

JOINT COMMITTEE ON OFFICES OF PROFIT

SECOND REPORT

(EIGHTH LOK SABHA)



*Presented to Lok Sabha on 23rd April, 1986
Laid in Rajya Sabha on 23rd April, 1986*

LOK SABHA SECRETARIAT
NEW DELHI

April, 1986/Chaitra, 1908 (Saka)

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CORRIGENDA TO THE SECOND REPORT OF
THE JOINT COMMITTEE ON OFFICES OF
PROFIT (EIGHTH LOK SABHA)

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

COMPOSITION OF THE COMMITTEE

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Appayya Dora Hanumantu
6. Shri Mahendra Singh
7. Shri Sriballav Panigrahi
8. Shri P. M. Sayeed
9. Shri S. B. Sinal
10. Shri Balram Singh Yadav

Rajya Sabha

11. Shrimati Monika Das
12. Shri Sohan Lal Dhusiya
13. Shri B. Krishna Mohan
14. Shri Puttapaga Radhakrishna
- **15. Shri K. Gopalan

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

** Elected by Rajya Sabha on the 13th March, 1986 *vice* Shri Amar Prasad Chakraborty, M.P. died.

REPORT OF THE JOINT COMMITTEE ON OFFICES OF PROFIT

I

INTRODUCTION

I, the Chairman of the Joint Committee on Offices of Profit, having been authorised by the Committee to present the Report on their behalf, present this their Second Report of the Committee.

1.2 The matters covered by the Report were considered by the Committee at their sittings held on 12th, 13th and 27th September, 16th and 29th October, 1985. Minutes of these sittings form part of the Report and are at Appendix.

1.3 The Committee examined the Composition, character, functions etc. of 20 Committees|Boards|Corporations|Commissions etc. constituted by the Central Government, State Governments and the Union Territory Administration and the emoluments and allowances payable to their members, non-official Directors, Chairman etc. with a view to consider whether holders of offices on these bodies would incur disqualification under article 102 of the Constitution.

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

1.5 The Committee considered and adopted the Report on the 31st March, 1986.

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

II

COMMITTEES|BOARDS ETC. CONSTITUTED BY THE CENTRAL AND STATE GOVERNMENTS AND UNION TERRITORY ADMINISTRATION

Sindhi Advisory Committee, Ministry of Education

2.1 The Committee note that the non-official members of the Sindhi Advisory Committee including the Vice-Chairman are entitled to a payment of TA and DA as admissible under the Government rules which are less than the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee are to advise the Government on production of literature in Sindhi and matters concerning the promotion of Sindhi. Hence, the functions of the Committee are advisory in nature. As such, the Committee, feel that the non-official members of the aforesaid Committee, *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Physical Research Laboratory—PRL Council of Management (Department of Space)

2.2 The Committee note that the non-official members of the Council of Management of Physical Research Laboratory are entitled to TA and DA at Central Government rates which are covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee are also informed that the Physical Research Laboratory is a premier research Institution in Space Science which does not carry any executive, legislative or judicial powers. Hence, the Committee recommend that the non-official members of the Council of Management of the Physical Research Laboratory *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Committee to look into the problems of the people residing in the walled city of Delhi (Ministry of Home Affairs)

2.3 The Committee note that the non-official members of the Committee to look into the problems of the people residing in the walled city of Delhi are not entitled to any remuneration. The functions of the Committee are to make a study of the living condi-

tions of the people residing in the walled city of Delhi and to suggest corrective measures and programmes to improve their conditions. As such, the functions of the Committee are advisory in nature. Hence, the Committee feel that the non-official members of the aforesaid Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Andhra Pradesh Essential Commodities Corporation Ltd.,
Hyderabad*

2.4 The Committee note that the non-official Directors of the Andhra Pradesh Essential Commodities Corporation Ltd. are entitled to TA and DA @ Rs. 50|- besides a sitting fee of Rs. 100|- per day for each sitting. The payment of sitting fee is not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The non-official Directors are also paid an honorarium of Rs. 500|- per month and the Chairman of the Corporation is entitled to a remuneration of Rs. 1500/- p.m. besides free telephone connection and a car for local conveyance which does not come within the ambit of the 'compensatory allowance'.

The functions of the Corporation are to carry on the business of promoting the sale of essential commodities by regulating their purchase, manufacture, storage, transport, distribution etc. and other ancillary matters relating thereto and as such the Board of Directors of the Corporation exercise executive and financial powers. Taking all aspects into consideration, the Committee feel that the non-official Directors appointed on the Board of Directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*State Employment Committee, Bihar—Proposed nomination of
Shri D. L. Batha, M.P. as Chairman*

2.5 The State Government of Bihar proposed to nominate Shri D. L. Baitha, M.P. as Chairman of the State Employment Committee and requested permission of the Hon. Speaker in the matter. The case was referred to this Joint Committee for opinion. From the information received from the State Government, the Committee note that the non-official members (other than MPs and MLAs) of the State Employment Committee, Bihar are entitled to TA and DA @ Rs. 10|- per day besides usual travelling allowance. The payment thus admissible to non-official members (including MPs and MLAs) is less than the 'compensatory allowance' as defined in

Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee are primarily to determine the possibilities of employment and unemployment in urban and rural areas, review information regarding employment and to suggest measures for increasing employment opportunities. Thus, the and DA as mentioned above, the Chairman of the Employment Committee, therefore, feel that the non-official members other than the Chairman of the Bihar State Employment Committee *should be exempted* from disqualification.

The Committee have also been informed that in addition to TA and DA as mentioned above the Chairman of the Employment Committee is entitled to the following benefits and facilities:—

- (i) Conveyance allowance @ Rs. 100| per month (maximum);
- (ii) One Stenographer Grade II and two orderly peons in the scale of pay sanctioned from time to time by the Government;
- (iii) Rent free accommodation; and
- (iv) Official and residential telephones.

The Committee feel that a rent free Government accommodation and services of a stenographer and two peons admissible to Chairman do not come within the purview of the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Hence, the Committee recommend that the *Chairmanship* of the said State Employment Committee, Bihar should *attract disqualification* under article 102 of the Constitution. As such a Member of Parliament should not be nominated as Chairman of the State Employment Committee, Bihar though there can be no objection to his being appointed as non-official member of the Committee.

State Level Women's Committee, Himachal Pradesh—Proposal to appoint Smt. Chandresh Kumari, M.P. as a member thereof

2.6 The State Government of Himachal Pradesh proposed to appoint Smt. Chandresh Kumari, M.P. as a member of the State Level Women's Committee and requested permission of Hon. Speaker in the matter. The case was referred to this Joint Committee for opinion. From the information received from the State Government, the Committee note that the non-official members of the State Level Women's Committee, Himachal Pradesh are entitled to TA and DA

at the State Government rates, which are less than the 'compensatory allowance', as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Since the functions of the said Committee are only to prepare schemes for the welfare of women and do not involve any executive or financial powers, the functions of that Committee are purely advisory in nature. As such the Committee feel that the non-official members of the said Committee (including Members of Parliament, if appointed) *ought to be exempt* from disqualification for being chosen as, or for being a member of Parliament.

