is only honorary. Their nomination as members of the Sports Council does not involve any appointment to any office as such. In the circumstances, the nomination of the members of Lok Sabha and Rajya Sabha of Pondicherry on the governing body of the Pondicherry State Sports Council does not attract the provisions of Article 102(1) (a) of the Constitution."

5. The Committee noted that the functions and powers of the Sports Council included, *inter alia* sanction of financial assistance to sports and youth welfare organisation; to accept grants-in-aid from the State and Central Governments; to receive donations; to raise funds in any manner; and to utilise the funds for the objects of the grant. The Council also organised, established and ran coaching or training centres for training of coaches, physical education teachers, players and athletes.

6. The Committee further noted that though no remuneration was paid to the non-official members of the Council, it exercised executive and financial powers and its members wielded influence and power by way of patronage. Hence, the Committee felt that the non-official members of the Council *ought not to be exempt* from disqualification.

State Level Selection Committee (Union Territory of Andaman and Nicobar Islands) (Memorandum No. 82)

7. At their sitting held on 2 February, 1982, the Joint Committee on Offices of Profit had deferred consideration of Memorandum No. 29 regarding the State Level Selection Committee of Andaman and Nicobar Islands pending receipt of further information on the following points:—

"(i) the purpose for which the State Level Selection Committee selects an individual/institution who/which has

done the best work in the year in the cause of children/ in any branch of child welfare;

- (ii) the benefit which the selected one gets; and
- (iii) the rules/guidelines, if any, for the Selection Committee to guide them in such selection."

8. The Andaman and Nicobar Administration, *vide* their communication dated 10 May, 1982, furnished the requisite information as contained in the Annexure.

9. From the perusal of the said information the Committee noted that no remuneration was payable to the non-official members of State Level Committee. The function of the Committee was also limited to the extent of selecting an individual and an institution who had done best work in the cause of children and in any branch of child welfare. The final selection in the matter, however, rested with the National Committee. As such, the Committee felt that the non-official members of the Committee *ought to be exempt* from disqualification.

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Railway Reforms Committee—(Memorandum No. 84)

11. The Committee noted that the non-official members of the Railway Reforms Committee were entitled to draw sitting fee at the rate of Rs. 150/- for each meeting of the Committee and in addition they were paid D.A. at the rate of Rs. 28/- per day plus actual T.A. The payments thus made to the non-official members (including Chairman) exceeded the 'compensatory allowance', as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee also noted that although it was a High Power Committee to examine and review the working of the Railways in a comprehensive manner, yet it did not enjoy executive or financial powers. However, in view of the payments made to them which exceeded the 'compensatory allowance', the Committee felt that the non-official members (including Chairman) *ought not to be exempt from disqualification.*

Steering Committee under National Rural Employment Programme, Pondicherry—(Memorandum No. 85)

12. The Committee noted that the payment admissible to non-official members (including MPs/MLAs, if any) of the Steering

***Omitted portions of the Minutes are not covered by this Report.

Committee by way of TA/DA did not exceed the 'compensatory allowance'. The functions of the Committee were also advisory in nature. As such, the Committee felt that the non-official members of the Steering Committee/under the National Rural Employment Programme, Pondicherry ought to be exempt from disqualification.

Rajasthan State Agriculture Marketing Board, Jaipur (Memorandum No. 86)

13. The Committee noted that the Chairman of the Marketing Board (if non-official) was allowed a monthly remuneration of Rs. 1250/- p.m. in addition to T.A., D.A. and sitting fee. The payment of monthly salary was not covered by the 'compensatory allowance'. The other non-official members got first class fare as T.A. and D.A. @Rs. 15/- per day and sitting fee for attending a meeting @Rs. 15/- per day. The payment was, however, less than the 'compensatory allowance'. But the Board exercised executive and financial powers and was in a position to wield influence and patronage. As such, the Committee felt that the Chairman (if non-official) and non-official members of the Rajasthan State Agriculture Marketing Board ought not to be exempt from disqualification.

