

Bill No. 44 of 2006

**THE PARLIAMENT (PREVENTION OF DISQUALIFICATION)
AMENDMENT BILL, 2006**

A

BILL

further to amend the Parliament (Prevention of Disqualification) Act, 1959.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Parliament (Prevention of Disqualification) Amendment Act, 2006. Short title.

10 of 1959. 5 2. In section 3 of the Parliament (Prevention of Disqualification) Act, 1959 (hereinafter referred to as the principal Act),— Amendment of section 3.

(i) after clause (ac), the following clause shall be inserted, namely:—

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

(ii) after clause (j) and before *Explanation 1*, the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 4th day of April, 1959, namely:—

“(k) the office of Chairman, Deputy Chairman, Secretary or Member (by whatever name called) in any statutory or non-statutory body specified in the Table; 5

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

(m) the office of Chairman, President, Vice-President or Principal Secretary or Secretary of the Governing Body of any society registered under the Societies Registration Act, 1860 or under any other law relating to registration of societies, not being a body specified in the Schedule.”. 10 21 of 1860.

Insertion of new Table.

3. After the Schedule to the principal Act, the following Table shall be inserted and shall be deemed to have been inserted with effect from the 4th day of April, 1959, namely:— 15

“TABLE

[See section 3(k)]

S.No.	Name of body	
(1)	(2)	20
1.	The Tripura Khadi and Village Industries Board, a body constituted under the Tripura Khadi and Village Industries Act, 1966.	
2.	The Uttar Pradesh Development Council.	
3.	The Irrigation and Flood Control Commission, Uttar Pradesh.	
4.	The Indian Statistical Institute, Calcutta.	25
5.	The West Bengal Handicrafts Development Corporation Limited.	
6.	The West Bengal Small Industries Development Corporation Limited.	
7.	The West Bengal Industries Development Corporation Limited.	
8.	The Sriniketan Santiniketan Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).	30
9.	The Haldia Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).	
10.	The West Bengal Minorities Development and Finance Corporation, a body constituted under the West Bengal Minorities Development and Finance Corporation Act, 1995.	35
11.	The Hooghly River Bridge Commissioners, constituted under the Hooghly River Bridge Act, 1969 (West Bengal Act No. 36 of 1969).	
12.	The Board of Wakf, West Bengal, a body constituted under the Wakf Act, 1995 (43 of 1995).	40

(1)	(2)
13.	The West Bengal Fisheries Development Corporation Limited.
14.	The West Bengal State Haj Committee, constituted under the Haj Committee Act, 2002 (35 of 2002).
5 15.	The Asansol Durgapur Development Authority, West Bengal, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
16.	The West Bengal Pharmaceutical and Phytochemical Development Corporation Limited.
10 17.	The West Bengal Powerloom and Handloom Development Corporation Limited.
18.	The West Bengal Khadi and Village Industry Board.
19.	The Society for Self-employment for Urban Youth, a society registered under the West Bengal Societies Registration Act, 1961 (West Bengal Act No. 26 of 1961).
20.	The Tirumala Tirupathi Devasthanams Board.
15 21.	The Agricultural and Processed Food Products Export Development Authority, an authority constituted under section 4 of the Agricultural and Processed Food Products Export Development Authority Act, 1985 (2 of 1986).
22.	The National Agricultural Co-operative Marketing Federation of India Limited (NAFED).
20 23.	The Indian Farmer Fertilizers Co-operative Limited (IFFCO).
24.	The Krishak Bharati Co-operative Limited (KRIBHCO).
25.	The National Co-operative Consumers Federation of India Limited (NCCF).
26.	The Auroville Foundation established under sub-section (1) of section 10 of the Auroville Foundation Act, 1988 (54 of 1988).
25 27.	The National Commission of Enterprises in the Unorganised Sector.
28.	The Planning Board (Asiatic Society) established under sub-section (1) of section 8 of the Asiatic Society Act, 1984 (5 of 1984).
29.	The Delhi Rural Development Board.
30.	The Maulana Azad Education Foundation.
30 31.	The Indira Gandhi National Centre for Arts.
32.	The Dr. Ambedkar Foundation.
33.	The Bihar State Religious Trust Board.
34.	The Research and Information System for the Non-Aligned and Other Developing Countries.
35 35.	The Indian Institute of Psychometry.
36.	The Uttar Pradesh Co-operative Bank.
37.	The Uttar Pradesh Provincial Co-operative Federation.
38.	The Uttar Pradesh Co-operative Federation Limited.
39.	The National Co-operative Union of India.
40 40.	The Uttar Pradesh Krishi and Gram Vikas Bank.
41.	The Uttar Pradesh Co-operative Bank Limited.
42.	The Indian Council for Cultural Relations.
43.	The Board of Control—A.N. Sinha Institute of Social Studies, Patna.
44.	All India Council for Sports.
45 45.	The Howrah Improvement Trust.”