Disaster Advisory Committee, Himachal Pradesh

2.7 The Committee note that the non-official members of the Disaster Advisory Committee, Himachal Pradesh are entitled to TA and DA @ Rs. 75/- per day which is covered by the 'compensatory allowance', as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The function of the said Committee are advisory in nature as the Committee only deals with matters relating to the situation arising out of natural calamities and disaster. Hence, the Committee feel that the non-official members of the Disaster Advisory Committee, Himachal Pradesh *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Himachal Pradesh Tribes' Advisory Council, Himachal Pradesh—
Proposal to nominate Shri Sukh Ram, M.P. as a member thereof.*

2.8 The State Government of Himachal Pradesh proposed to nominate Shri Sukh Ram, M.P. as a member of the Himachal Pradesh Tribes' Advisory Council and requested permission of Hon. Speaker in the matter. The case was referred to this Joint Committee for opinion. From the information received from the State Government, the Committee note that the non-official members (including Members of Parliament) of the Himachal Pradesh Tribes' Advisory Council are entitled to TA and DA which are covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Council are to discuss only such matters as may be referred to it by the Governor for advice on matters pertaining to the welfare and advancement of the Scheduled Tribes in the State. These functions are purely advisory in nature. As such, the Committee feel that the non-official members of the Council (including Members of Parliament, if appointed), *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

State Planning Board, Himachal Pradesh

2.9 The Committee note that the non-official members of the Himachal Pradesh State Planning Board are entitled to TA and DA as per rules of the State Government. The payment admissible to the non-official members is thus less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Board are primarily to formulate long term perspective plans for effective and balanced utilisation of the State resources and as such are advisory in nature. Hence, the Committee feel that the non-official members of the said Planning Board *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

While coming to this conclusion, the Committee have taken into consideration the earlier recommendation of the Joint Committee on Offices of Profit (Fifth Lok Sabha) contained in their Twelfth Report (Fifth Lok Sabha), para 45(23) wherein the Committee have recommended that the non-official members of the State Planning Board, Karnataka *should be exempted* from disqualification.

Himachal Pradesh—Tourism Development Corporation Limited (Himachal Pradesh)—Proposed nomination of Smt. Chandresh Kumari, M.P. as a Director thereof.

2.10 The State Government of Himachal Pradesh proposed to nominate Smt. Chandresh Kumari, M.P. as a Director of the Himachal Pradesh Tourism Development Corporation Limited and requested permission of the Hon. Speaker in the matter. The case was referred to this Joint Committee for opinion. From the information received from the State Government, the Committee note that the non-official Directors of the Himachal Pradesh Tourism Development Corporation are not entitled to draw pay, allowances or any other remuneration. The functions of the Corporation are to establish, develop, promote, execute, operate and otherwise carry on projects, schemes, business and other activities for the development of tourism in Himachal Pradesh. The Board of Directors of the Corporation is a policy making body with administrative and financial powers vested in it. The Board has the power to borrow money and execute mortgage etc. Thus, the Corporation exercises executive and financial powers in the discharge of its functions. Taking all aspects into consideration, the Committee feel that the non-official Directors of the said Corporation (including Member of Parliament if appointed) *should not be exempted* from disqualification.

In this connection, the Committee also note that the Joint Committee on Offices of Profit (Seventh Lok Sabha) had earlier examined similar Corporations viz. Gujarat Tourism Corporation and Meghalaya Tourism Development Corporation Limited and had recommended *vide* their Eleventh and Eighth Reports respectively that in view of executive and financial powers vested in them, the non-official Directors (including Chairman) of these Corporations *should not be exempted* from disqualification. Similarly, the Joint Committee on Offices of Profit (Fifth Lok Sabha) had recommended disqualification of non-official Directors of Kerala Tourism Development Corporation Limited and India Tourism Development Corporation *vide* Eighth Report (Fifth Lok Sabha), and Fourth Report (Fifth Lok Sabha), respectively.

High Powered Co-ordination and Review Committee for Scheduled Castes and Scheduled Tribes, Himachal Pradesh.

2.11 The Committee note that the Members of Parliament associated with the High Powered Co-ordination and Review Committee for Scheduled Castes and Scheduled Tribes, Himachal Pradesh are entitled to TA and DA on the same scale as prescribed under the Salary, Allowances and Pension of Members of Parliament Act, 1954 and these were covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee are only to ensure implementation of developmental programmes and to issue general guidelines in all vital matters concerning the Scheduled Castes and Scheduled Tribes. The Committee feel that the functions of the Committee being advisory in nature, the non-official members of the aforesaid Review Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament. However, the Committee would like to observe that those M.Ps. who are for the time being members of the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes should not be appointed on the High Powered Co-ordination and Review Committee of Himachal Pradesh, since in the event of any difference in approach or guidelines on cognate matters concerning Scheduled Castes and Scheduled Tribes between the Parliamentary Committee and the High Powered Co-ordination and Review Committee, Himachal Pradesh, constituted by the State Government, a member of Parliament who would serve on both the Committees and especially one who is the Chairman of the Parliamentary Committee may be placed in an embaxessing position. Members of the Parliamentary Committee on Welfare of Scheduled Castes and Scheduled Tribes *should not*, in the view of this Committee, *accept* membership of the aforesaid State Committee.

High Powered Coordination Committee on Tourism (Himachal Pradesh)—proposed nomination of Smt. Chandresh Kumari, M.P. as a member thereof.

2.12 The State Government of Himachal Pradesh proposed to nominate Shrimati Chandresh Kumari, M.P. as a non-official member of the High Powered Co-ordination Committee on Tourism, of Himachal Pradesh and requested permission of the Hon. Speaker in the matter. The case was referred to this Joint Committee for opinion. From the information furnished by the State Government, the Committee note that the non-official members of the High Powered Co-ordination Committee on Tourism of Himachal Pradesh are entitled to draw TA/DA as per State Government rates which are covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the said Committee are primarily to coordinate various programmes/decisions concerning the integrated development of Tourism and as such the functions are mainly advisory in nature. The Committee, therefore, recommend that the non-official members (including M.Ps., if nominated) of the High Powered Coordination Committee of Himachal Pradesh *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

The Bangalore Animal Food Corporation Limited (Karnataka)

2.13 The Committee note that the non-official Directors of the Bangalore Animal Food Corporation Limited are paid air fare plus DA @ Rs. 50/- per day which is less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The primary functions of the Corporation are to enforce modern hygienic facilities for the slaughtering of animals in public and private slaughter houses and to carry on the business of purchase and sale of animals and by-products of slaughter houses. The functions of the Corporation are thus executive and financial in nature. As such, the Committee feel that the non-official Directors of the Bangalore Animal Food Corporation Ltd. *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Maharashtra State Employment Guarantee Council (State Level),
Maharashtra*

2.14 The Committee note that the non-official members of the Maharashtra State Employment Guarantee Council are entitled to TA and DA as per State Government rules which are less than the 'compensatory allowance' as defined in Section 2(a) of the Parlia-

ment (Prevention of Disqualification) Act, 1959. The functions of the Council are (i) to advise the Government on all matters concerning the implementation of the Employment Guarantee Act and the Employment Guarantee Scheme and to periodically review their implementation; and (ii) to undertake evaluation of the Employment Guarantee Scheme by collecting necessary statistics etc. As such, the functions of the Council are advisory in nature. Hence the Committee feel that the non-official members of the said Council *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

State Social Welfare Board, Sikkim—Proposal to nominate Smt. Dil Kumari Bhandari, M.P. as Chairman thereto

2.15 The State Government of Sikkim proposed to nominate Shrimati Dil Kumari Bhandari, M.P. as a Chairman of the State Social Welfare Board, Sikkim and requested permission of the Hon. Speaker in the matter. The case was referred to this Joint Committee for opinion. From the information furnished by the State Government, the Committee note that the non-official members of the State Social Welfare Board, Sikkim are entitled to TA and DA as admissible to the highest class of officers of the State Government, which is less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Chairman of the Board is also entitled to an honorarium of Rs. 500/- p.m. which is not covered by the 'compensatory allowance'. The functions of the Board are primarily to assist the improvement and development of social welfare activities in the State; to render technical and financial aid to suitable institutions or organisations and to receive grants, loans etc. from Central Social Welfare Board and to invest the money of the Board. The Board thus exercises executive and financial powers. As such, the Committee feel that the non-official members, including Members of Parliament, and the Chairman of the State Social Welfare Board, Sikkim *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament. While coming to this conclusion, the Committee have also been guided by the following recommendations made by the Joint Committee on Offices of Profit (Fourth Lok Sabha) in the case of a similar body viz. the Central Social Welfare Board:—

"...the Committee are led to the conclusion that the Central Social Welfare Board exercises all the powers of the Company—both executive and financial.