* * * *

Development Council for printing including Litho Printing Industry (Ministry of Industry—Department of Industrial Development) —(Memorandum No. 88).

15. The Committee noted that the non-official members of the Development Council were entitled to draw actual T.A. only which was covered by the 'compensatory allowance'. Besides, the functions of the Committee were mainly advisory in nature. As such, the Committee felt that the membership of the Development Council ought to be exempt from disqualification.

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(1) *Board of Directors and (2) Executive Committee of the Central Warehousing Corporation (Ministry of Agriculture, Department of Food)—(Memorandum No. 89).*

16. The Committee came to know that the Central Warehousing Corporation was included in Part I of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959, disqualifying thereby only the Chairman of the said Corporation. But as one of

***Omitted portions of the Minutes are not covered by this Report.

the functions of the Joint Committee on Offices of Profit was to scrutinise from time to time the Schedules to the Act *ibid* and to recommend any amendment in the said schedules whether by way of addition, omission or otherwise, the body was being examined by the present Committee.

The Committee noted that the non-official Directors other than M.Ps. and M.L.As. of the Central Warehousing Corporation were entitled to sitting fee of Rs. 100/- for each sitting of the Board of Directors and Rs. 50/- for each sitting of Executive Committee besides actual TA and DA to which they were entitled. Non-official Directors who were M.P.s were entitled to actual TA plus D.A. @Rs. 51/- per day and no sitting fees were payable to them. Similarly, M.L.As. were entitled to only T.A. and D.A. at the rate payable to Grade I Officers of the State. Thus, whereas the payment admissible to non-official Directors other than M.Ps. and M.L.As. were more than the 'compensatory allowance', as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959, the payment admissible to M.Ps. and M.L.As. was within the limit of 'compensatory allowance'. It was, however, noted that the Board of Directors and the Executive Committee exercised executive and financial powers and were in a position to wield influence and patronage. As such, the Committee felt that all the non-official Directors of the Corporation *ought to be disqualified*.

In this connection, the Committee also learnt that the Joint Committee on Offices of Profit (Fifth Lok Sabha) had also made similar recommendations in the case of several State Warehousing Corporations, for example, in the case of Board of Directors of Haryana Warehousing Corporation *vide* para 13 of Nineteenth Report (Fifth Lok Sabha).

The Committee then adjourned to meet again at 11.00 hours on Friday, 17 September, 1982.

ANNEXURE

TO

(Memorandum No. 82)

The Andaman and Nicobar Administration, *vide* their communication dated 10 May, 1982, have since furnished the requisite information as follows:—

“(i) The purpose of State Level Committee for selection of individual/institution who/which has/have performed the best work in the year in respect of children in any branch of Child Welfare, is to recommend the name of an individual/institution for the grant of National Awards in the above fields. The recommendation is made to the Government of India for considering the grant of National Awards.

(ii) (a) Each Award for an individual consists of:—

(i) A cash Prize of Rs. 20,000/-

(ii) A citation.

(b) Each award for the institutions consists of:—

(i) A cash prize of Rs. 100,000/.

(ii) A citation.

(iii) Guidelines for National Awards for the best work done in a year in the cause of children are as herein under:—

Procedure for Selection

Initially, selection will be made from amongst individuals and institutions in a State/Union Territory by a Committee appointed by each State/Union Territory Administration. The Composition of this Committee is left to the State Government/Union Territory Administration. They may take into consideration the pattern of composition of the National Selection Committee.

Final selection is made by a National Committee consisting of the following persons:—

1. Minister of State for Education and Social Welfare.—
Chairman
2. Secretary, Department of Social Welfare.—Member
3. A representative of the Department of Education.—Member

4. A representative of the Ministry of Health and Family Welfare.—Member
- 5—6. Two prominent persons in the field of Child Welfare to be nominated by Minister of State for education and Social Welfare.
7. Joint Secretary, Department of Social Welfare.—Member-Secretary.

