

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

FOURTH REPORT

Presented to Lok Sabha on 3.2.2022

Laid in Rajya Sabha on 3.2.2022



सत्यमेव जयते

LOK SABHA SECRETARIAT

NEW DELHI

February, 2022 / Magha, 1943 (Saka)

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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 |

* 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

I, 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 Fourth Report of the Committee.

2. At their sitting held on Wednesday, 04th August, 2021, the Committee examined the term, composition, character, functions, etc., of the Central Supervisory Board with a view to consider as to whether the nomination of Members of Parliament to the Central Supervisory Board 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 Tuesday, 14th December, 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
15 December, 2021
25 Agrahayana, 1943 (Saka)

Dr. Satyapal Singh
Chairperson,
Joint Committee on Offices of Profit

REPORT

Examination of “nomination of Members of Parliament to the Central Supervisory Board from the angle of ‘Office of Profit’”.

A communication dated 23rd December 2020 was received from the Rajya Sabha Secretariat (**Annexure-I**) referring five non-exempt statutory bodies for examination from the angle of ‘Office of Profit’ and seeking consideration by and recommendations of the Joint Committee on Offices of Profit (JCOP) on whether the Membership of MPs, *inter alia*, in the Central Supervisory Board would entail any disqualification from the angle of ‘Office of Profit’.

2. In view of the above, therefore, for having a definite and conclusive opinion in the matter, the instant reference was sent to the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) for consideration of the issues as to whether the nomination of the Members of Parliament to the Central Supervisory Board (CSB) would attract disqualification from membership of the Houses of Parliament from the angle of office of profit under sub-clause (a) of clause (1) of article 102 of the Constitution,

3. Article 102 of the Constitution, *inter-alia*, 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 this connection, it may also be mentioned that 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. As per the documents furnished by the Ministry of Health and Family Welfare, PNDT Section dated 28th January, 2021 (**Annexure-II**), it is submitted that the Central Supervisory Board (CSB) is a statutory body provided under section 7(1) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) (PC and PNDT) Act, 1994. In pursuance of clause (f) of sub-section (2) of section 7 of the Act, the Board shall consist of

three women Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States.

6. Section 16 of the PC&PNDT Act, 1994, lays down the functions of the Board, which are advisory in nature, as under :-

- (i) *to advise the Central Government on policy matters relating to use of pre-natal diagnostic techniques, sex selection techniques and against their misuse;*
- (ii) *to review and monitor implementation of the Act and rules made thereunder and recommend to the Central Government changes in the said Act and rules;*
- (iii) *to create public awareness against the practice of pre-conception sex selection and prenatal determination of sex of foetus leading to female foeticide;*
- (iv) *to lay down code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics;*
- (v) *to oversee the performance of various bodies constituted under the Act and take appropriate steps to ensure its proper and effective implementation;*
- (vi) *any other functions as may be prescribed under the Act.*

7. The term and office of the Member of Parliament as a member of the Board has been provided under Section 8(1)(a) of the Act, 1994. The Ministry in their reply have stated that the Board would not wield influence or power by way of patronage and have no powers of disbursement of funds, allotment of lands etc. and no expenses / allowances are payable to Members of Parliament as members of the Board. However, for attending the meeting of Central Supervisory Board, the Members of Parliament are entitled to TA / DA and hotel accommodation as per *Salary, Allowances and Pension of Members of Parliament Act, 1954* and rules framed thereunder as amended from time to time. The Ministry further clarified that the allowances payable to the Members of Parliament as members of the Board are covered under Compensatory Allowance as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

8. The Legislative Department, Ministry of Law and Justice, in concurrence with the Department of Legal Affairs, *vide* their OM dated 12th May, 2021 (Annexure-III) have furnished a consolidated opinion on the matter as under: -