The Committee note that all the executive powers are vested in the Executive Committee of the Board. Under Clause 12(j) of the Articles of Association, the Executive Committee of the Board can also delegate to the various officers such administrative and financial powers as it may deem fit.

The Committee further note that under the same clause, the Chairman of the Board, being the principal officer, has been delegated with all the powers—both executive and financial.

The Committee feel that as things exist at present, the Chairman of the Board is a non-official and drawing a salary of Rs. 2500/- per month, which is more than compensatory allowance as defined in Clause 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. As such, the Chairman of the Central Social Welfare Board is subject to disqualification and this office should be included in part II of the Scheduled to the Parliament (Prevention of Disqualification) Act, 1959.

The Committee recommend that any non-official member whosoever is delegated with any executive and financial powers at a subsequent date ought also to be disqualified." [Fifth Report (4. LS), para 13]

Representation for review of recommendation of the Joint Committee on Offices of Profit of the Fifth Lok Sabha, made in their Fifteenth Report in respect of Tamil Nadu Housing Board:—

2.16 The Joint Committee on Offices of Profit (Fifth Lok Sabha), in para 33 of their Fifteenth Report presented to the House on the 12th January, 1976 had made the following observations relating to the Tamil Nadu Housing Board:—

"The Committee note that the payment admissible to the non-official members of the State Housing Board is less than the 'compensatory allowance'. However, as the Board exercises both executive and financial powers, the Committee ought not to be exempt from disqualification."

2.17 In a communication addressed to the Ministry of Law and Justice (Legal Affairs Department) in the above matter, the State Government of Tamil Nadu represented as follows:—

".....according to Section 2 of the Tamil Nadu Legislature (Prevention of Disqualification) Act, 1967, none of the

offices specified in the Schedule to that Act shall disqualify or shall be deemed even to have disqualified the holder thereof for being chosen as or for being a member of the Legislative Assembly or the Legislative Council. The Offices of the Chairman, member and secretary of the Tamil Nadu Housing Board have been included in the Schedule to the Act—*vide* item No. 27 in the Schedule.”

The comments of the Government of Tamil Nadu on the recommendation of the Joint Committee referred to in para 1 above were as follows:—

“3(2) *Tamil Nadu Housing Board*: The Government do not accept the recommendation of the Committee to treat the offices of the Tamil Nadu Housing Board as offices of profit for the purposes mentioned above and they consider that the existing entry in the Schedule to the Tamil Nadu Act 3 of 1967 mentioned above may continue.

In this connection, the Government consider that the Members of Parliament of this State may also, as in the case of Members of Legislative Assembly/Members of Legislative Councils of this State, be exempted from disqualification from being appointed as Chairman or non-official member of the Tamil Nadu Housing Board. I am, therefore, directed to request that Government of India may kindly be moved to make arrangements to amend the Parliament (Prevention of Disqualification) Act, 1959 in this regard and intimate the action taken in the matter in due course.”

2.18 The Committee note that the Joint Committee on Offices of Profit in their Ninth Report (Seventh Lok Sabha) presented to the House on 27th April, 1984 had re-examined the character, composition and functions of the Tamil Nadu Housing Board and observed that although the membership of the Tamil Nadu Housing Board had been exempted from disqualification for membership of Tamil Nadu Legislature under the provisions of the Tamil Nadu Prevention of Disqualification Act of 1967, yet, in view of the exercise of executive and financial powers by the Tamil Nadu Housing Board, its membership ought not to be exempt from disqualification for Members of Parliament.

2.19 The Committee have been informed that the approach of the Joint Committee on Offices of Profit have all along been that membership of bodies exercising executive or financial powers or which jeopardise their independence or which would place them in a position of power or influence or in a position where they receive some patronage from Government or are themselves in a position to distribute patronage ought not to be exempt from disqualification. Thus, membership of all the Housing Boards so far examined by the Committee have been recommended for non-exemption from disqualification.

2.20 In view of the foregoing, the Committee feel that the original recommendation of the Committee made in para 33 of their Fifteenth Report (Fifth Lok Sabha) and reiterated in para 2.34 of Ninth Report (Seventh Lok Sabha) may stand.

State Planning Commission, Uttar Pradesh—Proposal to appoint Shri Ganga Ram, M.P. as a Member thereof.

2.21 While considering the proposal of the Government of Uttar Pradesh to appoint Shri Ganga Ram, M.P. as a non-official member of the State Planning Commission, U.P. some members were of the view that a uniform policy should be observed in this regard by the Parliament and State Legislatures, so that M.Ps. are not deprived of the opportunity of associating themselves with the developmental programmes undertaken by the various State Governments where M.L.As could associate themselves with such programmes without any reservation, since their State Acts did not disqualify such offices. The Committee desire that the State Governments should be briefed by the Central Government (Ministry of Law and Justice) in this regard for adopting a uniform policy, on the lines followed by the Parliamentary Joint Committee on Offices of Profit.

2.22 In this connection, the Committee note that the Joint Committee on Offices of Profit (Seventh Lok Sabha) had examined the Prevention/Removal of Disqualifications Acts of the State Governments and Union Territories Administrations with a view to see whether any uniform principles could be decided upon to avoid anomaly in their appointments to Committees constituted by State Governments. The recommendations of the Committee are contained in their Ninth Report (Seventh Lok Sabha), presented to Lok Sabha and laid in Rajya Sabha on 27th April, 1984. On a perusal of that Report, the Committee find that the Secretary, Legislative Department, Ministry of Law during his evidence before the Committee on 5th April, 1983 had expressed the following opinion with regard to uniformity in the above matter:—

“So on principles, it would be ideal to have uniformity if that is possible. But as a matter of strict Constitutional position, the power so far as Members of Parliament are concerned is with Parliament and the power so far as Members of State Legislatures are concerned is with the respective State Legislatures. According to the Constitutional position, Parliament and the State Legislatures have the plenary authority within their allotted fields of jurisdiction under the Constitution as it stands today to enforce any uniformity. A state is free to adopt whatever policy it likes. It is only through persuasion or discussion that it would be possible within the existing framework to achieve some degree of uniformity in this field.”

2.23 In the aforesaid report the Committee had also observed that the Parliamentary Joint Committee on Offices of Profit could not perhaps sit in judgement over the powers of a State Legislature, given to them under article 191 of the Constitution and that the Joint Committee on Offices of Profit could make recommendations for Members of Parliament only. The Committee had strongly felt in their Ninth Report (Seventh Lok Sabha) that there was need for evolving of uniform principles in regard to disqualification for membership under article 102(1) (a) and 191(1) (a) of the Constitution, and the only feasible method could be to amend the Constitution and make it obligatory for the State Legislatures to be guided by such principles as Parliament may by law provide in regard to the matter.

The Committee would like to urge upon the Ministry of Law and Justice to take necessary steps early for bringing legislation to evolve uniform principles in regard to disqualification for holding Office of Profit under articles 102(1) and 191(1) of the Constitution, in consultation with the State Governments and Union Territory Administrations, in the light of their recommendations/observations made in their Ninth Report (Seventh Lok Sabha).

