

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

SECOND REPORT

Presented to Lok Sabha on 30.07.2021

Laid in Rajya Sabha on 30.07.2021



सत्यमेव जयते

LOK SABHA SECRETARIAT

NEW DELHI

July, 2021/ Shravana, 1943 (Saka)

Price: -----

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

Dr. Satya Pal Singh - *Chairperson*

MEMBERS

Lok Sabha

2. Shri Behanan Benny
3. Shri Vinod Chavda
4. Shri Vijay Kumar Hansdak
5. Dr. Manoj Rajoria
6. Smt. Aparajita Sarangi
7. Shri Mahendra Singh Solanky
8. Shri L.S. Tejasvi Surya
9. Shri Balashowry Vallabbhaneni
10. Shri Shyam Singh Yadav

Rajya Sabha

11. Dr. Sasmit Patra
12. Shri Mahesh Poddar
13. Shri V. Vijayasai Reddy
14. Ms. Dola Sen
15. Shri Hardwar Dubey*

Secretariat

- | | | |
|----|--------------------------|--------------------------------|
| 1. | Smt. Suman Arora | Joint Secretary |
| 2. | Smt. B. Visala | Director |
| 3. | Shri Munish Kumar Rewari | Additional Director |
| 4. | Shri Raj Kumar Chaudhary | Under Secretary |
| 5. | Smt. Seema Sharma | Assistant Executive
Officer |

* Nominated as Member of the Committee *vide* Rajya Sabha Bulletin Part-II dated 12.02.2021 (Para No.60610) consequent upon the expiry of the term of Shri K. Keshava Rao.

INTRODUCTION

1, the Chairperson of the Joint Committee on Offices of Profit, having been authorized by the Committee to present the Report on their behalf, present this Second Report of the Committee.

2. At their sitting held on Wednesday, 18th November, 2020, the Committee examined the term, composition, character, functions, etc., of the District Planning Committees in each district of the State of Rajasthan with a view to consider as to whether the nomination of Members of Parliament to the District Planning Committee would attract disqualification from the angle of 'office of profit' under Article 102 (1) (a) of the Constitution of India.

3. The Committee considered and adopted this Report at their sitting held on Monday, 15th March, 2021.

4. The Committee wish to express their thanks to the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) for furnishing the information desired by the Committee for detailed examination of the issues involved in the matter.

5. The Observations/Recommendations made by the Committee in respect of the matter considered by them are given at the end of this Report in bold letters.

NEW DELHI:
24th March, 2021
03 Chaitra, 1943 (Saka)

DR. SATYAPAL SINGH
Chairperson,
Joint Committee on Offices of Profit.

REPORT

Nomination of Members of Lok Sabha to the District Planning Committees in the State of Rajasthan.

.....

The Government of Rajasthan (Department of Parliamentary Affairs) have forwarded a request to obtain the consent of Hon'ble Speaker, Lok Sabha for nomination of four Members of Lok Sabha as Members to the District Planning Committees constituted for districts of the State of Rajasthan, namely, Karauli, Pratapgarh, Bundi and Churu.

2. According to the information (**Annexure – I**) provided by the State Government, the District Planning Committee (*hereinafter* referred to as the Committee) is a Standing Body which is constituted under Section 121 of the Rajasthan Panchayati Raj Act, 1994. The Committee shall consist of 25 members – out of which 20 members are elected by the elected representatives of Zila Parishads and Municipal Bodies in proportion to the ratio of population of rural areas and urban areas in the District and 05 members shall be nominated by the State Government out of which 02 persons shall be from amongst MPs, MLAs or persons representing Voluntary agencies. The Chairperson of the Committee shall be the Pramukh of Zila Parishad. The term of the Member of Parliament as non-official Member in the Committee shall be five years or till further orders of the State Government.

3. The Government of Rajasthan exercise control over the appointment and removal from the office but have no control over the performance and functions of the office. The Committee do not exercise executive, legislative and judicial powers and do not confer powers of disbursement of funds, allotment of land etc. and at the same time have no powers of appointment or removal. However, *the Committee will wield influence or power by the way of patronage*. The Members of Parliament as Members of the Committee are not paid any allowances and no facility and remuneration are given or proposed to be given to them and, hence, are not covered under the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main function of the Committee shall be to consolidate the District Annual Plan prepared by Panchayat Samitis and Municipal Bodies of the District and forward the same to the State Government. The functions of the Committee are not purely advisory in nature.

4. As per the information furnished by the Government of Rajasthan, it becomes clear that the qualifications for membership in the Committee shall be limited to the elected members of Zila Parishad and Municipal Bodies, *Ex-Officio* Government Officers and such persons as nominated by the State Government. Members of Parliament are nominated by the State Government as non-official members. Further, the role of Member of Parliament as a

member of the Committee shall be to consolidate and approve the annual plans prepared by Panchayat Samitis and Municipal Bodies of the District and forward the same to the State Government.

5. The Government of Rajasthan have stated that the Members of Parliament, as Members of the Committee, are neither being paid allowances / remuneration nor any other facility is given or proposed to be given to them.

6. As per provisions of Article 102(1)(a) of the Constitution of India -

“A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament –

If he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder”.

7. The Parliament (Prevention of Disqualification) Act, 1959 *inter alia*, lays down certain offices which would not disqualify holders thereof from the membership of Parliament (*Annexure-II*). Section 3(i) of the Act provides that if a chairman or director or member of any statutory or non-statutory body is not entitled to any remuneration other than the compensatory allowance, he would not incur disqualification for being chosen as, or for being, a Member of Parliament:

“3 (i) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (h), if the holder of such office is not entitled to any remuneration other than compensatory allowance, but excluding (i) the office of chairman of any statutory or non-statutory body specified in Part I of the Schedule 4, (ii) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule and (iii) the office of deputy chairman of the non-statutory body specified in Part III of the Schedule.”

8. Section 2(a) of the said Act defines “compensatory allowance” as “any sum of money payable to the holder of an office by way of daily allowance (such allowance not exceeding the amount of daily allowance to which a Member of Parliament is entitled under the Salary, Allowance and Pension of Members of Parliament Act, 1954), any conveyance allowance, house-rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office”.

9. The case was referred to the Ministry of Law & Justice (Legislative Department and Department of Legal Affairs) for their written opinion as to whether the nomination of the Hon'ble Members of Parliament to the District Planning Committee would attract

disqualification from membership of the House under 'Office of Profit' under sub-clause (a) of clause (1) of article 102 of the Constitution.

10. The Department of Legal Affairs *vide* their communication dated 27th July, 2017 (Annexure-III), have stated that since no allowance, facility and remuneration are payable to the Members of Parliament as the Member of the Committee, they are not covered under the Compensatory Allowance as defined in section 2(a) of Parliament (Prevention of Disqualification) Act, 1959. The relevant points of the views expressed by the Department are as under :-

"7. Attention is drawn towards Article 102(1) in the Constitution of India, which provides that a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder. The essential ingredients for attracting the said article, as settled by numerous cases, are that there must be an office, such office must be an office of 'profit', it must be under the Government of India or the Government of a State, such office must not be excluded from the operation of this sub-clause by a law made by Parliament. To decide the issue, therefore, it is imperative to examine the nature of Government control, functions of the Committee and the allowances receivable by the member. In so far as the Law made by Parliament is concerned, the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959) has been enacted to declare certain offices of profit under the Government not to disqualify the holders thereof for being chosen as or for being, Member of Parliament. However, the office under questions is not an office exempted under the said Act.

9. that Member of Parliament is a Member of Statutory Body other than the body as referred in Section 3(h) in the Parliament (Prevention of Disqualification) Act, 1959. The holder as indicated in the list of point at 7 by State Government of Rajasthan, the MP being the holder of such office has mentioned that no allowance, no facility and remuneration are payable to the Member of Parliament as the Member of the Committee. Hence not covered under the Compensatory Allowance in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Therefore, in view of provision of section 3(i) of the Act, 1959, the office of District Planning Committee is not an

office and it cannot be termed as an office of profit.

10. *However, Section 3 of Parliament (Prevention of Disqualification) Act, 1959 enumerates the offices which do not disqualify the holders thereof. Clauses (h) and (i) are the most important clauses of this Act. Clause (h) exempts the office of the Chairman or Member of a Committee for the purpose of advising the Government or any other authority on a matter of public importance etc. provided the holder of the office is not entitled to any remuneration other than compensatory allowance. Clause (i) exempts the office of Chairman, Director or Member of any statutory or non-statutory body other than any such body as is referred to in clause (h), if the holder of such office is not entitled to any remuneration other than compensatory allowance. However, this exemption is not available to the Chairman of any of the bodies listed in Part I of the Schedule. It is also not available to the Chairman or Secretary of any Statutory or non-Statutory body specified in Part II of the Schedule.*
12. *In view of the above and on the basis of document made available to this Department and view given by Hon. Minister of State for Law and Justice we are of the view that the nomination of Member of Lok Sabha to the District Planning Committee may not be considered as office of profit under the Government."*

11. The Legislative Department *vide* their letter dated 08th August, 2017 (Annexure-IV) have clarified that the District Planning Committee of the State of Rajasthan has not been exempted under the Act, 1959. In their opinion, since the Members of the Committee are neither entitled to get any remuneration nor any allowances and facilities, the element of any "profit" in terms of pecuniary gain may not arise in the instant case. Based on the information furnished by the State Government, it appears, in their view, that the members are being nominated to the Committees by virtue of the statutory provisions of the Rajasthan Panchayati Raj Act, 1994 and the removal is not provided in the said Act or by any rules made therein.