Each State Government/Union Territory Administration will forward its recommendations to the Union Department of Social Welfare by 31 December, each year. Particulars of the recommendation institutions are required to be furnished in the proforma given as Annexure II, and those of the individuals in proforma given as Annexure III. Recommendations received after 31 December are not being considered.

The Government of India may, at their discretion, consider individuals and institutions not recommended by a State Government/Union Territory Administration, for the award.

Criteria for Selection for Institutions

The institutions should be those that are not entirely Government funded. They could be Government aided or otherwise. The institutions should have been in the field of child welfare for at least a period of five years and should have to its record a good performance in the field. The branches of institutions working independently will also qualify for selection for the award. The selection will be made solely on the basis of quality of performance and the number of children covered by the performance.

For individuals

The individuals to be selected for the award should have worked for the cause of the children for at least a period of five years. Paid officers of the institutions will not be eligible for selection. The sole basis of selection will be the quality of work performed by the individual for the cause of the children and its significance for the same."

XXVI

TWENTY-SIXTH SITTING

The Committee met on Friday, 17 September, 1982 from 11.00 to 12.15 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Harish Kumar Gangwar
4. Shri Virdhi Chander Jain
5. Shri S. A. Dorai Sebastian
6. Shri N. K. Shejwalkar
7. Shri Nandi Yellaiah

Rajya Sabha

8. Shri Syed Rahmat Ali
9. Shri Dinesh Goswami
10. Shri Robin Kakati
11. Shri Lakhan Singh
12. Shri Ram Bhagat Palswan

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer.*
2. Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

2. The Committee took up for consideration Memoranda Nos. 90 to 95 relating to the following Committees/Board/Councils etc. constituted by Central and State Governments.

(i) *Transport and Communications Board (Government of Maharashtra)—(Memorandum No. 90).*

3. The Committee noted that the payments admissible to non-official members of the Maharashtra Transport and Communications Board (including MLAs/MLCs, if any) other than the Chairman of a functional Board, by way of sitting fee (@Rs. 50/- per day for attending the meeting), T.A. (admissible by the highest class of transport) and D.A. (@Rs. 30/- per day), were more than the 'compensatory allowance'. However, in the case of a member of the State Legis-

lature on the Board, if any, T.A. was governed in accordance with the Members of Bombay Legislature (Allowances) Rules, 1959, in respect of any journey undertaken within the area of the Bombay Metropolitan Region. Besides T.A. and D.A., the non-official Chairman of the Board was paid honorarium @Rs. 1000/- p.m. and he was also entitled to other perks like free telephone and official vehicles which were not covered by the 'compensatory allowance'. The functions of the Board were also of executive and financial nature. As such, the Committee felt that all the non-official members (including the Chairman) were likely to attract disqualification for being chosen as, and for being, a member of either House of Parliament under Article 102(1) of the Constitution.

While arriving at the above decision, the Committee took note of the fact that in terms of Section 10(1) of the Bombay Metropolitan Region Development Authority Act, 1974, under which the said Board was constituted, a member (including the Chairman or Vice-Chairman) of the Authority or any of its committees or bodies shall not be disqualified under Article 191 of the Constitution for being chosen as, and for being, a member of the State Legislature or any local authority merely by reason of the fact that he was a member of the Authority or any of its Committees or Boards.

(ii) *Water Resources Management Board (Government of Maharashtra)—(Memorandum No. 91).*

4. The Committee noted that the payments admissible to non-official members of the Water Resources Management Board (including MLAs and MLCs, if any) other than the Chairman of a functional Board, by way of sitting fee (@Rs. 50/- per day for attending the meeting), T.A. (admissible by the highest class of transport) and D.A. (@Rs. 30/- per day), were more than the 'compensatory allowance'. However, in the case of a member of the State Legislature on the Board, if any, T.A. was governed in accordance with the Members of Bombay Legislature (Allowances) Rules, 1959, in respect of any journey undertaken within the area of the Bombay Metropolitan Region. Besides T.A. and D.A., the non-official Chairman of the Board was paid honorarium @Rs. 1000/- p.m. and he was also entitled to other perks like free telephone and official vehicle which were not covered by the 'compensatory allowance'. The functions of the Board were also of executive and financial nature. As such, the Committee felt that all the non-official members (including the Chairman) were likely to attract disqualification for being chosen as, and for being, a member of either House of Parliament under Article 102(1) of the Constitution.