2.24 While examining the particulars of the State Planning Commission, Uttar Pradesh, the Committee have noted that the non-official members of Commission are entitled to TA as per Government rules and an honorarium @ Rs. 250/- per day of the sitting. The payment of honorarium is not covered by the ‘compensatory allowance’ as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Commission are, however, purely advisory in nature. In view of the payment of honorarium, the Committee feel that the non-official members of the State Planning Commission, U.P. (including Members of Parliament

if appointed) *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

2.25 The Committee have also considered a further reference received from the Government of Uttar Pradesh addressed to the Speaker, Lok Sabha, requesting that Shri Ganga Ram, M.P. might be permitted to accept the membership of the State Planning Commission, U.P. as he would not be paid any honorarium although he was entitled to it. In this connection, the Committee would like to invite attention to the observations made in the Report of the Committee on Offices of Profit under the Chairmanship of Pandit Thakur Das Bhargava, M.P. presented in November, 1955 (Chapter III, para 32) suggesting that a person appointed to an office of profit to which some remuneration was attached, incurs disqualification whether he accepts payment or not.

2.26 The Committee, therefore, feel that for the purpose of deciding the question of disqualification, so long as any profit is attached to any office, it does not matter whether the profit has been actually appropriated or not and therefore, the contention that a person serving on a Committee or holding an office, for which remuneration is prescribed, may not draw the allowance or remuneration and thus escape disqualification is not tenable. Hence, the opinion of the Committee is that Shri Ganga Ram, M.P. if so appointed would incur disqualification irrespective of the fact whether he accepts the honorarium of Rs. 250/- per sitting or not. The Committee further note that on a similar request from the Government of Uttar Pradesh for nomination of Shri Arun Kumar Nehru, M.P. as a member of the U.P. Planning Commission, approval of Hon. Speaker, Lok Sabha was not conveyed, as entitlement of an honorarium of Rs. 250/- per day was not covered by the 'compensatory allowance', as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.27 In view of the foregoing, the Committee would like to re-emphasize that non-official members of the State Planning Commission, Uttar Pradesh including members of Parliament should be disqualified for being chosen as, or for being a member of Parliament.

State Planning Commission, Uttar Pradesh—Proposal to nominate Shri Brahma Dutt, M.P. as Deputy Chairman

2.28 The State Government of Uttar Pradesh proposed to nominate Shri Brahma Dutt, M.P. as Deputy Chairman of the State Planning Commission and requested permission of the Hon. Speaker in the matter. The case was referred to this Joint Committee for opinion.

From the information furnished by the State Government, the Committee note that the non-official members of the State Planning Commission of Uttar Pradesh are entitled to an honorarium @Rs. 250/- per day and Travelling Allowance as per Government rules. The Deputy Chairman of the Commission though not entitled to honorarium, is entitled to Government accommodation on standard rent and to a Private Secretary, P.A., peon orderly, staff car and a telephone at his residence. The payment of honorarium is not covered under Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

2.29 Although the functions of the State Planning Commission are advisory yet in view of entitlement of honorarium @Rs. 250/- per day of the sitting to the member and perquisites admissible to the Deputy Chairman, the Committee feel that the non-official members as well as the Deputy Chairman of the State Planning Commission, Uttar Pradesh *should not be exempted* from the disqualification irrespective of the fact whether the honorarium has been actually paid/received or not, as explained above (para 2.26).

Press Accreditation Committee of Delhi Administration, Delhi.

2.30 The Joint Committee on Offices of Profit (Seventh Lok Sabha) had examined the particulars of the Press Accreditation Committee of Delhi Administration and desired some more information on certain points. The matter could not be considered fully by that Committee. Full particulars having been received now, the present Committee have considered the matter and drawn conclusions.

2.31 The Committee note that the non-official members of the Press Accreditation Committee of Delhi Administration are not entitled to any Salary, TA/DA. The Committee also note that the Delhi Press Accreditation Committee was an advisory Committee which gave advice to Delhi Administration in the matter of granting accreditation to the reporters of Dailies/News Agencies and Periodicals. The decisions taken by the Committee were normally honoured and its recommendations accepted. Rules had also been laid down for the Committee for selection of reporters for accreditation.

2.32 In view of above, the Committee feel that the non-official members (including Chairman) of the Press Accreditation Committee of Delhi Administration are not vested with any executive or financial Powers and the functions of that Committee are purely advisory in nature. The Chairman and the non-official members of

the Committee are also not entitled to TA/DA or any other remuneration. Hence, the Committee recommend that the non-official members (including the Chairman) of the Press Accreditation Committee should be exempted from disqualification.

Planning Board, Delhi Administration

2.33 The Joint Committee on Offices of Profit of Seventh Lok Sabha had examined the particulars of the Planning Board, Delhi Administration and had desired further information on certain points. The matter could not be considered fully by that Committee. Full particulars having been received now, the present Committee have considered the matter and drawn conclusions.

2.34 The Committee find that the Planning Board did not exercise any executive or financial powers. The advice tendered by the Board was not binding on the Delhi Administration. All the schemes included in the five year and Annual Plans were reviewed by the Planning Board as and when felt necessary and remedial measures were suggested for successful implementation of the Plan schemes.

2.35 The Committee thus note that the non-official members of the Planning Board of Delhi Administration do not exercise any executive or financial powers as the functions of the Board are purely advisory in nature and their decisions are not binding on the Delhi Administration. Non-official members of the Planning Board are also not entitled to any remuneration including TA/DA. As such, the Committee feel that the non-official members of the Planning Board should be exempted from disqualification. This conclusion of the Committee is in conformity with the recommendation of the Joint Committee on Offices of Profit (Fifth Lok Sabha) vide Fourteenth Report (Para 17, pp 4-5) regarding non-official members of the State Planning Board, Haryana.

NEW DELHI;
March 31, 1986.

Chaitra 10, 1908 (Saka)

KUMARI KAMLA KUMARI,
Chairman,
Joint Committee on Offices of Profit.

APPENDIX

(*Vide* para 1.2 of the Report)

MINUTES OF THE JOINT COMMITTEE ON OFFICES OF PROFIT (EIGHTH LOK SABHA)

IV

(FOURTH SITTING)

The Committee met on Thursday, the 12th September, 1985 from 15.00 to 16.00 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Sharad Dighe
4. Shri Balram Singh Yadav

Rajya Sabha

5. Shri Amarprosad Chakraborty
6. Shri Sohan Lal Dhusiya

SECRETARIAT

1. Shri S. Balasubramanian—*Chief Legislative Committee Officer*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

2. The Committee took up for consideration Memoranda Nos. 15, to 20 relating to the following Committee/Board/Council etc. constituted by State Governments.

State Level Women's Committee, Himachal Pradesh—Proposal to appoint Smt. Chandresh Kumari, M.P. as a member—(Memorandum No. 15)

3. The Committee noted that the non-official members of the State Level Women's Committee, Himachal Pradesh were entitled to TA and DA at the State Government rates, which were less than the 'compensatory allowance'. Since the functions of the said Committee were only to prepare schemes for the welfare of women and did not involve any executive and financial powers, the functions of that Committee were purely advisory in nature. As such, the Committee felt that the non-official members of the said Committee ought to be exempt from disqualification.

State Planning Commission, Uttar Pradesh—Proposal to appoint Shri Ganga Ram, M. P. as a Member—(Memorandum No. 16)

4. While considering the above Memorandum regarding the proposal to appoint Shri Ganga Ram, M.P. as a non-official member of the State Planning Commission, U.P., some members were of the view that a uniform policy should be observed in this regard by the Parliament and State Legislatures, so that M.P.s were not deprived of the opportunity of associating themselves with the developmental programmes undertaken by the various State Governments, where M.L.As. could associate themselves with such programmes without any reservation, since their State Acts did not disqualify such offices. The Committee desired that the State Governments should be briefed in this regard for adopting a uniform policy, on the lines followed by the Parliamentary Joint Committee on Offices of Profit.