"6. On going through the documents, it has been noted that, with regard to the query at serial number 7 (i) and (ii) in the List of Points regarding the expenses payable to the Members of Parliament as member of the Board, specifying the actual rates of payment with break-up of sitting fee, daily allowances, travelling allowance, house rent allowance, compensatory allowance, honorarium, etc., and facilities other than remuneration given or proposed to be given to the Member of Parliament as a member of the CSB, the administrative Ministry has replied that no expenses are payable as a member of the Board. However, for attending the meeting of Central Supervisory Board, the Members of Parliament are entitled to TA/DA and hotels accommodation as per Salary, Allowances, Pension of the Members of Parliament Act, 1954 and rules framed there under as amended from time to time. Further, with regard to the query at serial No.7 (iii) as to whether the allowances payable to the Member of Parliament as Member of the Committee are covered under the Compensatory Allowance defined in section 2(a) of Parliament (Prevention of Disqualification) Act, 1959, the administrative Ministry has replied that allowances payable to the Members of Parliament as members of the CSB are covered under compensatory allowance as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

7. As per section 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, the Office of Chairman, Director or Member of any statutory or non-statutory body other than body covered under clause (h) is not disqualified from being a Member of Parliament, if the holder of such office is not entitled to any remuneration other than compensatory allowance.

8. On perusal of query and reply of administrative Ministry to serial number 3 and 4 in the list of points as to the functions of board, it appears that the functions of Board are purely advisory in nature.

9. On perusal of query and reply of administrative Ministry to serial number 7 (ii) in the List of Points, it appears that the Government is having control over removal of members of the Board (CSB).

10. With regard to query of serial number 6(iv) as to whether the Board would influence or power by patronage, the administrative Ministry has replied as 'No'.

11. In view of the above, on the basis of the information furnished by the administrative Ministry that the Members being entitled to only permissible compensatory allowance, by virtue of section 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, nomination of Members of Parliament to CSB may not incur disqualification in terms of Article 102(l)(a) of the Constitution of India".

9. The matter was discussed at the sitting of the Joint Committee on Offices of Profit held on Wednesday, 04th August, 2021. During the course of evidence, the Secretary, Ministry of Law and Justice (Department of Legal Affairs) submitted that :-

"... the Central Supervisory Board which falls under the Pre-conception and Prenatal Diagnostic Techniques Prohibition of Sex-Selection Act, 1994. The Central Supervisory Board is a Statutory Board which is constituted under Section 7(i) of the PNDT Act, in short, I referred it. In pursuance of Clause 8 of sub-section (2) of Section 7 of the Act, the Board shall consist of three women Members of Parliament, who shall be elected by the House of the people and one by the Council of the States.

In pursuance of Clause (f) of sub-Section 2 of Section 7 of the Act, the Board shall consist of three women Members of Parliament out of whom two shall be elected by the House of the People and one by the Council of the States.

Sir, I am only referring to the relevant clause which is for consideration instated of repeating the entire provision. As provided under sub-Section 5 of Section 9 of the Act, Members other than the ex-officio members, the Board consists of both ex-officio as well as other members, the ex-officio Members shall receive such allowances if any from the CSB as may be prescribed."

10. On being asked about the payment of TA /DA to Members of Parliament as members of the CSB, the Secretary elaborated that, -

"..... for attending the meeting of the Central Supervisory Board, the

Members of Parliament are entitled to TA / DA and hotel accommodation as per Salary, Allowances, Pension of the Members of parliament Act, 1954 under rules framed thereunder.

Further, with regard to the query which was raised with the administrative Department as to whether the allowances which are payable to the Members of Parliament as Member of the Committee are covered under the compensatory allowance as defined under Section 2 of the Parliament (Prevention of Disqualification) Act, 1959, the administrative Ministry has replied that the allowances payable to the Members of Parliament as Members of the Central Supervisory Board are covered under the compensatory allowance as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act. So, in this regard, even the administrative Ministry is quite clear that the allowances are covered within the ambit of Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959."

11. Finally, the Secretary concluded as under :-

"From the perusal as to the functions of the Board, the administrative Ministry as well as the Law Ministry is of the opinion that it appears that the functions of Central Supervisory Board are purely advisory in nature though it appears that the Government is having control over removal of members of the Board....."