12. Furthermore, on a close reading of the powers and functions of the Committee as mentioned in section 121 of the Act, 1994 and Rule 352 of the Rajasthan Panchayati Raj Rules, 1996, they find that the functions of the Committee are purely advisory in nature. Although keeping in view the information furnished by the State Government that the functions of the Committee are not purely advisory in nature, the Committee would still wield influence or power by way of patronage. As such the Department are of the view that

nomination of Members of Lok Sabha to the District Planning Committees of Rajasthan may entail disqualification for being a Member of Parliament.

13. Since the opinion of both the Departments of the Ministry of Law and Justice were contradictory, thus the Joint Committee on Offices of Profit called the representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) for oral evidence on Wednesday, 18th November, 2020. During the evidence, the Secretary, Legislative Department submitted that :-

“When asked a specific question whether the Committee would yield the influence or power by way of patronage, the State of Rajasthan has expressly stated that: ‘yes’, the Committee would yield the influence or power by way of patronage. Since the Committee will yield influence by way of patronage, the Legislative Department has opined that the nomination of Members of Lok Sabha to District Planning Committee may incur disqualification from being a Member of Parliament. This is basically one of the guidelines given by the Joint Committee on Office of Profit. In 1984, they had given certain guidelines saying that while examining whether any committee incurs a disqualification or not, you follow these guidelines. We have examined those guidelines and then we came to this conclusion.”

14. The Secretary, Legislative Department, further stated that:

“.... in the last proceedings you told us that Hon’ble Chairman need not examine it in the light of those guidelines and you only examine the legal issues. Accordingly, I have taken the copy of the Department of Legal Affairs opinion also which is a revised version. Accordingly, we are in agreement with the Department of Legal Affairs. I have not submitted my combined opinion.”

15. During the oral evidence, the Chairperson, Joint Committee on Offices of Profit desired that the Legislative Department should submit their revised opinion in the matter to avoid any judicial intervention. The Legislative Department *vide* OM No. F.No. 17(8)/2017-Leg.III dated 27th November, 2020 (Annexure- V) have furnished the same as under: -

“8. The subject has also been examined by the Legislative Department in detail and it is stated that as no allowance, no facility and remuneration are payable / receivable by the Member of Parliament as Member of the District Planning

Committee and the provisions relating to Compensatory Allowance as per section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959 not being attracted and the same being read along with section 3(i) of the Act, the office of District Planning Committee cannot be termed as an office of profit. Thus, the Legislative Department is in concurrence with the opinion tendered by the Department of Legal affairs on the subject.

Observations/Recommendations

16. The Committee note that District Planning Committee is a Standing Body. The Committee is constituted as per Section 121 of the Rajasthan Panchayati Raj Act, 1994 which provides the composition and mandate of the Committee as well. The Committee shall consist of 25 members – out of which 20 members are elected by the elected representatives of Zila Parishads and Municipal Bodies in proportion to the ratio of population of rural areas and urban areas in the District and 05 members shall be nominated by the State Government out of which 02 persons shall be from amongst MPs, MLAs or persons representing voluntary agencies. The term of the Member of Parliament as non-official Member is five years or till further orders of the State Government. The role of Member of Parliament as a member in the Committee is to consolidate and approve the annual plans prepared by Panchayat Samitis and Municipal Bodies of the District and forward the same to the State Government. Since no facilities, allowances or remuneration are given to the Member of Parliament as a member of the Committee, it is not covered under the “Compensatory Allowance” as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

17. The Committee also note that the State Government exercise control over the appointment and removal from the office but have no control over the performance and functions of the office. The District Planning Committee do not exercise executive, legislative and judicial powers, and do not confer powers of disbursement of funds, allotment of land etc., and at the same time have no powers of appointment or removal. However, the Committee would wield influence or power by way of patronage. The main function of the Committee is to consolidate the District Annual Plan prepared by Panchayat Samitis and Municipal Bodies of the District and forward the same to the State Government. The functions of the committee are not purely advisory in nature.

18. The Committee further note the opinion of the Department of Legal Affairs that in view of provision of Section 3(i) of the Act, 1959, the office of District Planning Committee is not an office and it cannot be termed as an office of profit. Initially, the Legislative Department stated that nomination of Member of Parliament to the District Planning Committee may incur disqualification for being a Member of Parliament based on the norms issued by the Joint Committee on Offices of Profit in 1984. Later on, the Legislative Department revised their opinion and scrutinised the instant case in

the light of Section 3(i) of the Act, 1959 and have subsequently concurred with the opinion tendered by the Department of Legal Affairs.

19. In view of the above, the Committee find that the nomination of Member of Parliament to the District Planning Committee in the State of Rajasthan may not entail disqualification for being a Member of Parliament under Article 102 (1) (a) of the Constitution of India.

NEW DELHI:
15th March, 2021
24 Phalguna, 1942 (Saka)

DR. SATYAPAL SINGH
Chairperson,
Joint Committee on Offices of Profit

क्रमांक : प0 15 (1) संसद / 2014पार्ट-1

जयपुर, दिनांक 03-03-2017

अतिरिक्त निदेशक,

कमेटी ब्रांच-II {COMMITTEE BRANCH-II (Joint Committee on Offices of Profit)}

लोकसभा सचिवालय,

पार्लियामेन्ट हाउस,

नई दिल्ली-110001

विषय:- जिला आयोजना समिति करौली, प्रतापगढ़, बूंदी एवं चूरु में माननीय सांसदों के मनोनयन हेतु सहमति बाबत ।

संदर्भ: आपका पत्रांक 21/2/3(2)/2017/सी-द्वितीय दिनांक 13.02.2017, इस विभाग का समसंख्यक पृष्ठांकित पत्र दिनांक 20.02.2017 के क्रम में ।

महोदय,

उपर्युक्त विषयान्तर्गत प्रासंगिक पत्र के अनुसरण में शासन सचिव एवं आयुक्त, ग्रामीण विकास एवं पंचायती राज विभाग (पंचायती राज) से प्राप्त अशा.टी.प क्रमांक एफ 4()/परावि/आप्र/डीपीसी/2014/243 दिनांक 03.03.2017 मय संलग्नक की छाया प्रतियां संलग्न कर निवेदन है कि जिला आयोजना समिति, करौली, प्रतापगढ़, बूंदी एवं चूरु हेतु निम्नलिखित माननीय सांसदों को सदस्य के रूप में मनोनयन हेतु मा0 अध्यक्ष, लोकसभा की सहमति प्रदान करने का अनुरोध करावे :

1. जिला आयोजना समिति, करौली- डॉ0 मनोज राजोरिया, मा0 सारुद, लोकसभा क्षेत्र करौली एवं धौलपुर
2. जिला आयोजना समिति, प्रतापगढ़- श्री सी.पी. जोशी, मा0 सांसद, लोकसभा क्षेत्र चित्तौड़गढ़ ।
3. जिला आयोजना समिति, बूंदी- श्री ओम बिडला, माननीय सांसद, लोकसभा क्षेत्र-कोटा ।
4. जिला आयोजना समिति, चूरु- श्री राहुल कस्वा, मा0 सांसद, लोकसभा क्षेत्र-चूरु ।

संलग्न: उपरोक्तानुसार

भवदीय
कैलाश सिंगारिया
03.03.17
(कैलाश सिंगारिया)
शासन उप सचिव

प्रतिलिपि निम्नांकित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है:-

1. शासन सचिव एवं आयुक्त, पंचायती राज विभाग, राजस्थान, जयपुर को उनकी संदर्भित अ0शा0 पत्रांक 243 दिनांक 03.03.2017 के क्रम में ।
2. रक्षित पत्रावली ।

शासन उप सचिव



राजस्थान सरकार

ग्रामीण विकास एवं पंचायती राज विभाग
(पंचायती राज)

(: 0141-2385027(O), Fax: 0141-2385027

E-Mail ID: rajpr_dsplan@rediffmail.com

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3/3/2017

विषय:—जिला आयोजना समिति करौली, प्रतापगढ़, बूंदी एवं चूरु में माननीय लोकसभा सांसदों के मनोनयन हेतु माननीय लोकसभा अध्यक्ष महोदयों की सहमति बाबत।
संदर्भ:—आपकी अ.शा.टीप सं. प.15 (1) संसद/2014/पार्ट-1 दिनांक 20.02.2017
प्रसंग:—अति. निदेशक, लोकसभा (सचिवालय), नई दिल्ली का पत्रांक 21/2/3 (2)/2017/सी-द्वितीय दिनांक 13.02.2017

जिला आयोजना समिति, जिला-करौली, प्रतापगढ़, बूंदी एवं चूरु में निम्नलिखित माननीय सांसदों के मनोनयन हेतु माननीय लोकसभा अध्यक्ष महोदया की सहमति प्रदान कराने का श्रम करावें—

1. जिला आयोजना समिति, करौली— डॉ० मनोज राजोरिया, माननीय सांसद, लोकसभा क्षेत्र—करौली एवं धौलपुर।
2. जिला आयोजना समिति, प्रतापगढ़—श्री सी.पी जोशी, माननीय सांसद, लोकसभा क्षेत्र—चित्तौड़गढ़।
3. जिला आयोजना समिति, बूंदी—श्री ओम बिड़ला, माननीय सांसद, लोकसभा क्षेत्र—कोटा।
4. जिला आयोजना समिति, चूरु—श्री राहुल कस्वा, माननीय सांसद, लोकसभा क्षेत्र—चूरु।

संलग्न :

1. लिस्ट ऑफ पॉइन्ट्स।
2. राजस्थान पंचायती राज अधिनियम, 1994 की धारा-121
3. राजस्थान पंचायती राज नियम, 1996-350, 351 व 352

Per today at 5.40 PM.
03-03-17

(आनन्द कुमार)

शासन सचिव एवं आयुक्त

शासन उप सचिव,

संसदीय कार्य विभाग, राजस्थान सरकार,
शासन सचिवालय, जयपुर।

AS
03/03/17

यू.ओ.नोट क्रमांक एफ.4()परावि/आप्र/डी.पी.सी./2014/243
जयपुर, दिनांक:— 3-3-2017

श.ओ.
3/3/17
SH. S. D.