5. In this connection Chairman drew the attention of the Members of the Committee, to the Ninth Report of the Joint Committee on Offices of Profit (Seventh Lok Sabha) which had been circulated to members on 11th June, 1985. The members were informed that the Joint Committee on Offices of Profit (Seventh Lok Sabha) had examined the Prevention/Removal of disqualifications Acts of the State Governments with a view to see whether any uniform principles could be decided upon to avoid anomaly in their appointments to Committees constituted by State Governments. The Committee noted that the Secretary, Legislative Department, Ministry of Law had expressed the following opinion in that regard, during his evidence before the Committee on 5th April, 1983:—

“So on principles, it would be ideal to have uniformity if that is possible. But as a matter of strict constitutional position, the power so far as Members of Parliament are

concerned is with Parliament and the power so far as Members of State Legislatures are concerned is with the respective State Legislatures. According to the Constitutional position, Parliament and the State Legislature have the plenary authority within their allotted fields of jurisdiction under the Constitution as it stands today to enforce any uniformity. A State is free to adopt whatever policy it likes. It is only through persuasion or discussion that it would be possible within the existing framework to achieve some degree of uniformity in this field”.

6. The Committee after some deliberations, were unanimously of the view that the Parliamentary Joint Committee on Offices of Profit could not sit in judgement over the powers of a State Legislature, given to them under article 191 of the Constitution and that the recommendation of the Joint Committee on Offices of Profit could be conferred to Members of Parliament only. The Committee however, desired that the Ministry of Law and Justice might be reminded to take necessary steps for bringing legislation to evolve uniform principles in regard to disqualification for holding office of profit under article 102(1) and 191(1) of the Constitution, in consultation with, State Governments and Union Territory Administrations, in the light of the recommendations/observations made in their Ninth Report (Seventh Lok Sabha) earlier.

7. Resuming their discussion on Memorandum No. 16, the Committee noted that the non-official members of the State Planning Commission, Uttar Pradesh were entitled to TA as per Government rules and an honorarium @ Rs. 250 per day of the sitting. The payment of honorarium was not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Commission were however, purely advisory in nature. In view of the payment of honorarium, the Committee felt that the non-official members of the said Planning Commission including Members of Parliament, if appointed, *ought not to be exempt* from disqualification.

In that connection the Committee also considered a reference that had been received from the Government of Uttar Pradesh addressed to the Speaker, Lok Sabha, requesting that Shri Ganga Ram, M.P. might be permitted to accept the membership of the State Planning Commission, U.P. as he would not be paid any honorarium although he was entitled to it. In this connection, the Committee took note of the fact that the Committee on Offices of

Profit under the Chairmanship of Pandit Thakurdas Bhargava in their report presented in 1955 had suggested that a person appointed to an office of profit to which some remuneration was attached, incurred disqualification whether he accepted payment or not.

8. The Committee therefore felt that for the purpose of deciding the question of disqualification, so long as any profit was attached to any office, it did not matter whether the profit had been actually appropriated or not and therefore the recommendation suggested in para 7 above might also apply to Shri Ganga Ram, M.P. if so appointed. The Committee also noted that on a similar request of the Government of Uttar Pradesh for nomination of Shri Arun Kumar Nehru, M.P. as a member of the U.P. Planning Commission, H.S.'s approval was not conveyed as entitlement of an honorarium of Rs. 250/- per day was more than the 'compensatory allowance'.

State Planning Commission, Uttar Pradesh—Proposed to nominate Shri Brahma Dutt, M.P. as Deputy Chairman—(Memorandum No 17).

9. The Committee noted that besides the non-official members of the State Planning Commission, Uttar Pradesh being entitled to an honorarium @ Rs. 250/- per day and TA as per Government rules, the Deputy Chairman of the Commission was entitled to Government accommodation on standard rent and to a Private Secretary, P.A.; peon/orderly, staff car and a telephone at his residence. The payment of honorarium was not covered under Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

Although the functions of the State Planning Commission were advisory, yet in view of entitlement of honorarium @ Rs. 250/- per day to the member and other perquisites admissible to the Deputy Chairman, the Committee felt that the non-official members as well as the Deputy Chairman of the State Planning Commission ought not to be exempt from disqualification as it did not matter whether the honorarium had been actually paid/received or not in view of positions explained in paras 7 and 8 above.

Disaster Advisory Committee, Himachal Pradesh—(Memorandum No 18).

10. The Committee noted that the non-official members of the Disaster Advisory Committee, Himachal Pradesh were entitled to T.A. and D.A. @ Rs. 75/- per day which was covered by the 'compensatory allowance', as defined in Section 2(a) of the Parliament

(Prevention of Disqualification) Act, 1959. The functions of the said Committee were advisory in nature as the Committee only dealt with matters relating to the situation arising out of natural calamities and disaster. Hence the Committee felt that the non-official members of the Disaster Advisory Committee, Himachal Pradesh *ought to be exempt* from disqualification.

*Himachal Pradesh Tribes' Advisory Council, Himachal Pradesh—
Proposal to nominate Shri Sukh Ram, M.P. as a member—
(Memorandum No. 19).*

11. The Committee noted that the non-official members (including Members of Parliament) of the Himachal Pradesh Tribes' Advisory Council were entitled to TA and DA which was covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Council were to discuss only such matters as might be referred to it by the Governor for advice on matters pertaining to the welfare and advancement of the Scheduled Tribes in the State. So the functions were purely advisory in nature. Hence the Committee felt that the non-official members of the Council, *ought to be exempt* from disqualification.

State Planning Board, Himachal Pradesh—(Memorandum No. 20).

12. The Committee noted that the non-official members of the Himachal Pradesh State Planning Board were entitled to TA and DA as per rules of the State Government. The payment admissible to the non-official members was thus less than the 'compensatory allowance as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Also, the functions of the Board were Advisory in nature as the functions of the Board were primarily to formulate a long term perspective plan for the most effective and balanced utilisation of the State resources. As such, the Committee felt that the non-official members of the said Planning Board *ought to be exempt* from disqualification.

In this connection, the Committee also noted that the Joint Committee on Offices of Profit (Fifth Lok Sabha) in their Twelfth

Report had observed that the non-official members of a similar State Planning Board of Karnataka were either not entitled to any remuneration or the payment admissible to them did not exceed the 'compensatory allowance'. Besides, the functions of the Board were mainly advisory in nature. Hence, the Joint Committee also recommended that the non-official members of the said Board *ought to be exempt* from disqualification [*vide* para 45(23) of the Twelfth Report (5 LS)].

The Committee then adjourned to meet again at 11.00 hours on Friday, the 13th September, 1985.

V

FIFTH SITTING

The Committee met on Friday, the 13th September, 1985 from 11.00 to 12.00 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Mahendra Singh
6. Shri Sriballav Panigrahi
7. Shri Balram Singh Yadav ..

Rajya Sabha

8. Shri Amarprosad Chakraborty
9. Shri Sohan Lal Dhusiya
10. Shri B. Krishna Mohan

SECRETARIAT

1. Shri S. Balasubramanian—*Chief Legislative Committee Officer*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee took up for consideration Memoranda Nos. 21 and 22 relating to the following Committee, Board etc. constituted by the State Governments.

State Employment Committee, Bihar—Proposed nomination of Shri D. L. Baitha, M.P. as Chairman—(Memorandum No. 21)

3. The Committee noted that the non-official members (other than MPs and MLAs) were entitled to TA & DA @ Rs. 10 per day and

MPs and MLAs were paid Rs. 50|- per day besides usual travelling allowance. The payment thus admissible to non-official members (including MPs and MLAs) was less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were primarily to determine the possibilities of employment and unemployment in urban and rural areas, review information regarding employment and to suggest measures for increasing employment opportunities. Thus the functions were advisory in nature. The Committee therefore felt that the non-official members other than the Chairman of the Committee *ought to be exempt* from disqualification.