On the basis of the information which is furnished by the administrative Ministry as well as the provisions of the Act and rules which have been referred, we are of the view that nomination of Members of Parliament to Central Supervisory Board may not incur disqualification in terms of Article 102(1)(a) of the Constitution of India."

Observations / Recommendations

12. The Committee note that the Central Supervisory Board (CSB) is a statutory body provided under section 7(1) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) (PC and PNDT) Act, 1994. The Board shall consist of three women Members of Parliament, as per clause (f) of sub-section (2) of section 7 of the (PC and PNDT) Act, 1994. In pursuance of Section 16 of the Act, 1994, the functions of the Board are supervisory in nature. The Committee further note that the Board would not wield influence or power by way of patronage and have no powers of disbursement of funds, allotment of lands, etc. and no expenses / allowances are payable to Members of Parliament as members of the Board. The Central Government are empowered to constitute the CSB and removal of the members is governed by Section 14 of the PC&PNDT Act, 1994. The Members of Parliament as members of the Board are entitled to TA / DA and hotel accommodation as per *Salary, Allowances and Pension of Members of Parliament Act, 1954* and rules framed thereunder as amended from time to time. The allowances payable to the Members of Parliament as members of the Board are covered under Compensatory Allowance as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

13. The Ministry of Law and Justice, in their consolidated opinion, stated that the nomination of Member of Parliament to the Central Supervisory Board may not entail disqualification for being a Member of Parliament under Article 102 (1) (a) of the Constitution of India.

14. In view of the foregoing, the Committee agree with the opinion of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs).

New Delhi;
14 December, 2021
23Agrahayana, 1942 (Saka)

DR. SATYA PAL SINGH
Chairperson,
Joint Committee on Offices of Profit

Annexure - 1
21/12/20/2020/CS

**RAJYA SABHA SECRETARIAT
(COMMITTEE CO-ORDINATION SECTION)**

Sub: Referring 5 non-exempt Statutory Bodies to the Joint Committee on Offices of Profit (JCOP) for examination and recommendation on the 'Office of Profit' issue.

Presently, other than National Khadi and Village Industries Board which has already been referred to the JCOP for their examination and opinion from the angle of 'Office of Profit' through this Secretariat's Note dated 15.09.2020, there are 5 Statutory Bodies which have no provisions in their parent Acts/Rules, exempting Members from disqualification from the membership of the House on the ground of holding an 'Office of Profit' under Article 102(1)(a) of the Constitution of India or in the Parliament (Prevention of Disqualification) Act, 1959. These Bodies also do not have JCOP's recommendations for exemption of membership of MPs therein from being an 'Office of Profit'. A brief memorandum *w.r.t.* these 5 Bodies is enclosed. Relevant extracts of the Acts/Rules of the respective Bodies, is also enclosed.

2. The Lok Sabha Secretariat, therefore, is requested to place the matter before the JCOP, for its consideration and recommendation on whether the membership of MPs in these 5 non-exempt Bodies would entail any disqualification from the 'Office of Profit' angle. It would be appreciated if the views/recommendations of that Committee could be expeditiously obtained, so as to enable this Secretariat to take further necessary action on the matter at the earliest.

3. Further, Lok Sabha Secretariat is also requested to ensure that notice with respect to meetings of JCOP on the aforesaid issues are invariably sent to this Secretariat, so that the Officers concerned may also remain present to assist the Committee on the scheduled date(s).



**(R.P. TIWARI)
ADDITIONAL DIRECTOR
PHONE: 23035434**

Encls: As above.

Lok Sabha Secretariat (Smt. B. Visala, Director)

R.S.S I.D. No. 5(3)/2016-Coord, dated 23rd December, 2020.