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List of Points

Sr.No.	Question	Answer
1.	Please State whether the District Planning Committee is a Standing or an Adhoc body.	The District Planning Committee is a Standing body
2.	Please furnish details of the composition of the District Planning Committee indicating the number of officials and non-officials in the body.	<p><u>No. of Officials- 4</u></p> <ol style="list-style-type: none"> 1. District Collector- Ex-officio Member 2. Chief Executive Officer, Zila Parishad- Ex-officio Member 3. Additional Chief Executive Officer, Zila Parishad- Ex-officio Member 4. Chief Planning Officer - Secretary <p><u>No. of Non Officials-21</u></p> <ol style="list-style-type: none"> a) 20 members shall be elected from amongst and by the elected representatives of Zila Parishad and Municipal Bodies in proportion to ratio of population of rural areas and urban areas in the district. b) The Chairperson of such Committee shall be the Pramukh of the Zila Parishad c) <u>Two persons from M.Ps, MLAs or persons representing Voluntary agencies nominated by the State Government.</u>
3.	Please give in detail the powers and functions of the Committee.	<ol style="list-style-type: none"> 1. Main function shall be to consolidate the District Annual Plan prepared by Panchayat Samitis and Municipal Bodies of the District 2. Forward the District Plan to the State Government
4.	Whether the functions of the Committee are purely advisory in nature.	The function of the committee are not purely advisory in nature. ✓
5.	<p>Please furnish details with respect to the following :-</p> <ol style="list-style-type: none"> 1) The term of the Member of Parliament as non-official Member in the Committee. 2) Whether the Government exercise control over the appointment to and removal from the office and over the performance and functions of the office. 	<ol style="list-style-type: none"> 1) Five Years and till further order of the State Government. 2) Yes, Government do exercise control over the <u>appointment and removal</u> from the office and have <u>no control</u> over the <u>performance and functions</u> of the office.

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	<p>3) The qualifications for Membership, and</p> <p>4) The role of the Member of Parliament as a Member in the Committee.</p>	<p>3) Qualifications for membership -</p> <ul style="list-style-type: none">• Elected members of Zila Parishad & Municipal Bodies▪ Ex- Officio Government Officers▪ Nominated by Government. <p>4) The role of Member of Parliament as a member in the committee are -</p> <ul style="list-style-type: none">• To consolidate the annual plans prepared by Panchayat Samitis and Municipal Bodies of the District.• Approval of the District Plan.• Forward the approved District Plan to the State Government
<p>6.</p>	<p>Please also give a specific reply to each of the following:-</p> <p>1) Whether the Committee exercise executive, legislative or judicial powers.</p> <p>2) Whether the Committee confers powers of disbursement of funds, allotment of lands etc.</p> <p>3) Whether it would have powers of appointment/ removal, and</p> <p>4) Whether the Committee would wield influence or power by way of patronage.</p>	<p>1) No- Committee did not exercise executive , legislative and judicial powers</p> <p>2) No- Committee did not confers powers of disbursement of funds, allotment of land etc.</p> <p>3) No- Committee did not have powers of Appointment / removal</p> <p>4) Yes - committee will wield influence or power by the way of patronage.</p>
<p>7.</p>	<p>1. Please indicate the details of expenses payable to the Member of Parliament / Member of the council as a Member of the Committee specifying the actual rates of payment with break-up of sitting fee, daily allowance, travelling allowance, house-rent allowance, compensatory allowance, honorarium etc.</p> <p>2. Please specify the facilities, other than the remuneration given or proposed to be given to the Member of Parliament as a Member of the Committee.</p>	<p>1) The Member of Parliament / Member of the Council as a member of the committee are not paid any allowances as mentioned.</p> <p>2. No facility and remuneration are given and neither proposed to be given to the Member of Parliament as the member of the committee.</p>

	<p>3. Please state whether the allowances payable to the Member of Parliament as a Member of the Committee are covered under the Compensatory Allowance defined in Section 2 (a) of Parliament (Prevention of Disqualification) Act, 1959</p>	<p>3. No allowances are payable to the Members of Parliament as the Member of the Committee hence not covered under the compensatory Allowance defined in Section 2 (a) of Parliament (Prevention of Disqualification) Act, 1959</p>
<p>8.</p>	<p>Please furnish any information which the State Government wish to furnish on the subject.</p>	

(सी) एम. बी. गौरी
 संस्कृत साहित्य समिति
 जिला कार्यालय
 पंचायती - १३ विभाग
 राजस्थान, जयपुर

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121. Committee for District Planning : (1) The Government shall constitute in every district a District Planning Committee, hereinafter in this section, referred to as "the Committee" to consolidate the plans prepared by the Panchayati Raj Institutions and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Committee shall consist of such number of members as may be fixed by the Government from time to time by notification in the Official Gazette and in so fixing the total number of members of the committee, the Government shall specify the number respectively of the nominated members and elected members :

Provided that not less than four-fifth of the total number of members of such committee shall be elected by, and from amongst, the elected members of the Zila Parishad and of the municipalities in the district in proportion to the ratio between the population of the rural area and of the urban areas in the district.

(3) The elected members shall be chosen in such manner as may be prescribed.

(4) The nominated members may consist of :

- (a) persons representing the State Government;
- (b) members of the House of the People or of the Rajasthan Legislative Assembly who represent a constituency comprising the whole or part of the district;
- (c) members of the Council of States who are registered as electors in the district; and
- (d) members representing such organisations and institutions as may be deemed necessary by the Government.

(5) The committee shall have—

- (a) such functions relating to district planning as may be assigned to it by the Government; and
- (b) such powers as may be conferred on it by the Government.

(6) The Chairperson of such Committee shall be the Pramukh of the Zila Parishad concerned.

(7) Every Committee shall, in preparing the draft development plan,

(a) have regard to—

- (i) matters of common interest between the Panchayati Raj Institutions and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation; and

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- (ii) the extent and type of available resources whether financial or otherwise; and
 - (b) consult such institutions and organisations as the Government may, by order, specify.
- (8) The Chairperson of every Committee shall forward the development plan, as recommended by such committee to the Government.

EXPLANATION : for the purpose of this section, the term "Municipality" shall have the meaning assigned to it by the Rajasthan Municipalities Act, 1959.

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DISTRICT PLANNING COMMITTEE

350. Members of District Planning Committee : (1) The District Planning Committee as envisaged in section 121 of the Act, shall have in all 25 members out of whom 20 members shall be elected from amongst and by the elected representatives of Zila Parishad and Municipal bodies in proportion to ratio of population of rural areas and urban areas in the district.

(2) Five nominated members shall be as under:-

(a) Collector of the district.

(b) Additional Collector, District Rural Development Agency.

(c) Chief Executive Officer Zila Parishad.

(d) Two persons from M.P.s., M.L.A.s or persons representing Voluntary agencies nominated by the State Government.

351. Election of Members : (1) Procedure of election shall be the same as prescribed for election of members of a Standing Committee of Zila Parishad.

(2) Such meeting for election of members shall be called by the Collector or officer nominated by him not below the rank of Additional Collector who will be assisted by the Chief Executive Officer.

352. Powers and functions of District Planning Committee: (1) Main function shall be to consolidate the annual plans prepared by Panchayat Samitis and Municipal Bodies of the district.

(2) Consider issues of common interest as laid down in sub-section (7) of Section 121 of the Act.

(3) Forward the district plan to the State Government.

(4) Chief Planning Officer shall act as Secretary of the Committee.

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) ACT, 1959
(10 OF 1959)

[4th April, 1959.]

An Act to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being, members of Parliament.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Parliament (Prevention of Disqualification) Act, 1959.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "compensatory allowance" means any sum of money payable to the holder of an office by way of daily allowance [such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under [the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954)]], any conveyance allowance, house rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions, of that office;

(b) "statutory body" means any corporation, committee, commission, council, board or other body of persons, whether incorporated or not, established by or under any law for the time being in force;

(c) "non-statutory body" means any body of persons other than a statutory body.