4. As regards the Chairman of the Employment Committee, the Committee learnt that he was entitled, in addition to TA and DA as mentioned above, to the following facilities:—

- (i) Conveyance allowance @ Rs. 100|- per month (maximum);
- (ii) One Stenographer Grade II and two orderly peons in the scale of pay sanctioned from time to time by the Government;
- (iii) Rent free accommodation; and
- (iv) Official and residential telephones.

5. The Committee felt that free Government accommodation and services of a Stenographer and two peons admissible to Chairman did not come within the purview of the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Hence the Committee recommended that *Chairmanship* of the said State Employment Committee, Bihar should attract disqualification under article 102 of the Constitution.

Representation for review of recommendation of the Joint Committee on Offices of Profit of the Fifth Lok Sabha, made in their Fifteenth Report in respect of Tamil Nadu Housing Board— (Memorandum No. 22)

6. The Joint Committee on Offices of Profit (Fifth Lok Sabha), in para 33 of their Fifteenth Report presented to the House on the 12th January, 1976 had made the following observations relating to the Tamil Nadu Housing Board:—

“The Committee note that the payment admissible to the non-official members of the State Housing Board is less than

the 'compensatory allowance'. However, as the Board exercises both executive and financial powers, the Committee feel that the membership of the Board ought not to be exempt from disqualification".

7. In a communication addressed to the Ministry of Law and Justice (Legal Department) in the above matter, the State Government of Tamil Nadu represented as follows:—

"...according to Section 2 of the Tamil Nadu Legislature (Prevention of Disqualification) Act, 1 (Tamil Nadu Act 3 of 1967), none of the offices specified in the Schedule to that Act shall disqualify or shall be deemed even to have disqualified the holder thereof for being chosen as or for being a member of the Legislative Assembly or the Legislative Council. The Offices of the Chairman, member and secretary of the Tamil Nadu Housing Board have been included in the Schedule to the Act—*vide* item No. 27 in the Schedule".

8. The comments of the Government of Tamil Nadu on the recommendation of the Joint Committee referred to in para 1 above were as follows:—

"3 (2) *Tamil Nadu Housing Board:*

The Government do not accept the recommendation of the Committee to treat the offices of the Tamil Nadu Housing Board as offices of profit for the purposes mentioned above and they consider that the existing entry in the Schedule to the Tamil Nadu Act 3 of 1967 mentioned above may continue.

4. In this connection, the Government consider that the Members of Parliament of this State may also, as in the case of Members of Legislative Assembly/Members of Legislative Councils of this State, be exempted from disqualification from being appointed as Chairman or non-official member of the Tamil Nadu Housing Board. I am, therefore, directed to request that Government of India may kindly be moved to make arrangements to amend the Parliament (Prevention of Disqualification) Act, 1959 in this regard and intimate the action taken in the matter in due course".

9. The Committee noted that the Joint Committee on Offices of Profit in their Ninth Report (Seventh Lok Sabha) presented to the House on 27th April, 1984 had re-examined the character, composition and functions of the Tamil Nadu Housing Board and observed that although the membership of the Tamil Nadu Housing Board had been exempted from disqualification for membership of Tamil Nadu Legislature under the provisions of the Tamil Nadu Prevention of Disqualification Act of 1967, yet, in view of the exercise of executive and financial powers by the Tamil Nadu Housing Board, its membership ought not to be exempt from disqualification for Members of Parliament.

10. The Committee were informed that the approach of the Joint Committee on Offices of Profit had all along been that membership of bodies exercising executive or financial powers or which jeopardised their independence or which would place them in a position of power or influence or in a position where they received some patronage from Government or were themselves in a position to distribute patronage ought not to be exempt from disqualification. Thus, membership of all the Housing Boards so far examined by the Committee had been recommended for non-exemption from disqualification.

11. In view of the foregoing, the Committee felt that the original recommendation of the Committee made in para 33 of their fifteenth Report (Fifth Lok Sabha) and reiterated in para 2.34 of Ninth Report (Seventh Lok Sabha) might stand.

12. The Committee then discussed their future programme and decided to meet again on Friday, the 27th September, 1985.

The Committee then adjourned.

VI

SIXTH SITTING

The Committee met on Friday, the 27th September, 1985 from 15.30 to 16.30 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Mahendra Singh
6. Shri Sriballav Panigrahi
7. Shri Balram Singh Yadav

Rajya Sabha

8. Shrimati Monika Das
9. Shri Sohan Lal Dhusiya
10. Shri B. Krishna Mohan

SECRETARIAT

Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee took up for consideration Memoranda Nos. 23 to 28 relating to the following Committees|Boards|Corporations etc. constituted by the Central Government and State Governments.

Andhra Pradesh Essential Commodities Corporation Ltd. (Hyderabad—(Memorandum No. 23)

3. The Committee noted that the non-official Directors of the Andhra Pradesh Essential Commodities Corporation Ltd. were entitled to TA and DA @ Rs. 50|- besides a sitting fee of Rs. 100|- per day

for each sitting. The payment of sitting fee was not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The non-official Directors were also paid an honorarium of Rs. 500|- per month and the Chairman of the Corporation was entitled for a remuneration of Rs. 1500|- p.m. besides free telephone connection and a car for local conveyance which did not come within the ambit of the 'compensatory allowance'.

The functions of the Corporation were to carry on the business of promoting the sale of essential commodities by regulating their purchase, manufacture, storage, transport, distribution etc. and other ancillary matters relating thereto and as such the Board of Directors of the Corporation exercised executive and financial powers. Hence, the Committee felt that the non-official Directors appointed on the Board of Directors of the Corporation *ought not to be exempt* from disqualification.

*The Bangalore Animal Food Corporation Limited (Karnataka)—
(Memorandum No. 24)*

4. The Committee noted that the non-official Directors of the Bangalore Animal Food Corporation Limited were paid air fare plus DA @ Rs. 50|- per day which was less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Corporation were to enforce modern hygienic facilities for the slaughtering of animals in public and private slaughter houses and to carry on the business of purchase and sale of animals and by-products of slaughter houses. The functions of the Corporation were thus executive and financial in nature. As such, the Committee felt that the non-official Directors of the Bangalore Animal Food Corporation Ltd. *ought not to be exempt* from disqualification.

Committee to look into the problems of the people residing in the walled city of Delhi (Ministry of Home Affairs)—(Memorandum No. 25)

5. The Committee noted that the non-official members of the Committee to look into the problems of the people residing in the walled city of Delhi were not entitled to any remuneration. The functions of the Committee were to make a study of the living conditions of the people residing in the walled city of Delhi and to suggest corrective measures and programmes to improve their condi-

tions. As such the functions of the Committee were advisory in nature. Hence the Committee felt that the non-official members of the aforesaid Committee ought to be exempt from disqualification.

Sindhi Advisory Committee (Ministry of Education)—(Memorandum No. 26)

6. The Committee noted that the non-official members of the Sindhi Advisory Committee including the Vice-chairman were entitled to a payment of TA/DA as admissible under the Government rules which was less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were to advise the Government on production of literature in Sindhi and matters concerning the promotion of Sindhi. Hence the functions of the Committee were advisory in nature. The Committee, therefore, felt that the non-official members of the aforesaid Committee, ought to be exempt from disqualification.

