

# Office of Profit case: Centre admits exemption list incomplete

the ASG Gopal Subramaniam informed the Bench headed by the Chief Justice K G Balakrishnan on why discrimination was made in exempting certain offices while other similarly placed offices were not. Subramaniam also informed that a Joint Parliamentary Committee has been set up by the Government to bring a comprehensive amendment to the Office of Profit Act by exempting more offices from coming under the law. The Bench said that the committee should examine each office. As far as 55 offices exempted by the amendment were concerned, it was only a matter of academic interest as the tenure of most of the MPs occupying them would be over soon. On a question of the role of the Speaker in the disqualification procedure, the ASG said that the Speaker had no role in the disqualification process but it did not preclude his role in finding reasons for disqualification. The Bench, also comprising Justices R V

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Raveendran and J M Panchal, had questioned the motive on Tuesday behind bringing an amendment to the Office of Profit law, allegedly for protecting some individuals from being disqualified from the membership of Parliament. "It is the office which is exempted not its holder (under the law). So when you are exempting the office of one development council, then similar other offices should also be exempted. You have virtually exempted the holder but not the office," the Bench had said. "Why is there a discrimination between different councils. Why only the Tripura Khadi Board has been exempted when every state has such a board," the Bench had further asked. The Bench was hearing petitions challenging the constitutional validity of the controversial amendment to the law on Office of Profit. The two separate petitions filed by Trinamool Congress MP Dinesh Trivedi and an NGO, Consumer Education and Research Society, have challenged the Parliament (Prevention of Disqualification) Amendment Act on Office of Profit alleging that it was passed with a retrospective effect solely to protect about 40 sitting members of Parliament. When the law was passed all those members were facing disqualification proceedings before the Election Commission. Trivedi, had alleged that it was a colourable exercise of power on the part of the Centre to protect some big faces who were supporting the government. The petitions alleged that the Act had been enacted in self-interest and not in public interest as each one of the offices which have been exempted by it have a face behind it. In all, 55 offices of profit were exempted by the Act with a retrospective effect from the year 1959. A large number of them came into existence after that year. At the time of filing of the petitions in August and September 2006, among the 40 MPs who were under the threat of disqualification was Lok Sabha Speaker Somnath Chatterjee. He held the office of the Chairperson of Santiniketan-Sriniketan Development Board. Samajwadi Party MP Amar Singh held the post of the Chairman of Uttar Pradesh Industrial Development Council. It has been contended that Amendment to the Act was violative of Article 14, 102(1)(a) and 103 of the Constitution.



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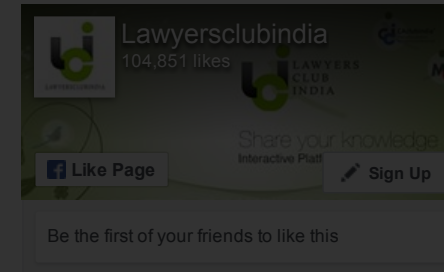
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