3. **Certain offices of profit not to disqualify.**—It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament, namely:—

(a) any office held by a Minister, Minister of State or Deputy Minister for the Union or for any State, whether *ex officio* or by name;

² [(aa) the office of a Leader of the Opposition in Parliament;]

³ [(ab) the office of Deputy Chairman, Planning Commission;]

⁴ [(ac) the office of ⁵ [each leader and deputy leader] of a recognised party and recognised group in either House of Parliament;]

⁶ [(ad) the office of the Chairperson of the National Advisory Council constituted by the Government of India in the Cabinet Secretariat vide Order No. 631/2/1/2004-Cab., dated the 31st May, 2004;]

(b) the office of Chief Whip, Deputy Chief Whip or Whip in Parliament or of a Parliamentary Secretary;

⁷ [(ba) the office of Chairperson of—

(i) the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992 (19 of 1992);

⁸ [(ii) the National Commission for the Scheduled Castes constituted under clause (1) of article 338 of the Constitution;

[(iia) the National Commission for the Scheduled Tribes constituted under clause (1) of article 338A of the Constitution;]

(iii) the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990 (20 of 1990);]

(c) the office of member of any force raised or maintained under the National Cadet Corps Act, 1948 (31 of 1948), the Territorial Army Act, 1948 (56 of 1948), or the Reserve and Auxiliary Air Forces Act, 1952 (62 of 1952);

(d) the office of a member of a Home Guard constituted under any law for the time being in force in any State;

(e) the office of sheriff in the city of Bombay, Calcutta or Madras;

1. Subs. by Act 54 of 1993, s. 2, for certain words (w.e.f. 27-8-1993).

2. Ins. by Act 33 of 1977, s. 12 (w.e.f. 1-11-1977).

3. Ins. by Act 54 of 1993, s. 3 (w.e.f. 19-7-1993).

4. Ins. by Act 5 of 1999, s. 5.

5. Subs. by Act 18 of 2000, s. 5, for certain words (w.e.f. 7-6-2000).

6. Ins. by Act 31 of 2006, s. 2 (w.e.f. 18-8-2006).

7. Ins. by Act 54 of 1993, s. 3 (w.e.f. 27-8-1993).

8. Subs. by Act 28 of 2013, s. 2 (w.e.f. 19-2-2014).

(f) the office of chairman or member of the syndicate, senate, executive committee, council or court of a university or any other body connected with a university;

(g) the office of a member of any delegation or mission sent outside India by the Government for any special purpose;

(h) the office of chairman or member of a committee (whether consisting of one or more members), set up temporarily for the purpose of advising the Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry into, or collecting statistics in respect of, any such matter, if the holder of such office is not entitled to any remuneration other than compensatory allowance;

¹ [(i) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (h), if the holder of such office is not entitled to any remuneration other than compensatory allowance, but excluding (i) the office of chairman of any statutory or non-statutory body specified in Part I of the Schedule, (ii) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule;]

(j) the office of village revenue officer, whether called a lambardar, malguzar, patel, deshmuks or by any other name, whose duty is to collect land revenue and who is remunerated by a share of, or commission on, the amount of land revenue collected by him, but who does not discharge any police functions.

² [(k) the office of Chairman, Deputy Chairman, Secretary or Member (by whatever name called) in any statutory or non-statutory body specified in the Table;

(l) the office of Chairman or Trustee (by whatever name called) of any Trust, whether public or private, not being a body specified in the Schedule;

(m) the office of Chairman, President, Vice-President or Principal Secretary or Secretary of the Governing Body of any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law relating to registration of societies, not being a body specified in the Schedule.]

³ [Explanation 1].—For the purposes of this section, the office of ⁴ [Chairman, Deputy Chairman or Secretary] shall include every office of that description by whatever name called.

⁵ [Explanation 2].—In clause (aa), the expression "Leader of the Opposition" shall have the meaning assigned to it in the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977 (33 of 1977).]

⁶ [Explanation 3].—In clause (ac), the expressions "recognised party" and "recognised group" shall have the meanings assigned to them in the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 (5 of 1999).]

4. Temporary suspension of disqualification in certain cases.—If a person being a member of Parliament who immediately before the commencement of this Act held an office of profit declared by any law repealed by this Act not to disqualify the holder thereof for being such member, becomes so disqualified by reason of any of the provisions contained in this Act, such office shall not, if held by such person for any period not extending beyond a period of six months from the commencement of this Act disqualify him for being a member of Parliament.

5. Repeals.—The Parliament (Prevention of Disqualification) Act, 1950 (19 of 1950), the Parliament Prevention of Disqualification Act, 1951 (68 of 1951), the Prevention of Disqualification Act, 1953 (1 of 1954), and any provision in any other enactment which is inconsistent with this Act are hereby repealed.

1. Subs. by Act 54 of 1993, s. 3, for cl. (f) (w.e.f. 19-7-1993).

2. Ins. by Act 31 of 2006, s. 12 (w.e.f. 4-4-2006).

3. Explanation numbered as Explanation 1 thereof by Act 33 of 1977, s. 12 (w.e.f. 1-11-1977).

4. Subs. by Act 54 of 1993, s. 3, for certain words (w.e.f. 27-8-1993).

5. Ins. by Act 33 of 1977, s. 12 (w.e.f. 1-11-1977).

6. Ins. by Act 5 of 1999, s. 5.

THE SCHEDULE

[See section 3(f)]

PART I

BODIES UNDER THE CENTRAL GOVERNMENT

Air India International Corporation established under section 3 of the Air Corporations Act, 1953 (27 of 1953).

Air Transport Council constituted under section 30 of the Air Corporations Act, 1953 (27 of 1953).

Board of Directors of the Export Risks Insurance Corporation¹ *** Limited.

Board of Directors of the Heavy Electrical¹ *** Limited.

Board of Directors of the Hindustan Cables¹ *** Limited.

Board of Directors of the Hindustan Insecticides¹ *** Limited.

Board of Directors of the Hindustan Machine Tools¹ *** Limited.

Board of Directors of the Hindustan Shipyard Limited.

Board of Directors of the² [Hindustan Chemicals and Fertilizers Limited].

Board of Directors of the National Coal Development Corporation (Private) Limited.

Board of Directors of the National³ [Industrial] Development Corporation¹ *** Limited.

Board of Directors of the National Instruments¹ *** Limited.

Board of Directors of the National Small Industries Corporation¹ *** Limited.

Board of Directors of the Neyveli Lignite Corporation (Private) Limited.

Board of Directors of the Sindri Fertilizers and Chemicals¹ *** Limited.

Board of Directors of the State Trading Corporation of India¹ *** Limited.

Central Warehousing Corporation established under section 17 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Coal Board established under section 4 of the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952).

Coal Mines Labour Housing Board constituted under section 6 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947).

Commissioners for the Port of Calcutta.

Committee for the allotment of land in the township of Gandhidham.

Company Law Advisory Commission constituted under section 410 of the Companies Act, 1956 (1 of 1956).

Cotton Textiles Fund Committee constituted under the Textile Funds Ordinance, 1944 (Ord. 34 of 1944).

Dock Labour Board, Bombay, established under the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Dock Labour Board, Calcutta, established under the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Dock Labour Board, Madras, established under the Madras Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Forward Markets Commission established under section 3 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Indian Airlines Corporation established under section 3 of the Air Corporations Act, 1953 (27 of 1953).

Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948).

1. The brackets and word "(Private)" omitted by Act 58 of 1960, s. 3 and the Second Schedule.

2. Subs. by Act 58 of 1960, s. 3 and the Second Schedule, for "Nangal Fertilizers and Chemicals (Private) Limited".

3. Ins. by s. 3 and the Second Schedule, *ibid*.

Licensing Committee constituted under rule 10 of the Registration and Licensing of Industrial Undertakings Rules, 1952, made under the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Mining Boards constituted under section 12 of the Mines Act, 1952 (35 of 1952).

National Co-operative Development and Warehousing Board established under section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Rehabilitation Finance Administration constituted under section 3 of the Rehabilitation Finance Administration Act, 1948 (12 of 1948).

Tariff Commission established under section 3 of the Tariff Commission Act, 1951 (50 of 1951).

Trustees of the Port of Bombay.

Trustees of the Port of Madras.

Trustees or Commissioners of any major port as defined in the Indian Ports Act, 1908 (15 of 1908), other than the Port of Calcutta, Bombay or Madras.

Bodies under State Governments

Andhra Pradesh

Agricultural Improvement Fund Committee constituted under section 3 of the Hyderabad Agricultural Improvement Act, 1952.

Co-operative Agricultural and Marketing Development Fund Committee.

Livestock purchasing Committee.

Assam

Adhi Conciliation Boards constituted under section 2A of the Assam Adhiars Protection and Regulation Act, 1948.

Assam Evacuee Property Management Committee constituted under section 12 of the Assam Evacuee Property Act, 1951.

Assam Text Book Committee.

Bihar

Mining Board for Coal Mines.

Text Book and Education Literature Committee.

Bombay

Allocation Committee (Allopathic) under the Employees' State Insurance Scheme.

Allocation Committee (Ayurvedic) under the Employees' State Insurance Scheme.

Board to conduct over-all supervision of the business and affairs of the *Narsinggirji* Mills, Sholapur.