While arriving at the above decision, the Committee took note of the fact that in terms of Section 10(1) of the Bombay Metropolitan Region Development Authority Act, 1974 under which the said Board was constituted, a member (including the Chairman or Vice-Chairman) of the Authority or any of its committees or bodies shall not be disqualified under Article 191 of the Constitution for being chosen as, and for being, a member of the State Legislature or any local authority merely by reason of the fact that he was a member of the Authority or any of its Committees or Boards.

(iii) *Housing Urban Renewal and Ecology Board (Government of Maharashtra)*—(Memorandum No. 92).

5. The Committee noted that the payments admissible to non-official members of the Housing, Urban Renewal and Ecology Board (including MLAs and MLCs, if any) other than the Chairman of a functional Board, by way of sitting fee (@Rs. 50/- per day for attending the meeting), T.A. (admissible by the highest class of transport) and D.A. (@Rs. 30/- per day), were more than the 'compensatory allowance'. However, in the case of a member of the State Legislature on the Board, if any, T.A. was governed in accordance with the Members of Bombay Legislature (Allowances) Rules, 1959, in respect of any journey undertaken within the area of the Bombay Metropolitan Region. Besides T.A. and D.A., the non-official Chairman of the Board was paid honorarium @Rs. 1000/- p.m. and he was also entitled to other perks like free telephone and official vehicle which were not covered by the 'compensatory allowance'. The functions of the Board were also of executive and financial nature. As such, the Committee felt that all the non-official members (including the Chairman) were likely to attract disqualification for being chosen as, and for being, a member of either House of Parliament under Article 102(1) of the Constitution.

While arriving at the above decision, the Committee took note of the fact that in terms of Section 10(1) of the Bombay Metropolitan Region Development Authority Act, 1974, under which the said Board was constituted, a member (including the Chairman or Vice-Chairman) of the Authority or any of its committees or bodies shall not be disqualified under Article 191 of the Constitution for being chosen as, and for being, a member of the State Legislature or any local authority merely by reason of the fact that he was a member of the Authority or any of its Committees or Boards.

6. During consideration of Memoranda Nos. 90—92, some members of the Committee pointed out that the Bombay Metropolitan

Region Development Authority Act, 1974 exempted members of the State Legislature from disqualification on their appointment to the (i) Transport and Communications Board, (ii) Water Resources Management Board, and (iii) Housing Urban Renewal and Ecology Board (bodies set up by the Government of Maharashtra), whereas according to the guidelines, laid down by the Joint Committee on Offices of Profit, non-official members (including Members of Parliament), on their appointment to these bodies, would incur disqualification for being chosen as, and for being a member of either House of Parliament. That was an anomalous position and as such, the members suggested that a Sub-Committee of the Joint Committee might be set up to go into that question in depth so that uniform principles could be decided upon under which no Members of Parliament or that of any State Legislature would get exemption in the matter. With a view to achieve uniformity in the matter, if it was considered necessary to amend the Constitution, the Committee should not hesitate to recommend the same.

The members further maintained that their efforts should be that as far as possible Members of Parliament and that of the State Legislatures should not be lured to accept Offices of Profit. Members should not be permitted to go on Committees/Commissions etc. which would jeopardise their independence or which would place them in a position of power or influence or in a position where they could receive some patronage from Government or were themselves in a position to distribute patronage. Nor should the Central and State Governments enact legislations to prevent their members from incurring disqualification for being chosen as, and for being, a member of either House of Parliament (under Art. 102) or that of the Legislative Assembly or Legislature of a State (under Art. 191). After the Sub-Committee had made a report to the Joint Committee, the Chairman and members of the Committee should meet the Speaker, Lok Sabha so that some uniformity could be achieved in the matter both in regard to Members of Parliament as well as those of the State Legislatures. With that end in view, that matter could also be discussed in the Presiding Officers' Conference.