No. V.11011/2/2020-PNDT
Government of India
Ministry of Health and Family Welfare
PNDT Section

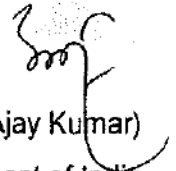
Nirman Bhavan, New Delhi
Dated 28th January, 2021

Office Memorandum

Subject: Referring 5 non exempt Statutory Bodies for examination from the angle of "Office of Profit" regarding.

The undersigned is directed to refer to Office Memorandum No. 21/14/1/2021/CII dated 7th January 2021 on the above mentioned subject. Requisite information/replies to the list of points is enclosed.

This issue with the approval of competent authority.



(Ajay Kumar)

Under Secretary to Government of India
Tel. 011-23061203

Shri Munish Kumar Rewari,
Additional Director
Lok Sabha Secretariat
Parliament House /Annexe
New Delhi-110001

S.No.	Question	Reply
1.	Please state whether the Central Supervisory Board (CSB) constituted under Section 7(1) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 is a Standing or an Adhoc body	Central Supervisory Board is a statutory body provided under section 7(1) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) (PC&PNDT) Act, 1994 Act 1994.
2.	Please furnish details of the composition of the Central Supervisory Board (CSB) constituted under Section 7(1) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 indicating the number of Officials and Non Officials in the body	<p><i>Constitution of Central Supervisory Board under section 7 of the PC&PNDT Act.</i></p> <p><i>1. The Central Government shall constitute a Board to be known as the Central Supervisory Board to exercise the powers and perform the functions conferred on the Board under this Act.</i></p> <p><i>2. The Board shall consist of—</i></p> <p><i>(a) the Minister in charge of the Ministry or Department of Family Welfare, who shall be the Chairman, ex-officio;</i></p> <p><i>(b) the Secretary to the Government of India in charge of the Department of Family Welfare, who shall be the Vice-Chairman, ex-officio;</i></p> <p><i>(c) three members to be appointed by the Central Government to represent the Ministries of Central Government in charge of Women and Child Development, Department of Legal Affairs or Legislative Department in the Ministry of Law and Justice, and Indian System of Medicine and Homoeopathy, ex-officio;</i></p> <p><i>(d) the Director General of Health Services of the Central Government, ex-officio;</i></p> <p><i>(e) ten members to be appointed by the</i></p>

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S.No.	Question	Reply
		<p>Central Government, two each from amongst—</p> <p>(i) eminent medical geneticists;</p> <p>(ii) eminent gynaecologist and obstetrician or expert of stri-roga or prasuli-tantra;</p> <p>(iii) eminent paediatricians;</p> <p>(iv) eminent social scientists; and</p> <p>(v) representatives of women welfare organisations;</p> <p>(f) three women Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;</p> <p>(g) four members to be appointed by the Central Government by rotation to represent the States and the Union territories, two in the alphabetical order and two in the reverse alphabetical order:</p> <p><u>(Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory);</u></p> <p>(h) an officer, not below the rank of a Joint Secretary or equivalent of the Central Government, in charge of Family Welfare, who shall be the Member-Secretary, ex-officio.</p> <p>In view of the above provisions it is submitted that there are total 24 members out of which 13 are non official .</p>
3.	Please give in detail the Powers and Functions of the Board	<p>Section 16 of the PC&PNDT Act lays down the functions of the Board as below:</p> <p>Functions of the Board. - The Board shall have the following functions, namely:—</p> <p>i. to advise the Central Government on policy matters relating to use of pre-natal diagnostic techniques, sex selection</p>