State Social Welfare Board, Sikkim—Proposed to nominate Smt. Dil Kumari Bhandari, M.P. as Chairman—(Memorandum No. 27)

7. The Committee noted that the non-official members of the State Social Welfare Board, Sikkim were entitled to TA & DA as admissible to the highest class of officers of the State Government, which was less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Chairman of the Board was also entitled to an honorarium of Rs. 500/- p.m. which was not covered by the 'compensatory allowance'. The functions of the Board were generally to assist in the improvement and development of social welfare activities in the State; to render technical and financial aid to suitable institutions or organisations and to receive grants, loans etc. from Central Social Welfare Board and to invest the money of the Board. The Board thus exercised executive and financial powers. As such, the Committee felt that the non-official members including the Members of Parliament and the Chairman of the State Social Welfare Board, Sikkim ought not to be exempt from disqualification. While coming to this conclusion, the Committee were guided by the following recommendations made by the Joint Committee on Offices of Profit (Fourth Lok Sabha) in the case of a similar body viz. the Central Social Welfare Board:—

"...the Committee are led to the conclusion that the Central Social Welfare Board exercises all the powers of the Company—both executive and financial.

The Committee note that all the executive powers are vested in the Executive Committee of the Board. Under Clause 12(J) of the Articles of Association, the Executive Committee of the Board can also delegate to the various officers such administrative and financial powers as it may deem fit.

The Committee further note that under the same clause, the Chairman of the Board, being the principal officer, has been delegated with all the powers—both executive and financial.

The Committee feel that as things exist at present, the Chairman of the Board is a non-official and drawing a salary of Rs. 2500/- per month, which is more than compensatory allowance as defined in Clause 2(a) of the Parliament (Prevention of a Disqualification) Act, 1959. As such, the Chairman of the Central Social Welfare Board is subject to disqualification and this office should be included in Part II of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959.

The Committee recommend that any non-official member whosoever is delegated with any executive and financial powers at a subsequent date ought also to be disqualified.”
—[Fifth Report (4 LS), para 13]

Himachal Pradesh Tourism Development Corporation Limited (Himachal Pradesh)—Proposed nomination of Smt. Chandresh Kumari, M.P. as a Director—(Memorandum No. 28)

8. The Committee noted that the non-official Directors of the Himachal Pradesh Tourism Development Corporation were not entitled to draw pay, allowances or any other remuneration. The functions of the Corporation were to establish, develop, promote, execute, operate and otherwise carry on projects, schemes, business and other activities for the development of Tourism in Himachal Pradesh. The Board of the Directors of the Corporation was a policy making body with the administrative and financial powers vested in it. The Board had the power to borrow money and execute mortgage etc. Thus the Corporation exercised executive and financial powers in the discharge of their functions. As such, the Committee felt that the non-official Directors of the said Corporation ought not to be exempt from disqualification.

In this connection, the Committee also noted that the Joint Committee on Offices of Profit had examined similar Tourism Development Corporations in the past. In the case of Gujarat Tourism Corporation and Meghalaya Tourism Development Corporation Limited, the Joint Committee on Offices of Profit (Seventh Lok Sabha) had recommended *vide* Eleventh and Eighth Report that in view of exercise of executive and financial powers, the non-official Directors (including Chairman) ought not to be exempt from disqualification.

Similarly, the Joint Committee on Offices of Profit (Fifth Lok Sabha) recommended for disqualification of non-official Directors of Kerala Tourism Development Corporation Ltd. and India Tourism Development Corporation *vide* Eighth Report (Fifth Lok Sabha), and Fourth Report (Fifth Lok Sabha), respectively.

The Committee then adjourned to meet again on Wednesday, the 16th October and on Monday, the 28th October, 1985 at 15.30 hours respectively.

VII

SEVENTH SITTING

The Committee met on Wednesday, the 16 October, 1985 from 15.30 to 16.45 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sriballav Panigrahi
5. Shri P. M. Sayeed
6. Shri S. B. Sinal

Rajya Sabha

7. Shri Amarprosad Chakraborty
8. Shrimati Monika Das
9. Shri Sohan Lal Dhusiya
10. Shri B. Krishna Mohan
11. Shri Puttapaga Radhakrishna

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

2. The Committee took up for consideration Memoranda Nos. 29 to 34 relating to the following Committees/Councils/Board etc. constituted by the Central Government, State Governments and Union Territory Administration.

*Press Accreditation Committee of Delhi Administration, Delhi
(Memorandum No. 29)*

3. While examining the functions of the Press Accreditation Committee of Delhi Administration, the Joint Committee on Offices of Profit (Seventh Lok Sabha) at their sitting held on the 24th May, 1984 had desired that further information on the following points in respect of the Press Accreditation Committee might be called for from the Delhi Administration for their consideration:—

- (i) Whether the advice given by the Delhi Press Accreditation Committee to the Delhi Administration was binding on the Administration or the Administration was empowered to over-ride the advice of the Committee on matters relating to accreditation or otherwise of correspondents representing National Dailies/News Agencies and periodicals; and
- (ii) whether any rules/guidelines had been laid down for the Committee for selection of correspondents for accreditation; and if so, the details thereof.

4. The Committee noted from the reply received from the Delhi Administration, that the Delhi Press Accreditation Committee was an advisory Committee which gave advice to Delhi Administration in the matter of granting accreditation to the reporters of Dailies/News Agencies and Periodicals. The decisions taken by the Committee were normally honoured and its recommendations accepted. Rules had also been laid down for the Committee for selection of reporters for accreditation.

5. In view of the above facts, the Committee felt that the non-official members (including Chairman) of the Press Accreditation Committee of Delhi Administration did not exercise any executive or financial Powers and the functions of that Committee were purely advisory in nature. The Chairman and the non-official members of the Committee were also not entitled to TA/DA or any other remuneration. As such, the Committee recommended that the non-official members (including the Chairman) of the Press Accreditation Committee *ought to be exempt* from disqualification.

Planning Board, Delhi Administration—(Memorandum No. 30)

6. The Joint Committee on Offices of Profit (Seventh Lok Sabha) at their sitting held on the 24th May, 1984 examined the functions of the Planning Board, Delhi Administration and desired that further information on the following points in respect of the said Board might be called for from the Delhi Administration for their consideration:—

- (i) Whether the Board exercised executive and financial powers while advising the Delhi Administration in the formulation and implementation of the plans;
- (ii) whether the advice tendered by the Planning Board was binding on the Delhi Administration; and
- (iii) whether the Board undertook a regular and effective review and evaluation of all the schemes suggested by it and took remedial measures for the successful implementation of each scheme.

7. The Delhi Administration, in their reply had stated that the Planning Board did not exercise any executive or financial powers. The advice tendered by the Board was not binding on the Delhi Administration. They had further stated that all the schemes included in the five year and Annual Plans were reviewed by the Planning Board as and when felt necessary and remedial measures were suggested for successful implementation of Plan schemes.

8. The Committee noted that the non-official members of the Planning Board of Delhi Administration did not exercise any executive or financial powers as the functions of the Board were purely advisory in nature and their decisions were not binding on the Delhi Administration. Non-official members of the Planning Board were also not entitled to any remuneration including TA/DA. As such, the Committee felt that the non-official members of the Planning Board ought to be exempt from disqualification. This conclusion of the Committee was in conformity with the recommendation of the Joint Committee on Offices of Profit (Fifth Lok Sabha) *vide* Fourteenth Report (Para 17, pp. 4-5) regarding non-official members of the State Planning Board, Haryana.

*Maharashtra State Employment Guarantee Council (State Level),
Maharashtra— (Memorandum No. 31)*

9. The Committee noted that the non-official members of the Maharashtra State Employment Guarantee Council were entitled to TA and DA as per State Government rules which were less than the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Council were (i) to advise the Government on all matters concerning the implementation of the Employment Guarantee Act and the Employment Guarantee Scheme and periodically review their implementation; and (ii) undertake evaluation of the Employment Guarantee scheme by collecting necessary statistics etc. As such, the functions of the Council were advisory in nature. Hence the Committee felt that the non-official members of the Council *ought to be* exempt from disqualification.