(iv) *Editorial Board for the Defence Science Journal (Ministry of Defence)*—(Memorandum No. 93).

7. The Committee noted that the non-official members of the Editorial Board for the Defence Science Journal were entitled to T.A. and D.A. which were less than the 'compensatory allowance'. Besides, the functions of the members of the Board were only

advisory. As such, the Committee felt that the non-official members of the Board ought to be exempt from disqualification.

(v) *State Council of Vocational Education, Karnataka—(Memorandum No. 94).*

8. The Committee noted that the non-official members of the State Council of Vocational Education, Karnataka were entitled to T.A. and D.A. which were less than the 'compensatory allowance'. Besides, the functions of the State Council were mainly advisory in nature. Hence, the Committee felt that the membership of the said Council ought to be exempt from disqualification.

(vi) *Holding of office of Chairman, Government Fruit Preservation Factory, Singtam—clarification sought by Shri L.S. Saring, M.P. (Rajya Sabha)—whether it would involve an office of profit resulting in disqualification of membership of Rajya Sabha—(Memorandum No. 95).*

9. Shri L. S. Saring, Member, Rajya Sabha, in his letter dated 16 July, 1982 addressed to the Secretary-General, Rajya Sabha, stated that he had been approached by the Government of Sikkim to accept the post of Chairman, Government Fruit Preservation Factory, Singtam (a State Government owned Organisation). He desired to know whether holding of the said Office of the State owned Factory would come within the ambit of 'Office of Profit' and whether his acceptance of the said office would amount to disqualification as a member of Rajya Sabha.

His aforesaid letter in original was forwarded by the Rajya Sabha Secretariat to the Lok Sabha Secretariat for placing the matter before the Joint Committee on Offices of Profit for advice.

From the particulars furnished by the State Government on 23 August, 1982, on a reference made to them, the Committee observed that the Members of the Board were paid sitting fee at the rate of Rs. 100/- per sitting which exceeded the 'compensatory allowance'. In addition, the Chairman received a rent free house or a house rent allowance of Rs. 400/- p.m. *in lieu* thereof and free use of a Government vehicle or a conveyance allowance @Rs. 350/- p.m. *in lieu* thereof. Besides, the Board exercised executive and financial powers. As such, the Committee felt that the Chairman and non-official members, if appointed on the said Board, were likely to attract the provisions of Article 102(1) of the Constitution.

While arriving at the above decision, the Committee noted the fact that the Sikkim Legislative Assembly Members Removal of

Disqualifications (Amendment) Act, 1981, prevented M.L.As. from incurring disqualification for holding the office of Chairman or a member of the Board of Directors of the Government Fruit Preservation Factory.

In that connection, the Committee also noted the case of nomination of Shri K. D. Sultanpuri, M.P. by the State Government of Himachal Pradesh as Vice-Chairman of H.P. Scheduled Castes Development Corporation. In that case the Committee had in paragraph 2.17 of their First Report (Seventh Lok Sabha), held that Shri Sultanpuri, on his nomination as Vice-Chairman of the said Corporation, ought not to be exempt from disqualification because of the functions and powers to be exercised by him as Vice-Chairman being of executive and financial nature and also in view of the regular monthly payments of Rs. 300 p.m. by way of conveyance allowance and Rs. 400 p.m. as an allowance *in lieu* of the semi-furnished residence. ●

The Committee then adjourned.