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S.No.	Question	Reply
		<p><i>techniques and against their misuse;</i></p> <p>ii. <i>to review and monitor implementation of the Act and rules made thereunder and recommend to the Central Government changes in the said Act and rules;</i></p> <p>iii. <i>to create public awareness against the practice of pre-conception sex selection and prenatal determination of sex of foetus leading to female foeticide;</i></p> <p>iv. <i>to lay down code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics;</i></p> <p>v. <i>to oversee the performance of various bodies constituted under the Act and take appropriate steps to ensure its proper and effective implementation; (vi) any other functions as may be prescribed under the Act.</i></p>
4.	Whether the Function of the Board are purely advisory in the nature	The functions of the Board are detailed in reply to point no 3 herein above.
5.	<p>Please furnish the details with respect to the following:-</p> <p>i. The term of the Member of Parliament as Non-Official Member in the Board;</p>	<p>5.(i) Term and office of the member of parliament is provided under Section 8 (1) (a) provides as under :</p> <p>Terms of office of members.- <i>(1) The term of office of a member, other than an ex-officio member, shall be—</i></p> <p><i>(a) in case of appointment under clause (e) or clause (f) of sub-section (2) of section 7, three years;</i></p> <p><i>"Provided that the term of office of a member elected under clause (f) --- shall come to an end as soon as the member</i></p>

S.No.	Question	Reply
	<p>ii. Whether the Government exercise control over the appointment to and removal from the office and over the performance and functions of the Board;</p>	<p><i>becomes a Minister or Minister of State or Deputy Minister, or the Speaker or the Deputy Speaker of the House of People , or the Deputy Chairperson of the Council of States or Ceases to be Member of the House from which she was elected"</i></p> <p>5 (ii) Under PC&PNDT Act Section 7 Central Government are empowered to constitute the central supervisory board as provided below:</p> <p>Constitution of Central Supervisory Board.- <i>The Central Government shall constitute a Board to be known as the Central Supervisory Board to exercise the powers and perform the functions conferred on the Board under this Act</i></p> <p>It is further submitted that Removal of the members is governed by Section 14 of the PC&PNDT Act which lays down the criteria for disqualification as provided under:</p> <p>Disqualifications for appointment as member .- <i>A person shall be disqualified for being appointed as a member if, he—</i></p> <p>(a) <i>has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or</i></p> <p>(b) <i>is an un-discharged insolvent; or</i></p> <p>(c) <i>is of unsound mind and stands so declared by a competent court; or</i></p> <p>(d) <i>has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or</i></p> <p>(e) <i>has, in the opinion of the Central Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his</i></p>

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S.No.	Question	Reply
	<p>iii. The qualifications for Membership; and</p> <p>iv. The role of the Member of Parliament as a Member in the Board.</p>	<p><i>functions as a member; or</i> <i>(f) has, in the opinion of the Central Government, been associated with the use or promotion of pre-natal diagnostic technique for determination of sex or with any sex selection technique.</i></p> <p>5 (iii) The Qualification for Membership is provided under section 7 of the PC&PNDT Act as mentioned at Item no 2 above.</p> <p>5 (iv) Same Role as that assigned to the other members of the Board.</p>
6	<p>Please also give a specific reply to each of the following:-</p> <p>i. Whether the Board exercise executive, legislative or judicial powers;</p> <p>ii. Whether the Board confers Powers of disbursement of funds, allotment of lands etc;</p> <p>iii. Whether it would have powers of appointment/removal; and</p> <p>iv. Whether the Board would wield influence or power by way of patronage.</p>	<p>i. As per section 16 of the PC&PNDT Act functions of the Board is Advisory in nature as mentioned earlier at point 3 .</p> <p>ii. No</p> <p>iii. No</p> <p>iv No</p>
7.	i. Please indicate the details of expenses payable to the	I. No expenses/allowances are payable as a member of the Board, however for



S.No.	Question	Reply
	<p>Member of Parliament as a Member of the Board 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>ii. Please specify the facilities other than the remuneration given or proposed to be given to the Member of Parliament as a Member of the Board.</p> <p>iii. Please state whether the allowances payable to the Member of Parliament as a Member of the Board are covered under the Compensatory Allowance as defined in Section 2(a) of Parliament (Prevention of Disqualification) Act, 1959.</p>	<p>attending the meeting of Central Supervisory Board, the Member of Parliament are entitled to TA/DA and hotels accommodation as per Salary, Allowances, pension of the Members of Parliament Act, 1954 Allowances and Pension of <i>Members of Parliament Act</i>, 1954 and rules framed there under as amended from time to time</p> <p>II. No facilities are provided except those stated at 7(i) above</p> <p>III. Yes allowances payable to the Members of Parliament as members of the board are covered under compensatory allowance as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act 1959 as mentioned below:</p> <p><i>Section 2(a) defines "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 traveling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions, of that office</i></p>
8	Please furnish any information which the Board wish to furnish on the subject.	No other information.