Committee for Selection and Purchase of Paintings for the Museums in the State of Karnataka—(Memorandum No. 32)

10. The Committee discussed at length the functions of the Committee for selection and purchase of paintings for the Museums in the Karnataka State. The Committee noted that besides making selection of pieces of art for the museums, the Committee of Karnataka had the power to purchase the selected items. According to opinion of some members, this function involved exercise of financial powers. The Committee, therefore, desired that further clarifications might be sought from the State Government on the following points before the Committee took a final view in the matter:—

- (i) Whether any guidelines have been issued for members of the Committee in regard to the points to be kept in view while making the selection;

A copy of the latest order/notification regarding appointment of the reconstituted Committee showing *inter-alia* terms of reference of the Committee might be obtained from the State Government for perusal of the Committee.

- (ii) whether the Committee was vested with financial powers to purchase directly paintings selected by them or their recommendations were simply communicated to the Government for further action in the matter regarding purchase etc.;

- (iii) whether the State Government had discretionary powers to approve or reject the paintings recommended by the Committee from time to time.

Physical Research Laboratory—PRL Council of Management (Deptt. of Space) (Memorandum No. 33)

11. The Committee noted that the non-official members of the Council of Management of Physical Research Laboratory were entitled to TA and DA at Central Government rates which were covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee were also informed that the Physical Research Laboratory was a premier research Institution in Space Science which did not carry any executive, legislative or judicial powers. Hence the Committee recommended that the non-official members of the Physical Research Laboratory Council of Management *ought to be exempt* from disqualification.

High Powered Co-ordination and Review Committee for Scheduled Castes and Scheduled Tribes, Himachal Pradesh—(Memorandum No. 34)

12. The Committee noted that the Members of Parliament and MLAs associated with the High Powered Co-ordination and Review Committee for Scheduled Castes and Scheduled Tribes, Himachal Pradesh were entitled to TA and DA on the same scale as was prescribed under the Salary, Allowances and Pension of Members of Parliament Act, 1954 and these were covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were only to ensure implementation of developmental programmes and to issue general guidelines in all vital matters concerning the Scheduled Castes and Scheduled Tribes. As such, the Committee felt that the functions of the Committee being advisory in nature, the non-official members of the aforesaid Review Committee *ought to be exempt* from disqualification. However this exemption might not apply to those M.Ps who were for the time being members of the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes since in the event of any difference in approach or guidelines on cognate matters concerning Scheduled Castes and Scheduled Tribes between the Parlia-

mentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes and the High Powered Co-ordination and Review Committee, Himachal Pradesh, constituted by the State Government, a Member of Parliament who would serve on both the Committees and especially one who was the Chairman of the Parliamentary Committee might be placed in an embarrassing position. Members of the Committee on Welfare of Scheduled Castes and Scheduled Tribes *should not*, in the view of this Committee, *accept* membership of the State Committee.

The Committee then adjourned.

VIII
EIGHTH SITTING

The Committee met on Monday, the 28th October, 1985 from 15.30 to 15.50 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Mahendra Singh
6. Shri Sriballav Panigrahi
7. Shri P. M. Sayeed
8. Shri S. B. Signal
9. Shri Balram Singh Yadav

Rajya Sabha

10. Shrimati Monika Das
11. Shri Sohan Lal Dhushiya
12. Shri B. Krishna Mohan

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

2. At the outset, the Chairman made an obituary reference about the passing away of Shri Amarprosod Chakraborty, M.P., a member

of the Committee belonging to Rajya Sabha. The Committee passed the following condolence resolution:

“The Committee place on record their profound sense of sorrow over the sudden demise of their most esteemed colleague Shri Amarprosad Chakraborty, M.P. on 27th October, 1985 and send their heart felt condolences to the Members of the bereaved family.”

Thereafter, the Members stood in silence for two minutes as a mark of respect to the deceased.

3. The Committee then adjourned without transacting any business to meet on *Tuesday, the 29th October, 1985 at 11.00 hours in Room No. 53, Parliament House, New Delhi.*

IX
NINTH SITTING

The Committee met on Tuesday, the 29th October, 1985 from 11.00 to 11.45 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Mahendra Singh
6. Shri Sriballav Panigrahi
7. Shri P. M. Sayeed
8. Shri S. B. Sidnal

Rajya Sabha

9. Shri B. Krishna Mohan

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

2. The Committee took up for consideration their draft First Report and adopted the same with certain modifications as indicated in Annexure to the Minutes.

3. The Committee decided that the First Report might be presented to Lok Sabha on a date convenient to the Chairman in the beginning of the next Session.

The Committee also decided that the Report might be laid on the Table of Rajya Sabha on the same day.

4. The Committee authorised the Chairman and, in her absence, Shri Sharad Dighe, M.P. to present the Report to Lok Sabha on their behalf.

The Committee also authorised Shrimati Monika Das, M.P. and in her absence, Shri Sohan Lal Dhusiya, M.P. to lay the Report on the Table of Rajya Sabha on the same day.

5. The Committee, thereafter, took up for consideration Memorandum No. 35 relating to the following:—

High Powered Coordination Committee on Tourism (Himachal Pradesh)—proposed nomination of Smt. Chandresh Kumari, M.P. as a member.

6. A reference was received from the Government of Himachal Pradesh regarding the proposed nomination of Shrimati Chandresh Kumari, M.P. as a non-official member of the High Powered Coordination Committee on Tourism, Himachal Pradesh. The Committee noted that the non-official members were entitled to draw TA/DA as per State Government rates which were covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the said Committee were primarily to coordinate various programmes/decisions concerning the integrated development of Tourism and as such the functions were mainly advisory in nature. Hence, the Committee decided to recommend that the non-official members (including M.Ps, if nominated) of the High Powered Coordination Committee of Himachal Pradesh should be exempted from disqualification.

The Committee then adjourned.

ANNEXURE

(*vide* para 2 of Minutes of Ninth Sitting dt. 29-10-1985)

**CHANGES/MODIFICATIONS MADE BY THE JOINT COMMITTEE ON
OFFICES OF PROFIT IN THE DRAFT FIRST REPORT**

S. No.	Page No.	Para No.	Remarks
1.	7	2.5	In line 9-10, <i>Omit</i> 'by and large'
2.	8	2.6	In line 4, <i>for</i> 'by and large appear to be' substitute 'are'.
3.	13	2.11	In lines 14-15, <i>omit</i> 'by and large'.

XV

FIFTEENTH SITTING

The Committee met on Monday, the 31st March, 1986 from 15.30 to 16.00 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Sharād Dighe
4. Shri Appayya Dorā Hanumantu
5. Shri Sriballav Panigrahi
6. Shri P. M. Sayeed
7. Shri Balram Singh Yadav

Rajya Sabha

8. Shrimati Monika Das
9. Shri Sohan Lal Dhusiya
10. Shri K. Gopalan
11. Shri Puttapaga Radhakrishna

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

2. The Committee took up for consideration their draft Second Report and adopted it.

3. The Committee decided that the Second Report might be presented to Lok Sabha on 23 April, 1986 and also laid on the Table of Rajya Sabha on the same day.

4. The Committee authorised the Chairman and, in her absence, Shri Sharad Dighe, M. P. to present the Report to Lok Sabha on their behalf.

5. The Committee also authorised Shri K. Gopalan, M.P. and in his absence Shri Puttapaga Radhakrishna, M. P. to lay the report on the Table of Rajya Sabha.

6. The Committee thereafter considered their future programme of work and decided to hold their next sitting sometime in the last week of May, 1986.

The Committee then adjourned.