Bombay Housing Board constituted under section 3 of the Bombay Housing Board Act, 1948.

Bombay State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Bombay State Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

Medical Service Committee under the Employees' State Insurance Scheme.

Pharmaceutical Committee under the Employees' State Insurance Scheme.

Regional Transport Authority for Ahmedabad, Aurangabad, Bombay, Nagpur, Poona, Rajkot and Thana constituted under section 44 of the *Motor Vehicles Act, 1939 (4 of 1939).

Saurashtra Housing Board constituted under section 3 of the Saurashtra Housing Board Act, 1954.

State Transport Authority constituted under section 44 of the * Motor Vehicles Act, 1939 (4 of 1939).

Vidarbha Housing Board constituted under section 3 of the Madhya Pradesh Housing Act, 1950.

* Now see the relevant provisions of the Motor Vehicles Act, 1988 (59 of 1988).

Kerala

Board of Examiners appointed under rule 8 of the Travancore-Cochin Boiler Attendants Rules, 1954.
Panel of Assessors constituted under rule 63 of the Travancore-Cochin Boiler Attendants Rules, 1954.
Panel of Assessors constituted under the Travancore-Cochin Economiser Rules, 1956.

Madhya Pradesh

Madhya Pradesh Housing Board constituted under section 3 of the Madhya Pradesh Housing Board Act, 1950.
Mahakoshal Housing Board.

¹ *[Tamil Nadu]*

Committee to select Books for Study for S.S.L.C. Examination.
Landing and Shipping Fees Committees for Minor Ports.
Local Committee constituted under regulation 10A of the Employees' State Insurance (General) Regulations, 1950.
Madras Board of Transport.

² [Tamil Nadu Electricity Board] constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Madras State Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

Port Conservancy Boards.
Port Trust Boards of Minor Ports.
State Board of Communications.
Text Books Committee.

³ *[Karnataka]*

Board of Management, Mysore Iron and Steel Works, Bhadravathi.
Board of Management of Industrial Concerns.

Orissa

Appeal Committee under the Board of Secondary Education.
Orissa Board of Communications and Transport.
Regional Transport Authority constituted under section 44 of the *Motor Vehicles Act, 1939 (4 of 1939).
State Transport Authority constituted under section 44 of the *Motor Vehicles Act, 1939 (4 of 1939).

Punjab

Punjab State National Workers (Relief and Rehabilitation) Board.

Rajasthan

City Improvement Trust, Kota, constituted under the City of Kota Improvement Act, 1946.
Excise Appellate Board, Ajmer.
Rajasthan State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).
Urban Improvement Board, Jaipur.

Uttar Pradesh

Government Cement Factory Board.
Local Committees for Agra, Kanpur, Lucknow and Saharanpur appointed under section 25 of the Employees' State Insurance Act, 1948 (34 of 1948).
Sub-Committee to select books for Educational Expansion Department.
U.P. Sugar and Power Alcohol and Labour Housing Board constituted under section 10 of the U.P. Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act, 1950.

1. Subs. by the Madras State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1970, for "Madras" (w.e.f. 14-1-1969).

2. Subs., *ibid.*, for "Madras State Electricity Board".

3. Subs. by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1974, for "Mysore" (w.e.f. 1-11-1973).

* Now see the relevant provisions of the Motor Vehicles Act, 1988 (59 of 1988).



West Bengal

Licensing Board constituted under the regulations made under rule 45 of the Indian Electricity Rules, 1956.

West Bengal Housing Board constituted under the West Bengal Development Corporation Act, 1954.

BODIES IN UNION TERRITORIES .

Delhi Development Authority constituted under section 3 of the Delhi Development Act, 1957 (61 of 1957).

Delhi Electricity Power Control Board constituted under section 5 of the Bombay Electricity (Special Powers) Act, 1946, as applied to Delhi.

Delhi State Electricity Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

PART II

BODIES UNDER THE CENTRAL GOVERNMENT

Advisory Committee for the Air-India International Corporation appointed under section 41 of the Air Corporations Act, 1953 (27 of 1953).

Advisory Committee for the Indian Airlines Corporation appointed under section 41 of the Air Corporations Act, 1953 (27 of 1953).

Central Silk Board constituted under section 4 of the Central Silk Board Act, 1948 (61 of 1948).

Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942).

Coir Board constituted under section 4 of the Coir Industry Act, 1953 (45 of 1953).

Development Council for Acids and Fertilizers established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Alkalis and Allied Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Bicycles established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Drugs, Dyes and Intermediates established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Food Processing Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Heavy Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Internal Combustion Engines and Power Driven Pumps established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Light Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Machine Tools established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Non-ferrous Metals including alloys established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Oil-based and Plastic Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Sugar Industry established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Textiles made of artificial silk including artificial silk yarn established under section 6 of the Industries Development and Regulation Act, 1951 (65 of 1951).

Development Council for Textiles made of wool including woollen yarn, hosiery, carpets and druggest established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Durgah Committee, Ajmer, constituted under section 4 of the DurgahKhwajaSaheb Act, 1955 (36 of 1955).

Indian Central Arecanut Committee.

Indian Central Coconut Committee constituted under section 4 of the Indian Coconut Committee Act, 1944 (10 of 1944).

Indian Central Cotton Committee constituted under section 4 of the Indian Cotton Cess Act, 1923 (14 of 1923).

Indian Central Jute Committee.

Indian Central Oilseeds Committee constituted under section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946).

Indian Central Sugarcane Committee.

Indian Central Tobacco Committee.

Indian Lac Cess Committee constituted under section 4 of the Indian Lac Cess Act, 1930 (24 of 1930).

Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947).

Tea Board constituted under section 4 of the Tea Act, 1953 (29 of 1953).

BODIES UNDER STATE GOVERNMENTS

Andhra Pradesh

Market Committee constituted under section 4 of the Hyderabad Agricultural Market Act No. II of 1339 F.

Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act, 1933.

Bihar

Bihar State Board of Religious Trusts.

Bihar SubaiMajlisAwqaf.

Bodh Gaya Temple Advisory Committee constituted under section 15 of the Bodh Gaya Temple Act, 1949.

Bodh Gaya Temple Management Committee constituted under section 3 of the Bodh Gaya Temple Act, 1949.

Kerala

Administration Committee for Coir Purchase Scheme.

Malabar Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act, 1933.

Tapioca Market Expansion Board.

¹ [Tamil Nadu]

Area Committee for Hindu Religious and Charitable Endowments constituted under section 12 of the Madras Hindu Religious and Charitable Endowments Act, 1951.

Madras State Wakf Board constituted under section 9 of the Wakf Act, 1954 (29 of 1954).

Punjab

State Marketing Board constituted under section 3 of the Patiala Agricultural Produce Markets Act, 2004.

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³ [TABLE

[See section 3(k)]

S.No.	Name of the Body
(1)	(2)
1.	The Tripura Khadi and Village Industries Board, a body constituted under the Tripura Khadi and Village Industries Act, 1966.
2.	The Uttar Pradesh Development Council.
3.	The Irrigation and Flood Control Commission, Uttar Pradesh.

1. Subs. By the Madras State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1970, for "Madras" (w.e.f. 14.1.1969).
2. Part III omitted by Act 54 of 1993, S. 4 (w.e.f. 19.7.1993).
3. Ins. by Act 31 of 2006, s.3 (w.e.f. 4-4-1959).


(1)	(2)
4.	The Indian Statistical Institute, Calcutta.
5.	The West Bengal Handicrafts Development Corporation Limited.
6.	The West Bengal Small Industries Development Corporation Limited.
7.	The West Bengal Industrial Development Corporation Limited.
8.	The Sriniketan Santiniketan Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
9.	The Haldia Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
10.	The West Bengal Minorities Development and Finance Corporation, a body constituted under the West Bengal Minorities Development and Finance Corporation Act, 1995.
11.	The Hooghly River Bridge Commissioners, constituted under the Hooghly River Bridge Act, 1969 (West Bengal Act No. 36 of 1969).
12.	The Board of Wakf, West Bengal, a body constituted under the Wakf Act, 1995 (43 of 1995).
13.	The State Fisheries Development Corporation Limited, West Bengal.
14.	The West Bengal State Haj Committee, constituted under the Haj Committee Act, 2002 (35 of 2002).
15.	The Asansol Durgapur Development Authority, West Bengal, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
16.	The West Bengal Pharmaceutical and Phytochemical Development Corporation Limited.
17.	The West Bengal Handloom and Powerloom Development Corporation Limited.
18.	The West Bengal Khadi and Village Industry Board.
19.	The Society for Self-employment for Urban Youth, a society registered under the West Bengal Societies Registration Act, 1961 (West Bengal Act No. 26 of 1961).
20.	The Tirumalá Tirupathi Devasthanams Board.
21.	The Agricultural and Processed Food Products Export Development Authority, an authority constituted under section 4 of the Agricultural and Processed Food Products Export Development Authority Act, 1985 (2 of 1986).
22.	The National Agricultural Co-operative Marketing Federation of India Limited (NAFED).
23.	The Indian Farmer Fertilizers Co-operative Limited (IFFCO).
24.	The Krishak Bharati Co-operative Limited (KRIBHCO).
25.	The National Co-operative Consumers Federation of India Limited (NCCF).
26.	The Auroville Foundation established under sub-section (1) of section 10 of the Auroville Foundation Act, 1988 (54 of 1988).
27.	The National Commission of Enterprises in the Unorganised Sector.
28.	The Planning Board (Asiatic Society) established under sub-section (1) of section 8 of the Asiatic Society Act, 1984 (5 of 1984).
29.	The Delhi Rural Development Board.
30.	The Maulana Azad Education Foundation.
31.	The Indira Gandhi National Centre for the Arts.
32.	The Dr. Ambedkar Foundation.
33.	The Bihar State Board of Religious Trust, a body constituted under the Bihar Hindu Religious Trust Act, 1950 (Bihar Act No. 1 of 1951).
34.	The Research and Information System for the Non-Aligned and Other Developing Countries.
35.	The Indian Institute of Psychometry.
36.	The Uttar Pradesh Film Development Council.
37.	The Uttar Pradesh Provincial Co-operative Federation.