XXVII

TWENTY-SEVENTH SITTING

The Committee met on Wednesday, 3 November, 1982 from 15.00 to 15.45 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Harish Kumar Gangwar
4. Shri Krishna Chandra Halder
5. Shri Rashid Masood
6. Shri N. K. Shejwalkar
7. Shri Nandi Yellaiah

Rajya Sabha

8. Shri Dinesh Goswami
9. Shri Robin Kakati
10. Shri Ram Bhagat Paswan

SECRETARIAT

Shri S. D. Kaura—*Chief Legislative Committee Officer.*

Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

2. The Committee took up for consideration Memoranda Nos. 96 to 102 relating to the following Committees/Boards etc. constituted by State Governments and the Union Territory Administration:

Maharashtra State Legal Aid and Advice Board—(Memorandum No. 96).

3. The Committee noted that the executive Chairman of the Maharashtra State Legal Aid and Advice Board was entitled to receive an honorarium of Rs. 1000/- Rs. 1500 p.m. which was not covered by the 'compensatory allowance'. The other non-official members (including one Member of Parliament) were entitled to

TA/DA which did not exceed the 'compensatory allowance'. The functions of the Board were, however, executive and financial in nature and its members were in a position to wield influence. As such, the Committee felt that the non-official members (including the executive Chairman) of the Board *ought not to be exempt* from disqualification.

*Bombay Metropolitan Region Development Authority—
(Memorandum No. 97).*

4. The Committee noted that the payment admissible to non-official members of the Bombay Metropolitan Region Development Authority (including MLAs/MLCs), other than the Chairman of a functional Board, by way of sitting fee, T.A. and D.A. was more than the 'compensatory allowance'. The functions of the said Authority were also of executive and financial nature. As such, the Committee felt that the non-official members of the Authority were likely to attract disqualification under article 102(1) of the Constitution and *ought to disqualify*. Before arriving at their decision, the Committee took note of the fact that in terms of Section 10(1) of the Bombay Metropolitan Region Development Authority Act, 1974, under which the said Authority has been constituted, a member (including the Chairman or Vice-Chairman) of the said Authority or any of its Committees or bodies shall not be disqualified under Article 191 of the Constitution for being chosen as, and for being, a member or councillor of the State Legislature or any local Authority merely by reason of the fact that he was a member of the Authority or any of its Committees or Boards.

Tamil Nadu Wakf Board—(Memorandum No. 98)

5. The Committee noted that the Joint Committee on Offices of Profit (Fifth Lok Sabha) had examined the Marathwada Wakfs Board and had recommended *vide* paragraph 16 of their Sixteenth Report (Fifth Lok Sabha) as follows:

"The Committee note that the payment admissible to the members of the Marathwada Wakfs Board (Maharashtra) (other than the Chairman) is less than the 'compensatory allowance.' But an honorarium of Rs. 300 per month is paid to the Chairman of the Board. This amount does not come within the ambit of 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Also, the Board carries executive and financial powers. However, in view of the provision of Section 24 of the Wakf Act,

1954, which declares that the offices of Chairman and members of a State Board shall not disqualify, and shall be deemed never to have disqualified, the holders thereof for being chosen as, or for being Members of Parliament, the Committee feel that the membership of the Board, (including Chairmanship) ought to remain exempt from disqualification for membership of Parliament." [16R (JOOP-5LS), paragraph 16, p. 4].

The Committee further noted that in the case of the Tamil Nadu Wakf Board also, the payment admissible to the members of the Board was less than the 'compensatory allowance'. However, the Board performed executive and financial powers. The Committee also noted that under Section 24 of the Wakf Act, 1954, the offices of Chairman and members of a State Board had been declared as not to disqualify, and should be deemed never to have disqualified, the holders thereof for being chosen as or for being, Members of Parliament. As such, the Committee felt that the non-official members of the Tamil Nadu Wakf Board *ought to be exempt* from disqualification for membership of Parliament.

6. The Committee were of the view that the cases of those Committees/Bodies etc. in respect of which an Act of Parliament made provision to prevent Members of Parliament from incurring disqualification, might not be placed before the Committee for their consideration. In future such cases, after perusal by the Chairman should not be processed for consideration by the Committee.