Special provisions as to validation and other matters.

4. (1) Notwithstanding any judgment or order of any court or tribunal or any order or opinion of any other authority, the offices mentioned in clauses (ad), (k), (l) and (m) of section 3 of the principal Act shall not disqualify or shall be deemed never to have disqualified the holders thereof for being chosen as, or for being, a member of either House of Parliament as if the principal Act as amended by this Act had been in force at all material times. 5

(2) Nothing contained in sub-section (1) shall be construed as to entitle any person who has vacated a seat owing to any order or judgment as aforesaid, to claim any re-instatement or any other claim in that behalf.

(3) For the removal of doubts, it is hereby clarified that any petition or reference pending before any court or other authority on the date of commencement of this Act, shall be disposed of in accordance with the provisions of the principal Act, as amended by this Act. 10

STATEMENT OF OBJECTS AND REASONS

Article 102(1)(a) of the Constitution provides that a person shall be disqualified for being chosen as and for being a member of either House of Parliament if he holds an office of profit under the Government of India or Government of State other than an office declared by Parliament by law not to disqualify its holder. In pursuance of this, the Parliament (Prevention of Disqualification) Act, 1959 was enacted by Parliament to exempt certain offices, holding of which will otherwise subject the holder of such office to disqualification.

2. Under the existing legal framework, the way to exempt the holder of an office which confers executive, judicial or legislative powers or which entitles the holder to draw any allowance other than compensatory allowance is to exempt such office by making a specific legislative provision to that effect. In addition to the Parliament (Prevention of Disqualification) Act, 1959, several other Acts of Parliament such as, the Coffee Act, 1942, the Rubber Act, 1947 and the Rehabilitation Council of India Act, 1992, creating Authorities or Bodies in which Members of Parliament are represented, contain a specific provision to the effect that such offices will not disqualify the holder on the ground that he is holding an office of profit.

3. Any question as to disqualification are decided in the case of pre-election disputes by the courts through the election petition and post-election disputes by the Election Commission under articles 102 and 192 of the Constitution. Recently, it has become necessary to revisit the issue of disqualification of Members of Parliament on the basis of holding an office of profit. This has been necessitated due to recent developments where approximately 40 or more Members from both Houses of Parliament are holding offices of Chairman or members of various statutory and non-statutory bodies and are facing disqualification proceedings on the ground that they are holding an office of profit. If this state of affairs is allowed to continue then there is bound to be large scale litigation and the likely vacation of seats in both the Houses of Parliament, which will necessitate the holding of bye-elections to fill up the resultant vacancies. This will be a wasteful expenditure and will enforce unnecessary financial burden upon the nation.

4. In view thereof, it is proposed to include certain offices in the Parliament (Prevention of Disqualification) Act, 1959, so as to exempt the holders of such offices from incurring disqualification.

5. The Bill seeks to achieve the above objects.

HANS RAJ BHARDWAJ.

NEW DELHI;
The 11th May, 2006.