38.	The Uttar Pradesh Co-operative Federation Limited.
39.	The National Co-operative Union of India.
40.	The Uttar Pradesh Krishi and Gram Vikas Bank.
41.	The Uttar Pradesh Co-operative Bank Limited.
42.	The Indian Council for Cultural Relations.
43.	The Board of Control—A.N. Sinha Institute of Social Studies, Panna.
44.	All India Council for Sports.
45.	The Howrah Improvement Trust.
46.	The Dalit Sena, 12, Janpath, New Delhi.
47.	The Social Justice Trust, 12, Janpath, New Delhi.
48.	The Bahujan Foundation (Charitable Trust), Lucknow, Uttar Pradesh.
49.	The BahujanPrerna Charitable Trust, Delhi.
50.	The Central Wakf Council established under section 9 of the Wakf Act, 1995 (43 of 1995).
51.	The Nehru Memorial-Museum and Library (NMML).
52.	The JalianwalaBagh Memorial Trust.
53.	The Haj Committee of India constituted under section 3 of the Haj Committee Act, 2002. (35 of 2002).
54.	The MallickghatPhoolbazarParichalan Committee.
55.	The West Bengal Fisheries Corporation Limited.]

Ministry of Law & Justice
Department of Legal Affairs

Shastri Bhawan
New Delhi - 110001

The Lok Sabha Secretariat may refer to their OM No.21/2/3(2)/2017/CII dated 30.03.2017 seeking our comments on the issue concerning the nomination of four Members of Parliament (Lok Sabha) i.e. Dr. Manoj Rajoria, Karauli (Dholpur); Shri C.P. Joshi, Chittorgah and Pratapgarh; Shri Om Birla, Kota and Boondi and Shri Rahul Kaswa, Churu are being nominated to the District Planning Committees of the Karauli, Pratapgarh, Boondi and Churu Parliamentary Constituencies respectively and sought the permission of Hon'ble Speaker, Lok Sabha from the angle of 'Office of Profit'. Comments of this Department are enclosed herewith as Annexure.


(Dr. P.R. Behera)
Dy. Legal Adviser
27.07.2017

Ms. Rita Jaiikhani, Director, (Committee Branch-II), Lok Sabha Secretariat, Parliament House Annexe, New Delhi - 110001.

UO No. (E.O.No.) 270703/LS/2017

dated 27th July, 2017

Joshi
27/7/17
Recd. 4.20 PM
Addl. Secy (CBII) on leave
EO (CBII) for n.p.
D.K.S. 27/7/17

Seema
27/7

Annexure
Comments of the Department of Legal Affairs

....

The Lok Sabha Secretariat has requested for our comments on the issue concerning the nomination of four Members of Parliament (Lok Sabha) i.e. Dr. Manoj Rajoria, Karauli (Dholpur); Shri C.P. Joshi, Chittorgah and Pratapgarh; Shri Om Birla, Kota and Boondi and Shri Rahul Kaswa, Churu are being nominated to the District Planning Committees of the Karauli, Pratapgarh, Boondi and Churu Parliamentary Constituencies respectively and sought the permission of Hon'ble Speaker, Lok Sabha from the angle of 'Office of Profit'.

2. We have perused the matter, providing details pertaining the nomination of MPs, Lok Sabha as Members of the District Planning Committee of the State of Rajasthan attached with the Note. It is stated that as per section 121 of the Rajasthan Panchayat Act, 1994 provides that the Committee for District Planning (1) the Government shall constitute in every district a District Planning Committee, hereinafter in this section, referred to as "the Committee" to consolidate the plans prepared by the Panchayati Raj Institutions and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

3. In the point-wise reply against Sl.No.1 by the Rajasthan Government vide letter dated 03.03.2017, the administrative Ministry has stated that the District Planning Committee is a standing body. In the point-wise reply against Sl.No. 2, the composition of the District Planning Committee consisting 4 officials member and 21 non-officials member in the body and in non-official members 2 persons from MPs.

4. Under para 3 of the List relating to power and function of the Committee. It is stated that the main functions of the committee shall be to consolidate the district annual plan prepared by Panchayat Samiti and Municipal bodies of the District and forwarded the district plan to the State Governments. Under point 4 of the List stated that the functions of the Committee are not purely advisory in nature. Under 5th of the List, points relating to the term of Member of Parliament as non-official member in the Committee and in this regard, it is stated that 5 years and till further order of the Government. As regards, para 5(2) of list of points, it is stated that Government do exercise control over the appointment and removal from the office and have no control over the performance and function of the office.

5. Under 5(4) of the List, point relating to the role of Member of Parliament as a member in the committee are to consolidate the annual plans prepared by Panchayat Samitis and Municipal Bodies of the District, approval of the district plan and forward the approved district plan to the State Government. Under 6 (1) (2) (3) of the List of Points relating to the committee did not exercise executive, legislative and judicial powers and powers of disbursement of funds, allotment of fund etc. and under point

6(4) of the List of Points, relating to committee will wield influence or power by the way of patronage.

6. In para 7(1), (2), (3) of points relating to allowances, facility and remuneration etc. in this regard, it is stated that the Member of Parliament of the Committee are not paid/given any allowance or facility as a Member of a committee and no allowance are payable to the Member of Parliament as the member of the committee not covered under the compensatory allowance defined in section 2(a) of Parliament (Prevention of Disqualification) Act, 1959.

7. Attention is drawn towards Article 102(1) in the Constitution of India, which provides that a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder. The essential ingredients for attracting the said article, as settled by numerous cases, are that there must be an office, such office must be at office of 'profit', it must be under the Government of India or the Government of a State, such office must not be excluded from the operation of this sub-clause by a law made by Parliament. To decide the issue, therefore, it is imperative to examine the nature of Government control, functions of the Committee and the allowances receivable by the member. In so far as the Law made by Parliament is concerned, the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959) has been enacted to declare certain offices of profit under the Government not to disqualify the holders thereof for being chosen as or for being, Member of Parliament. However, the office under question is not an office exempted under the said Act.

8. As the power of appointment and removal of the District Planning Committee vest with the Government, it may fall under the test laid down by the Supreme Court of India in the case of Shivmurthy Swami Vs. Agadi Sanganna Andnappa (1971 (3) SCC 870).

9. In the above mentioned matter, as desired by the Hon'ble Minister of State for Law & Justice, a meeting was held in his chamber on 29.06.2017 at MeitY, Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi. In the said meeting, Additional Secretary Shri Inder Kumar and the undersigned were present. As per discussion, the Hon'ble Minister has viewed that Member of Parliament is a Member of Statutory Body other than the body as referred in section (3(h)) in the Parliament (Prevention of Disqualification) Act, 1959. The holder as indicated in the list of point at 7 by State Government of Rajasthan, the MP being the holder of such office has mentioned that no allowance, no facility and remuneration are payable to the Member of Parliament as the Member of the Committee. Hence not covered under the Compensatory Allowance in section 2(a) of Parliament (Prevention of Disqualification) Act, 1959. Therefore, in view of provision of section 3(i) of the Act, 1959 in the office of District Planning Committee is not an office and it cannot be term as an office of profit.

10. However, Section 3 of Parliament (Prevention of Disqualification) Act, 1959 enumerates the offices which do not disqualify the holders thereof. Clauses (h) and (i) are the most important clauses of this Act. Clause (h) exempts the office of the Chairman or Member of a Committee for the purpose of advising the Government or any other authority on a matter of public importance etc. provided the holder of the office is not entitled to any remuneration other than compensatory allowance. Clause (i) exempts the office of Chairman, Director or Member of any statutory or non-statutory body other than any such body as is referred to in clause (h), if the holder of such office is not entitled to any remuneration other than compensatory allowance. However, this exemption is not available to the Chairman of any of the bodies listed in Part I of the Schedule. It is also not available to the Chairman or Secretary of any Statutory or non-Statutory body specified in Part II of the Schedule.

11. Two things become clear on a perusal of these provisions. First, exemption from disqualification is provided on the basis of nature of the emoluments. If a Member of Parliament receives only the compensatory allowance, he will not incur disqualification. The nature of the duties and functions of the office he holds is not material as long as the member receives only compensatory allowance. Secondly, a legislator can accept the office of a member of all the bodies listed in Part I and II of the Schedule provided he receives only compensatory allowance. Under Schedule of Article 102, exemption from disqualification arises only if the office is an office of profit. The real difficulty lies in determining whether an office is an office of profit. The Act does not deal with this basic question. For that, one has to apply the tests laid down by the Supreme Court in various cases. As a matter of fact at present there is no mechanism by which it can be found out whether an office is an office of profit before a person accepts it.