7. * * * *

State Organising Committee on 'Nehru Yuvak Kendras (Tamil Nadu)—(Memorandum No. 100)

8. The Committee noted that the Joint Committee on Offices of Profit (Fifth Lok Sabha) had examined a similar body known as State Organising Committee for Nehru Yuvak Kendra, Port Blair (Andamans) and recommended that membership of that body ought to be exempt from disqualification for membership of Parliament *vide* Eighteenth Report (Fifth Lok Sabha), paragraph 26, pp. 10-11 (Item No. 25).

The Committee further noted that the non-official members of the Tamil Nadu State Organising Committee were entitled to T.A. and D.A. which were less than the 'compensatory allowance'. Be-

***Omitted portions of the Minutes are not covered by this Report.

sides, the functions of the Committee were mainly advisory in nature. As such, the Committee felt that the non-official members of the Tamil Nadu State Organising Committee ought to be exempt from disqualification.

Co-ordination Committee for Integrated Child Development Services Scheme (Dadra and Nagar Haveli)—(Memorandum No. 101)

9. The Committee noted that the payment admissible to the non-official members of the Co-ordination Committee for Integrated Child Development Services Scheme in Dadra and Nagar Haveli was less than the 'compensatory allowance'. The functions of the Committee were also mainly advisory in nature. As such, the Committee felt that the non-official members of the Co-ordination Committee ought to be exempt from disqualification.

Food Adulteration Advisory Committee, Dadra and Nagar Haveli—(Memorandum No. 102)

9. The Committee noted that the non-official members of the Dadra and Nagar Haveli Food Adulteration Advisory Committee were not entitled to any remuneration. The functions of the Committee were also mainly advisory in nature. As such, the Committee felt that the non-official members of the Food Adulteration Advisory Committee ought to be exempt from disqualification.

10. The Committee, thereafter, considered their future programme of work and decided to hold their next sitting on 18 November, 1982.

The Committee then adjourned.

XXX

THIRTIETH SITTING

The Committee met on Friday, 17 December, 1982 from 15.00 to 15.45 hours.

PRESENT

Shri N. K. Shejwalkar—*in the Chair.*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Harish Kumar Gangwar
4. Shri Virndhi Chander Jain
5. Shri Rashid Masood
6. Shri S. A. Dorai Sebastian.

Rajya Sabha

7. Shri Dinesh Goswami
8. Shri Robin Kakati
9. Shri Ram Bhagat Paswan

SECRETARIAT

Shri S. D. Kaura—*Chief Legislative Committee Officer.*

2. In the absence of the Chairman, Shri N. K. Shejwalkar, M.P. was chosen by the Committee to act as Chairman for the sitting in terms of the provisions of Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered their draft Fifth Report and adopted it with the following changes in para 2.23 which have been made in the light of the 'Background Note on comprehensive legislation' circulated to the Members of the Committee on 15 December, 1982:

"2.23. The Committee regret to observe that the question of introducing a comprehensive Bill to give effect to the recommendations of the Committee has been pending since long. The Committee express their distress that despite the extension granted by them to the Ministry of Law, Justice and Company Affairs to finalise the draft legislation by the end of September, 1982 without asking

for further extension of time in this regard, the Ministry has miserably failed to do so. The Committee cannot help expressing their displeasure over the unjustified delay in finalising the proposed legislation by the Ministry and placing its draft before the Committee for their scrutiny and comments before an amending Bill is introduced by the Government in Parliament to give effect to their recommendations. The Committee exhort the Ministry of Law, Justice and Company Affairs to finalise the proposed legislation now latest by 31 January, 1983 so that the same could be considered by the Committee well in time and a report thereon presented to the House during the ensuing Budget Session.

4. The Committee authorised the Chairman and, in his absence, Shri N. K. Shejwalkar, M.P., to present the Report on their behalf to Lok Sabha. The Committee also authorised Shri Dinesh Goswami, M.P., and in his absence, Shri Robin Kakati, M.P., to lay the Report on the Table of Rajya Sabha. The Committee decided that the Report might be presented to Lok Sabha on a day convenient to the Chairman during the second week of the ensuing Budget Session, 1983 and laid on the Table of Rajya Sabha on the same day.

