



• Whether the government pays the remuneration • What are the functions of the holder • Does the government exercise any control over the

- performance of those functions
- In Jaya Bacchan case observed actual 'receipt' of profit is not necessary, the 'potential' to yield profit is sufficient



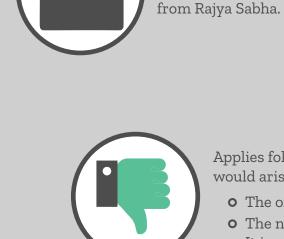






OFFICES OF PROFIT





Applies following tests i.e. no disqualification would arise if –

- It is not in a position to wield influence and patronage



ISSUES & SOLUTIONS

OFFICE OF PROFIT:

ISSUES



In democratic setup, MP or MLA holding another office destroys one of the basic structures of constitution i.e. separation of power



91st Amendment of the Indian Constitution that provides the ceiling of 15 % (10% in case of Delhi) on the number of ministers in a government



in a government

Office like Parliamentary Secretaries are used by state governments to circumvent the constitutional ceiling

of 15 % (10% in case of Delhi) on the number of ministers

meetings of the governments and misuses offices by way of patronage

Legislators in such offices

participatein high level



powers are prone to misuse

There is no official definition of 'office

of profit,' it is up to the discretion of the

relevant authority to decide. Discretionary



Other issues – drain of public money due to oversized cabinet, arbitrary exercise of legislative power through amending laws, etc.





Unlike ministers, they are not administered Oath of Secrecy, they can misuse official informations which may threaten public interest or national security



Need to enact a comprehensive

legislation to include all major

issues wrt office of profit