12. In view of the above and on the basis of document made available to this Department and view given by Hon'ble Minister of State for Law & Justice with reference to our earlier advice at P-1-2/N, we are of the view that the nomination of Member of Lok Sabha to the District Planning Committee may not be considered as office of profit under the Government.

No.17 (8)/2017 - Leg.III
Government of India
Ministry of Law and Justice
Legislative Department

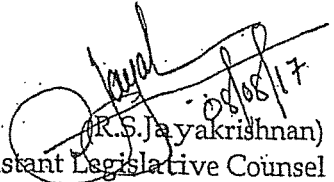
New Delhi, the 8th August, 2017

OFFICE MEMORANDUM

Subject: - Nomination of Members of Lok Sabha to the District Planning Committee of the State of Rajasthan - reg.

In continuation of this Department's Office Memorandum of even number dated the 21st April, 2017 and the Lok Sabha Secretariat Office Memorandum No.21/2/3(2)/2017/CII dated the 20th July, 2017, requesting to furnish final remarks on the subject cited above, the undersigned is directed to forward herewith the final comments of this Department as desired. Hindi version of the same will follow.

Encl. As above


(R.S. Jayakrishnan)
Assistant Legislative Counsel
Tel. No.: 23389661
FAX No. 23382733

To

✓ Lok Sabha Secretariat,
Committee Branch - II (Joint Committee on Offices of Profit),
[Kind Attn: Ms. Rita Jaiikhani, Director],
G - 013, Parliament House Annexe, Extn. Building,
New Delhi - 110 001.

Jaiika
9/8/17

Recd. 11.30 AM

Add Dir CCB 9/17/pl. putup.

9/8/17

✓ Smt. Seena.
9/8/17

Final comments of the Legislative Department

Sub.:- Nomination of Members of Lok Sabha to the District Planning Committees of the State of Rajasthan - reg.

Lok Sabha Secretariat *vide* OM No.21/2/3(2)/2017/CII dated the 30th March, 2017 has forwarded the documents furnished by the Government of Rajasthan, requesting to furnish the written opinion of this Department. Accordingly, this Department *vide* O.M. dated the 21st April, 2017 has forwarded the written opinion *inter alia* stating that without sufficient documents regarding the functions assigned to the Committees, it may not be possible to give a conclusive reply in the matter. Accordingly, the Lok Sabha Secretariat *vide* O.M. dated the 20th July, 2017 has forwarded the documents received from the State Government of Rajasthan and requested this Department to furnish the final comments of this Department to that Secretariat.

2. On going through the documents forwarded by the Government of Rajasthan, against the list of points in serial number 1, it is stated that the District Planning Committee is a standing body with four official members and twenty one non official members. Out of the twenty one non official members two persons shall be from Members of Parliament, MLA's or persons representing voluntary agencies nominated by the State Government.

3. As per the list of points received from the State Government, against serial number 3, it is stated that the main functions of the District Planning Committee is to consolidate the District Annual Plan prepared by the Panchayat Samitis and Municipal Bodies of the District. However, against serial number 4, on the list of points, the State Government has stated that the functions of the Committee are not purely advisory in nature.

4. Further, against serial number 5, of the list of points against item 3, it is stated that no allowances are payable to the Members of Parliament as the Member of the Committee and hence they are not covered under the compensatory allowance defined in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959.

5. In this regard, it may be mentioned that sub-clause (a) and of clause (1) of article 102 of the Constitution provides that a person who holds any office of profit under the Government of India or of any State shall be disqualified and he is not eligible to be chosen as a Member of Parliament or to continue as one unless such office has been declared by Parliament by law not to disqualify the holder. In so far as the Law made by Parliament is concerned, the Parliament (Prevention of disqualification) Act, 1959(10 of 1959) has been enacted to declare certain offices of profit under the Government not to disqualify the holders thereof for being chosen as or for being, Member of Parliament. However, the District Planning Committee of State of Rajasthan has not been exempted under the said Act.

6. Now, the question under consideration is based on the facts mentioned above, whether the nomination of the Hon'ble Members of Parliament to the District Planning Committee in each district of State of Rajasthan would attract disqualification from membership of the House under 'Office of Profit' under sub-clause (a) of clause (1) of article 102 of the Constitution.

7. The matter has been examined in this Department. On examination, it is seen that District Planning Committee was constituted in exercise of the powers conferred under section 121 of the Rajasthan Panchayati Raj Act, 1994. The said section provides that the District Planning Committee have to consolidate the plans prepared by the Panchayati Raj Institutions and Municipalities in the district and to prepare a draft development plan for the district as a whole. Sub-section (2) of section 121 provides for the members of the District Planning Committee. Further, sub-section (4) of section 121 reads as follows:-

"(4) The nominated members may consist of:

- (a) persons representing the State Government;*
- (b) members of the House of the People or of the Rajasthan Legislative Assembly who represent a constituency comprising the whole or part of the district;*
- (c) members of the Council of States who are registered as electors in the district; and*
- (d) members representing such organisations and institutions as may be deemed necessary by the Government;"*

8. Further sub-section (5) of section 121 provides for the functions of the Committee. The said sub-section reads as follows:-

"(5) The Committee shall have-

- (a) such functions relating to district planning as may be assigned to it by the Government; and*
- (b) such powers as may be conferred on it by the Government."*

9. As per the documents received from the State Government of Rajasthan, it is seen that the State Government has framed rules, namely the Rajasthan Panchayati Raj Rules, 1996, in exercise of the powers conferred by section 102 read with sections 3 (5), 7(9), 8, 25(1), 31, 32(1), 33(c), 35(1), 37(3), 38(1), 39(2), 44, 45(3), 53(1), 60, 65(1), (2), 67(2), 68(2), 69, 74(1), (4), 75(1)(2)(3), 77, 78(1) (2), 79(2), 80(1)(3), 81(1), 82(1), 84(1), 89(4) (8), 90(2), 91(1), 121(3)(5) and 122 of the Rajasthan Panchayati Raj Act 1994.

10. Rule 352 of Rajasthan Panchayati Raj Rules, 1996 provide for the functions of District Planning Committee and the said rule reads as follows:-

502. Powers and functions of District Planning Committee.- (1) Main function s shall be to consolidate the annual plans prepared by Panchayat Samitis and Municipal Bodies of the district.

(2) Consider issues of common interest as laid down in sub-section (7) of section 121 of the Act.

(3) Forward the district plan to the State Government.

(4) Chief Planning Officer shall act as Secretary of the Committee."

11. Thus, on a close reading of the powers and functions mentioned above along with the provisions of sub-section (7) of section 121 of the Rajasthan Panchayati Raj Act, 1994, the functions of the Committee are advisory in nature. In this regard, it is noteworthy to mention that in the list of points against point number 6, the State Government had replied that the Committees do not exercise executive, legislative or judicial powers or confers power of disbursement of funds, allotment of lands etc., or gives powers of appointment and the Committee. However, in serial number 6, on the list of points, against item 4), in response to the query, "whether the Committee would wield influence or power by way of patronage", the State Government had replied that the Committee will wield influence by way of patronage.

12. With regard to the remuneration, allowances and facilities etc. are concerned, it is replied by the State Government that the Members of the Committee are neither entitled to get any remuneration nor any allowances and facilities. Hence, the element of any "profit" in terms of pecuniary gain may not arise in the instant case.

13. On the basis of the information furnished by the State Government, it appears that the members are being nominated to the Committees by virtue of the statutory provisions of the Rajasthan Panchayati Raj Act, 1984 and the removal is not provided in the said Act or by any rules made therein.

14. Keeping in view the information furnished by the State Government of Rajasthan against serial number 4 that the functions of the Committee are not purely advisory in nature and against serial number 6, item(4) of the list of points that the Committee will wield influence or power by way of patronage, this Department is of the view that nomination of Members of Lok Sabha to the District Planning Committees of Rajasthan may entail disqualification for being a Member of Parliament.

F.No.17(8)/2017-Leg.III
Government of India
Ministry of Law and Justice
Legislative Department

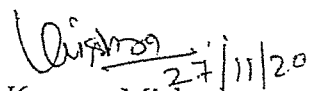
Shastri Bhawan, New Delhi
Dated the 27th November, 2020

OFFICE MEMORANDUM

Subject:-Consolidated opinion of Ministry of Law and Justice on a reference received from the Lok Sabha Secretariat as to whether nomination of four MPs (LS) to the District Planning Committees of State of Rajasthan would attract disqualification from Parliament for holding Office of Profit.

The undersigned is directed to refer to the directions given by the Joint Committee on Office of Profit to furnish the consolidated opinion of both the Department of Legal Affairs and the Legislative Department on the above mentioned case and to forward herewith consolidated opinion (both in English & Hindi) in the matter.