5. The Committee, thereafter, considered their future programme of work and decided to hold their next sitting on Monday, 24 January, 1983 subject to the approval of the Chairman.

The Committee then adjourned.

APPENDIX II

(Vide para 2.19 of the Report)

The Andaman and Nicobar Administration, vide their communication dated 10 May, 1982, have since furnished the requisite information as follows:—

- “(i) The purpose of State Level Committee for selection of individual/institution who/which has/have performed the best work in the year in respect of children in any branch of Child Welfare, is to recommend the name of an individual/institution for the grant of National Awards in the above fields. The recommendation is made to the Government of India for considering the grant of National Awards.
- (ii) (a) Each Award for an individual consists of:—
- (i) a cash prize of Rs. 20,000/-
 - (ii) A citation.
- (b) Each award for the institutions consists of:—
- (i) A cash prize of Rs. 100,000/-
 - (ii) A citation.
- (iii) Guidelines for National Awards for the best work done in a year in the cause of children are as hereinunder:—

Procedure for Selection

Initially, selection will be made from amongst individuals and institutions in a State/Union Territory by a Committee appointed by each State/Union Territory Administration. The Composition of this Committee is left to the State Government/Union Territory Administration. They may take into consideration the pattern of composition of the National Selection Committee.

Final selection is made by a National Committee consisting of the following persons:—

1. Minister of State for Education and Social Welfare—
Chairman.
2. Secretary, Department of Social Welfare—*Member.*

3. A representative of the Department of Education—*Member.*
4. A representative of the Ministry of Health and Family Welfare—*Member.*
- 5-6. Two prominent persons in the field of Child Welfare to be nominated by Minister of State for Education and Social Welfare.
7. Joint Secretary, Department of Social Welfare—*Member-Secretary.*

Each State Government/Union Territory Administration will forward its recommendations to the Union Department of Social Welfare by 31 December, each year. Particulars of the recommendation institutions are required to be furnished in the proforma given as Annexure II*, and those of the individuals in proforma given as Annexure III*. Recommendations received after 31 December are not be considered.

The Government of India may, at their discretion, consider individuals and institutions not recommended by a State Government/Union Territory Administration, for the award.

Criteria for Selection for Institutions

The institutions should be those that are not entirely Government funded. They could be Government aided or otherwise. The institutions should have been in the field of child welfare for at least a period of five years and should have to its record a good performance in the field. The branches of institutions working independently will also qualify for selection for the award. The selection will be made solely on the basis of quality of performance and the number of children covered by the performance.

For individuals

The individuals to be selected for the award should have worked for the cause of the children for at least a period of five years. Paid officers of the institutions will not be eligible for selection. The sole basis of selection will be the quality of work performed by the individual for the cause of the children and its significance for the same.”

*Not appended.

Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
DELHI.			33.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi—1.	68
24.	Jain Book Agency, Connaught Place, New Delhi.	11	34.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
25.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	3	35.	The United Book Agency, 48, Anarit Kaur Market, Pahar Ganj, New Delhi.	88
26.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	9	36.	Hird Book House, 82, Janpath, New Delhi.	95
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11	37.	Bookwell, 4, Sant Naran-kari Colony, Kingsway Camp, Delhi-9.	96
28.	The Central News Agency, 23/90, Connaught Place, New Delhi.	15	MANIPUR		
29.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20	38.	Shri N. Chaoba Singh, News Agent, Ramlal Paul High School Annexe, Imphal.	77
30.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23	AGENTS IN FOREIGN COUNTRIES		
31.	Bahree Brothers, 188 Lajpatrai Market, Delhi-6.	27	39.	The Secretary, Establishment Department, The High Commission of India India House, Aldwych, LONDON, W. C.—2.	59
32.	Jayana Book Depot, Chaparwala Kuan, Karol-Bagh, New Delhi.	66			

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