F.No.17(1)/2021-Leg.III
Government of India
Ministry of Law and Justice
Legislative Department

Shastri Bhawan, New Delhi,
Dated the 4th April, 2021

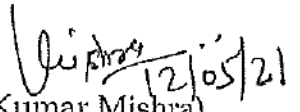
12 May

OFFICE MEMORANDUM

Subject: Referring non-exempt Statutory Bodies for examination from the angle of 'Office of Profit'- regarding.

The undersigned is directed to refer to the Lok Sabha Secretariat OM No.21/14/1/2021/CII dated the 25TH March, 2021 on the subject mentioned above and to forward the comprehensive/consolidated reply of Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) as desired for necessary action.

Encl.:A/a.


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

The Lok Sabha Secretariat
(Committee Branch-II),
{Joint Committee on Offices of Profit},
[Attn: Sh. R.K.Chaudhary Under Secretary],
G-013, Parliament House
Annexe Extension Building,
New Delhi- 01

Legislative Department

Subject:-Referring non -exempt Statutory Bodies for examination from the angle of 'Office of Profit'.

The reference puts forth for consideration of the issues as to whether the nomination of the Members of Parliament to (i) the Central Supervisory Board (CSB) and (ii) the Indian Nursing Council (INC) would attract disqualification from membership of the Houses of Parliament from the angle of office of profit under sub-clause (a) of clause (1) of article 102 of the Constitution, referred to us from the Joint Committee on Office of Profit, Lok Sabha Secretariat.

3. Article 102 of the Constitution, *inter alia*, 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. The matter has been examined in this Department and it may be mentioned that 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.

(i) The Central Supervisory Board (CSB)

5. It has been noted that Central Supervisory Board(CSB) is a statutory body constituted under section 7(1) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) (PC and PNDT) Act, 1994. In pursuance of clause (f) of sub-section(2) of section 7 of the Act, the Board shall consist of three women Members of Parliament, of whom two shall

be elected by the House of the People and one by the Council of States. As provided under sub-section (5) of section 9 of the Act, members other than *ex-officio* members shall receive such allowances, if any, from the CSB as may be prescribed. As per sub-rule (2) of rule 16 of the Pre-natal diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996, the non-official members appointed to, and Members of Parliament elected to, the Board will be entitled to Travelling Allowance and Daily Allowance for attending the meetings of the Board as admissible to non-officials and Members of Parliament, as the case may be, under the Travelling Allowances rules of the Central Government.

6. On going through the documents, it has been noted that, with regard to the query at serial number 7 (i) and (ii) in the List of Points regarding the expenses payable to the Members of Parliament as member of the Board, specifying the actual rates of payment with break-up of sitting fee, daily allowances, travelling allowance, house rent allowance, compensatory allowance, honorarium, etc., and facilities other than remuneration given or proposed to be given to the Member of Parliament as a member of the CSB, the administrative Ministry has replied that no expenses are payable as a member of the Board. However, for attending the meeting of Central Supervisory Board, the Members of Parliament are entitled to TA/DA and hotels accommodation as per Salary, Allowances, Pension of the Members of Parliament Act, 1954 and rules framed there under as amended from time to time. Further, with regard to the query at serial No.7 (iii) as to whether the allowances payable to the Member of Parliament as Member of the Committee are covered under the Compensatory Allowance defined in section 2(a) of Parliament(Prevention of Disqualification)Act, 1959, the administrative Ministry has replied that allowances payable to the Members of Parliament as members of the CSB are covered under compensatory allowance as defined in section 2(a) of the Parliament (Prevention of Disqualification)Act, 1959.

