

INTRODUCTION **(JCOP)**

Genesis

The concept of disqualifying a holder of Office of Profit under the Government for being chosen as, and for being, a Member of the Legislature originated from the need in democratic Governments to limit the control and influence of the Executive over the Legislature by means of an undue proportion of office holders being Members of the Legislatures. However, considering the importance of effective coordination between executive and legislative, exceptions are felt necessary in the case of certain office bearers like Ministers and some other authorities.

The principle embodied in Articles 102(1)(a) and 191(1)(a) of the Constitution of India with regard to the Members of Parliament and State Legislatures respectively reads as under :-

“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.

Explanation

[For the purposes of this Clause] a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.”

The provision of Constitution seeks to attain two fold objectives of (i) separation of power between the legislature and the executive; and (ii) prevention of possibility of a conflict between duty and interest of an individual who is required to perform the role of both a legislator and a member of the executive.

Keeping in view the provisions of article 102(1)(a) of the Constitution of India, it was felt that none of the Acts met comprehensively the needs of the situation and the Speaker, Lok Sabha in consultation with the Chairman of the Rajya Sabha appointed on 21 August, 1954, a Committee on Offices of Profit under the Chairmanship of Pt. Thakur Das Bhargava (*hereinafter* referred to as the Bhargava Committee).

The Bhargava Committee presented their Report during November, 1955. In pursuance of the recommendations of the Bhargava Committee, the Government introduced in the Lok Sabha the Parliament (Prevention of Disqualification) Bill on 5 December, 1957. It was referred to a Joint Committee (1958) of the Houses and its Report was presented to the Lok Sabha on 10 September, 1958.

The Parliament passed the Parliament (Prevention of Disqualification) Act, 1959 laying down those offices which would not disqualify holders thereof from the membership of Parliament. This Act, *inter alia*, provides that if a member / director of a statutory or non-statutory body / company is not entitled to any remuneration other than the compensatory allowance, she / he would not incur disqualification for receiving those allowances. Under

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

The Joint Committee (1958) reiterated the recommendation of the Bhargava Committee for the appointment of a Standing Parliamentary Committee to undertake the work of continuous scrutiny of the schedule and of examining new offices. Thus, a Parliamentary Joint Committee on Offices of Profit was first constituted for the duration of the remaining period of Second Lok Sabha on a motion moved in Lok Sabha by Shri R.M. Hajarnavis, Deputy Minister of Law, on 3rd August, 1959.

Composition of the Committee

The Committee consists of 15 members, among them 10 members are elected by the Lok Sabha and 05 members are elected by the Rajya Sabha. The Chairperson of the Committee is appointed from amongst the members of the Committee. The Committee, after it is constituted, functions till the dissolution of the Lok Sabha.

Functions and Mandate of the Committee

The functions of the Joint Committee on Offices of Profit are :-

- (i) to examine the composition and character of all existing 'committees' and all 'committees' that may hereafter be constituted, membership of which may disqualify a person for being chosen as, and for being, a member of either House of Parliament under article 102 of the Constitution;
- (ii) to recommend in relation to the 'committees' examined by it, what offices should disqualify and what offices should not disqualify; and
- (iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959, and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise.

The Joint Committee also examines queries relating to 'Offices of Profit', received from Members of Parliament, Ministries of Government of India, State Governments, Union territory Administrations or Institutions.

Working of the Committee

The functioning of the Committee is governed by the general rules relating to Parliamentary Committees (*viz.* Rules. 253 to 286) of the Rules of Procedure and Conduct of Business in Lok Sabha – Fourteenth Edition. These rules are further supplemented by Directions issued by the Speaker in exercise of the powers conferred on him under Rule 389 and other Rules.

After the Joint Committee on Offices of Profit has been constituted, the Ministries of the Government of India and the Chief Secretaries of State Governments and Union territories are requested to furnish the particulars of the Committees, Commissions, Boards, etc., constituted by them, which have, so far, not been examined by the Joint committee on Offices of Profit. They are also requested to furnish information in respect of the existing Committees, Commissions, Boards, etc., which have already been examined by the Joint Committee on Offices of Profit but whose constitution (including payment TA/DA, etc. to the members) has undergone a material change since their examination by the Committee in the past.

The information received from the Ministries etc. is examined and placed before the Joint Committee in the form of a Memorandum which is circulated to the Members of the Committee with the approval of the Chairperson. The Memoranda are considered by the Committee at their sittings held from time to time.

Report

The draft of the Report is prepared in the light of the observations made by the Committee. After the approval by the Chairperson of the Committee, the draft Report is circulated to the members of the Committee. The draft Report is considered at a sitting of the Committee, for adoption. After its adoption by the Committee and factual verification by the Ministry concerned, the Report, alongwith the relevant minutes, is presented by the Chairperson or any Member of the Committee authorised by the Chairperson, to the Lok Sabha and, subsequently laid on the Table of the Rajya Sabha.

On-the-spot Study Visits

The Joint Committee has undertaken 'on the spot' study visits during 16th Lok Sabha and 17th Lok Sabha.

Chairpersons of the Joint Committee and the Reports presented by the Committee

The Joint Committee on Offices of Profit have presented a total of 136 Reports since 2nd Lok Sabha, till 03rd February, 2022. The Lok Sabha-wise break up of the Reports of the Joint Committee is as under :-

S. No.	Term of the Lok Sabha	Name of the Chairperson(s)	Tenure	Reports
1.	2 nd Lok Sabha	Shri C.R. Pattabhi Raman	1957-1962	05
2.	3 rd Lok Sabha	Shri G.N. Dixit	1962-1967	05
3.	4 th Lok Sabha	Shri S.R. Rane Shri K. Narayana Rao	1967-1970	07
4.	5 th Lok Sabha	Shri Dharnidhar Basumatari Shri S.B.P. Pattabhi Rama Rao	1971-1977	19
5.	6 th Lok Sabha	--	1977-1980	--\$
6.	7 th Lok Sabha	Shri Gulsher Ahmed	1980-1984	12
7.	8 th Lok Sabha	Kumari Kamla Kumari	1984-1989	09
8.	9 th Lok Sabha	--	1989-1991	--@
9.	10 th Lok Sabha	Shri Chiranji Lal Sharma	1991-1996	13
10.	11 th Lok Sabha	Smt. Geeta Mukherjee	1996-1998	03
11.	12 th Lok Sabha	Shri Shailendra Kumar	1998-1999	01
12.	13 th Lok Sabha	Shri Virendra Kumar	1999-2004	08
13.	14 th Lok Sabha	Shri Chandra Bhushan Singh	2004-2009	11
14.	15 th Lok Sabha	Shri Rewati Raman Singh	2009-2014	11
15.	16 th Lok Sabha	Shri P.P. Chaudhary Dr. Satya Pal Singh Shri Kalraj Mishra	2014-2019	28
16.	17 th Lok Sabha	Dr. Satya Pal Singh	2019-2024	04*

\$ No such Committee was constituted during the 6th Lok Sabha.

@ No Report(s) were prepared and presented during 9th Lok Sabha.

* Upto June, 2022.