Encl:A/a


(Vinay Kumar Mishra)
Deputy Legislative Counsel
Ph: 2338 4065

The Lok Sabha Secretariat
Committee Branch-II
[Kind Attn: Smt. B.Visala, Director]
[Joint Committee on Offices of Profit]]
G-013, B Block,PHA Extension Building
New Delhi. 110 001

Received on 2/12/2020 at 3pm
Vishal
11/12/20



Legislative Department

Subject: Consolidated opinion of Ministry of Law and Justice on a reference received from the Lok Sabha Secretariat as to whether nomination of four MPs (LS) to the District Planning Committees of State of Rajasthan would attract disqualification from Parliament for holding of office of profit.

The Lok Sabha Secretariat has requested for a consolidated opinion of the Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) on the issue concerning the nomination of four Members of Parliament (Lok Sabha) i.e. Dr. Manoj Rajoria, Karauli (Dholpur); Shri C.P. Joshi, Chittorgarh and Pratapgarh; Shri Om Birla, Kota and Boondi and Shri Rahul Kaswa, Churu to the District Planning Committees of the Karauli, Pratapgarh, Boondi and Churu Parliamentary Constituencies respectively who have sought the permission of Hon'ble Speaker, Lok Sabha from the angle of 'Office of Profit'.

2. The reference puts forth for consideration the issue whether the nomination of the Hon'ble Members of Parliament to the District Planning Committee in each district of State of Rajasthan would attract disqualification from membership of the House for holding 'Office of Profit' under sub-clause (a) of clause (1) of article 102 of the Constitution.

3. The relevant Constitutional provision i.e. sub-clause (a) of clause (1) of article 102 of the Constitution provides that-

“(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;”

Ⓟ

4. In so far as the law made by Parliament is concerned, the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959) has been enacted to declare certain offices of profit under the Government, not to disqualify the holders thereof for being chosen as, or for being, a member of Parliament.

5. The subject matter was examined by the Department of Legal Affairs in the light of constitutional and statutory provisions and case laws and it was opined that the District Planning Committee is a Statutory Body constituted as per section 121 of the Rajasthan Panchayati Raj Act, 1994, which provides the composition and mandate of the committee as under: –

121. Committee for District Planning.- (1) The Government shall constitute in every district a District Planning Committee, hereinafter in this section, referred to as "the Committee " to consolidate the plans prepared by the Panchayati Raj Institutions and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2).....

(3)

(4) The nominated members may consist of :-

(a) persons representing the State Government;

(b) members of the House of the People or of the Rajasthan Legislative Assembly who represent a constituency comprising the whole or part of the district.

(c) members of the Council of States who are registered as electors in the district, and

(d) members representing such organisations and institutions as may be deemed necessary by the Government.

(5) The committee shall have-

(a) such functions relating to district planning as may be assigned to it by the Government; and

(b) such powers as may be conferred on it by the Government .

(6) The Chairperson such Committee shall be the Pramukh of the Zila Parishad concerned.

(7) Every Committee shall be, in preparing the draft development plan,-

(a) have regard to- (i) matters of common interest between the Panchayati Raj Institution and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of the infrastructure and environmental conservation , and

(ii) the extent and type of available resources whether financial or otherwise , and

(b) consult such institutions and organisations as the Government may be order, specify.

(8) The Chairman of every Committee shall forward the development plan, as recommended by such committee to the Government.

Explanation – For the purpose of this section, the term "Municipality" shall have the meaning assigned to it by the Rajasthan Municipalities Act, 1959.

6. Attention was also drawn to section 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, (the Act) which reads as under:

3. Certain offices of profit not to disqualify.— It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament, namely:—

.....

[(i) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (h), if the holder of such office is not entitled to any remuneration other than compensatory allowance, but excluding (i) the office of chairman of any statutory or non-statutory body specified in Part I of the Schedule, (ii) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule;]

7. In the light of the above, it was concluded by the Department of Legal Affairs that District Planning Committee is a statutory body under the Rajasthan Panchayati Raj Act and holding of an office thereunder by a Member of Parliament does not attract the disqualification for holding an office of profit. Another relevant issue is that a Member of Parliament by holding of office in the Committee, draws no allowance, no facility and no remuneration is payable to him as the Member of the Committee. There is no admissibility of Compensatory Allowance as laid down under section 2(a) of the Act. Therefore, in view of provision of section 3(i) of the Act, the office of District Planning Committee cannot be termed as an office of profit, so as to disqualify a Member of Parliament, who occupies it.

8. The subject has also been examined by the Legislative Department in detail and it is stated that as no allowance, no facility and remuneration are payable/receivable by the Member of Parliament as Member of the District Planning Committee and the provisions relating to Compensatory Allowance as per section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959 not being attracted and the same being read along with section 3(i) of the Act, the office of District Planning Committee cannot be termed as an office of profit. Thus, the Legislative Department is in concurrence with the opinion tendered by the Department of Legal Affairs on the subject.

CONFIDENTIAL

**EXTRACTS OF THE MINUTES OF THE FOURTH SITTING OF THE JOINT
COMMITTEE ON OFFICES OF PROFIT (SEVENTEENTH LOK SABHA) HELD
ON WEDNESDAY, 18TH NOVEMBER, 2020**

The Committee met on Wednesday, 18th November, 2020 from 1500 hrs. to 1600 hrs. in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Dr. Satya Pal Singh - Chairperson

MEMBERS

LOK SABHA

2. Shri Vijay Kumar Hansdak
3. Smt. Aparajita Sarangi

RAJYA SABHA

4. Dr. Sasmit Patra
5. Shri V. Vijayasai Reddy

REPRESENTATIVES OF THE MINISTRIES

**MINISTRY OF LAW AND JUSTICE
(i) Department of Legal Affairs**

S. No.	Name	Designation
1.	Shri Anoop Kumar Mendiratta	Secretary
2.	Shri S.R. Mishra	Additional Secretary
3.	Dr. Rajiv Mani	Joint Secretary and Legal Advisor

(ii) Legislative Department

S. No.	Name	Designation
1.	Dr. G. Narayana Raju	Secretary
2.	Shri Vinay Kumar Mishra	Deputy Legislative Counsel

SECRETARIAT

1. Smt. B. Visala - Director
2. Shri R.K. Chaudhary - Under Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee and apprised them about the agenda of the sitting, i.e (i) to consider draft Memorandum No. 5 in respect of nomination of Members of Lok Sabha from Rajasthan to the District Planning Committees in the State and (ii) draft Bill to amend the Constitution of India to define the expression 'Office of Profit' with reference to the Bill forwarded to this Secretariat on 13th March, 2019.

3. Thereafter, the Chairperson welcomed the representatives of the Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) and informed all that due to outbreak of COVID-19 pandemic, it has been decided that there would no manual reporting of the proceedings of the Committee and all are requested to introduce themselves each time before speaking.

4. The Committee then considered the draft Memorandum No. 5 and deliberated upon it. The Secretary, Legislative Department stated that District Planning Committees of Rajasthan is a statutory body constituted under section 121 of the Rajasthan Panchayati Raj Act. The functions of the District Planning Committees are purely advisory in nature and no allowances are payable to the Members of Parliament as members of the Committees. He further stated that the Rajasthan Government also informed that these Committees do not exercise any executive, legislative and judicial powers; confer power on the disbursement of the funds; allotment of land and power of appointments. He further informed that the Committee would wield influence or power by way of patronage as informed by the Rajasthan Government. Thereafter their Department opined that such nomination may incur disqualification for being a Member of Parliament. This was one of the guidelines given by the Joint Committee on Offices of Profit in 1984. However, the case was re-examined from the legal angle in the light of decision tendered by the Department of Legal Affairs as desired by the Committee during the last sitting and they have revised their opinion in affirmative. Thereupon, the Committee enquired about the justification for changing their decision and instructed the Legislative Department to submit the logic for the same in writing otherwise there

would be judicial intervention. Further, the Committee directed that only one single opinion should be forwarded by both the Departments with mutual consultation.

5. XX XX XX XX

6. The Committee then adjourned.

CONFIDENTIAL

**EXTRACTS OF THE MINUTES OF THE SEVENTH SITTING OF
THE JOINT COMMITTEE ON OFFICES OF PROFIT
(SEVENTEENTH LOK SABHA) HELD ON 15 MARCH, 2021**

The Committee met on Monday, 15 March, 2021 from 1500 hrs to 1545 hrs. in Committee Room No. 3, First Floor, Block 'A', Parliament House Annexe Extension, New Delhi.

PRESENT

Dr. Satya Pal Singh - Chairperson

MEMBERS

LOK SABHA

2. Shri Vijay Kumar Hansdak
3. Dr. Manoj Rajoria
4. Shrimati Aparajita Sarangi
5. Shri Mahendra Singh Solanky

RAJYA SABHA

6. Dr. Sasmit Patra
7. Shri Mahesh Poddar
8. Shri Hardwar Dubey

SECRETARIAT

1. Smt. Suman Arora - Joint Secretary
2. Shri R. K. Chaudhary - Under Secretary

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

3. Thereafter, the Committee considered and adopted the draft (i) First Report pertaining to nomination of Members of Parliament to the District Planning Committees in the State of Rajasthan; and (ii) Second Report pertaining to election of one Member of Rajya Sabha to the National Khadi and Village Industries Board (NKVIB).

4. The Committee considered and adopted these Reports without any modification.

5.	XX	XX	XX	XX
6.	XX	XX	XX	XX

The Committee then adjourned.