7. As per section 3(i) of the Parliament(Prevention of Disqualification)Act, 1959, the Office of Chairman, Director or Member of any statutory or non-statutory body other than body covered under clause (h) is not disqualified from

being a Member of Parliament, if the holder of such office not entitled to any remuneration other than compensatory allowance.

8. On perusal of query and reply of administrative Ministry to serial number 3 and 4 in the list of points as to the functions of board, it appears that the functions of Board are purely advisory in nature.

9. On perusal of query and reply of administrative Ministry to serial number 7 (ii) in the List of Points it appears that the Government is having control over removal of members of the Board (CSB).

10. With regard to query of serial number 6(iv) as to whether the Board would influence or power by patronage, the administrative Ministry has replied as 'No'.

11. In view of the above, on the basis of the information furnished by the administrative Ministry that the Members being entitled to only permissible compensatory allowance, by virtue of section 3(i) of the Parliament (Prevention of Disqualification) Act, 1959, nomination of Members of Parliament to CSB may not incur disqualification in terms of article 102(1)(a) of the Constitution of India.

CONFIDENTIAL**EXTRACTS OF THE MINUTES OF THE TENTH SITTING OF THE
JOINT COMMITTEE ON OFFICES OF PROFIT (17TH LOK SABHA)
HELD ON WEDNESDAY, 04TH AUGUST, 2021**

The Committee met on Wednesday, 04th August, 2021 from 1500 hrs. to 1540 hrs. in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Dr. Satya Pal Singh - Chairperson

MEMBERS**LOK SABHA**

2. Shri Vijay Kumar Hansdak
3. Dr. Manoj Rajoria
4. Shri Mahendra Singh Solanky
5. Shri Shyam Singh Yadav

RAJYA SABHA

6. Shri Mahesh Poddar
7. Shri Hardwar Dubey

REPRESENTATIVES OF THE MINISTRIES**MINISTRY OF LAW AND JUSTICE**

(iii) Department of Legal Affairs

S. No.	Name	Designation
1.	Shri Anoop Kumar Mendiratta	Law Secretary
2.	Dr. Rajiv Mani	Joint Secretary & Legal Adviser

(iv) Legislative Department

S. No.	Name	Designation
1.	Shri K. Biswal	Additional Secretary
2.	Shri Vinay Kumar Mishra	Deputy Legislative Counsel
3.	Shri Sathish Murugan P.	Deputy Legislative Counsel

SECRETARIAT

S. No.	Name	Designation
1.	Smt. Suman Arora	Joint Secretary
2.	Shri Munish Kumar Rewari	Additional Director
3.	Smt. Manjinder Pubbi	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 Chairperson welcomed the representatives of the Ministry of Law and Justice (Legislative Department and Department of Legal Affairs) and took up the first agenda i.e. Memorandum No.7 pertaining to "Nomination of Members of Parliament to the Central Supervisory Board from the angle of Office of Profit". The Committee found that the functions of the Board are purely supervisory in nature and allowances payable to the Members of Parliament as Members of the Central Supervisory Board are covered under compensatory allowance as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Further, the instant case is protected under Section 3(i) of the Act, 1959. Thus, they agreed that the nomination of Members of Parliament to the 'Central Supervisory Board' might not attract office of profit.

2.	xx	xx	xx	xx
3.	xx	xx	xx	xx

The Committee then adjourned.

xx Does not pertain to this Report.

2. At the outset, the Chairperson welcomed the members to the sitting of the Committee and apprised them about the agenda *i.e.* consideration and adoption of the draft Report regarding examination of nomination of Members of Parliament to the 'Central Supervisory Board' from the perspective of the Office of Profit. The Committee considered and adopted the draft Report unanimously without any modification.

3.	XX	XX	XX	XX
4.	XX	XX	XX	XX
5.	XX	XX	XX	XX

The Committee then adjourned.

XX Does not pertain to this Report.