PUNJAB ASSEMBLY DECISIONS 2000 — 2014



Mace - a symbol of authority of the House and the Speaker



Mace

PUNJAB ASSEMBLY DECISIONS 2000 — 2014



PROVINCIAL ASSEMBLY OF THE PUNJAB

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> Punjab Assembly Decisions (2000–2014)

2015

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Editorial Board

EDITORIAL BOARD



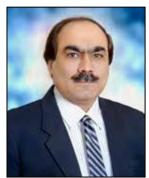
Patron RAI MUMTAZ HUSSAIN BABAR Master in Public Administration Senior Secretary



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M.A. (Library Science), M.A. (History), M.A. (Pol Sc), LL.B. Director General (Parliamentary Affairs & Research)





Editor MUHABBAT SHUJA RANA M.A. (Political Science), LL.B. Senior Research Officer

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MESSAGE

A judge is supposed to show qualities of patience, open-mindedness, courtesy, tact, firmness, understanding, compassion and humility. He should be able to deal with people calmly and courteously and should be willing to hear and consider the views of all sides of a case. A good judge needs to be even-tempered, yet firm; open-minded, yet willing and able to reach a decision; confident, yet not self-centered. The same is true about Speaker who has to assume the role of a judge occasionally.

As the arbiter of the law, the Speaker is charged with ensuring the people the promise of equal justice under law and, thereby, also functions as guardian and interpreter of the Constitution. A Speaker has the same authority of constitutional interpretation and none have exercised it for as long or with as much influence.

The Constitution of Pakistan is a carefully balanced document. It is designed to provide for an outline for various spheres of the national needs, yet, at the same time, it requires interpretation at times. While the function of judicial review is not explicitly provided in the Constitution, it had been anticipated before the adoption of that document. In retrospect, it is evident that constitutional interpretation and application were made necessary by the very nature of the Constitution. The Founding Fathers had wisely worded that document in rather general terms leaving it open to future elaboration to meet changing conditions.

In this context, the role of the Speaker becomes more challenging.

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All the Presiding Officers, including myself, have tried to accomplish the cherished goal visualized by the Founder of the Nation, Quaid-e-Azam Muhammad Ali Jinnah and have always strived to justify the confidence reposed in them by the House. This compilation is a living example of this claim.

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RANA MUHAMMAD IQBAL KHAN

Speaker Provincial Assembly of the Punjab

Lahore June 2015

PREFACE

The office of the Speaker is the highest and most important in the House. The Speaker occupies the foremost place and commands respect internally from among parliamentarians and also externally from the public in general.

The Speaker is the Presiding Officer of Parliament and as such must act with both authority and impartiality. As Presiding Officer, the Speaker chairs the sittings of the House and ensures these are conducted in an orderly manner and according to the provisions of the Constitution and the Rules of Procedure of the House. The Speaker maintains order, puts questions after debate and conducts divisions (voting in the House).

The Speaker must ensure that the rules of parliamentary procedure as embodied in the Rules of Procedure and practice of the House are applied. The Speaker interprets and applies the rules, responds to Members' points of order relating to them and gives rulings on procedure when necessary. For example, the Speaker is often called upon to decide whether remarks made in a speech are offensive, whether a Member's speech is relevant to the motion being debated or whether a particular motion or amendment is allowed to be moved at a certain time.

The Speaker calls upon Members wishing to speak and in doing so seeks to allocate the call evenly between the government and non-government Members and, despite the greater responsibilities of Ministers and opposition frontbenchers, to ensure that

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backbenchers are not overlooked. An important part of the Speaker's task is to protect the rights of individuals and minorities in the House and make sure that everyone is treated fairly within the framework set by the rules.

Notwithstanding the fact that the Speakership in Pakistan has long been regarded as a political appointment, successive Speakers have striven to discharge their duties with impartiality. As a rule, Speakers have been sufficiently detached from government activity to ensure what can be justly claimed to be a high degree of impartiality in the Chair.

In conducting the business of the House, the Speaker interprets and applies the laws and rules along side practice of the House by making rulings and decisions. By custom, the Speaker does not participate in debates; he speaks through his judgments popularly known as rulings. This compilation contains rulings of the Chair announced by the Presiding Officers during the period 2002 to 2014.

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RAI MUMTAZ HUSSAIN BABAR

Senior Secretary Provincial Assembly of the Punjab

Lahore June 2015

INTRODUCTION

The book in your hand is a sequel to the book "Punjab Assembly Decisions 1947-1999", published by the Punjab Assembly Secretariat in the year 2001 which contained decisions of the Chair (Speakers, Deputy Speakers, Presiding Officers, etc) of the Provincial Assembly of the Punjab during the period from 1947 to 1999. More or less, the same pattern has been followed in the present compilation.

The previous compilation contained a brief constitutional history of Pakistan from 1947 till 1999. Since then, the Constitution of Pakistan has undergone a lot of significant changes; a brief reflection, thereof, is given in the subsequent paragraphs.

CONSTITUTIONAL DEVELOPMENT

Provisional Constitution Order (PCO)

After the takeover of power by the military on October 12, 1999, the country began to experience the unfolding of a blueprint developed by the earlier military regimes. A Provisional Constitutional Order (PCO) was issued on October 14, 1999;¹ the Constitution was held in abeyance and the Assemblies were placed under suspension w.e.f. October 12, 1999. The PCO provided for a temporary governing framework.

In January 2000, when the Supreme Court entertained a challenge to the military coup, the judges of the superior courts were

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¹ See Cabinet Division Notification No.2-10/99-Min.1, dated 14 October 1999, published the same day in the Gazette of Pakistan (Extraordinary), pp.1265-66.

compelled to take a new oath of office pledging to serve under the PCO. A reconstituted Supreme Court decided the case of Zafar Ali Shah v General Pervez Musharraf (PLD 2000 SC 869) 2000 and validated the coup on the grounds of the doctrine of state necessity. The court granted virtually unlimited powers to the military regime, including the power to amend the Constitution.

Legal Framework Order (LFO)

The declaration of emergency in October 1999 kept the Constitution and the political institutions inactive for three years. In order to revive these institutions, the Chief Executive of Pakistan promulgated a Legal Framework Order 2002 on 21 August 2002.¹

The LFO, as amended from time to time, brought significant changes in the 1973 Constitution including alteration in the set up of the Assemblies e.g. membership of the Assemblies was increased, a substantial percentage was fixed for seats reserved for women. The members to fill the general seats were to be elected by direct and free vote on the basis of joint electorate and single member constituency and the seats reserved for women and non-Muslims were to be filled through proportional representative system.

The Legal Framework (Second Amendment) Order, 2002² further amended Articles 41, 58, 112, 179, 195, 243, 268 and 270AA of the Constitution and omitted Article 152A.³

The LFO, after slight modifications, became part of the 1973 Constitution through 17th Amendment.

³ Article 152A was inserted by the Legal Framework (Amendment) Order 2002 (C.E.O. No.24 of 2002) as published in the Gazette of Pakistan Islamabad (Extraordinary), Part-I, dated: 31 December 2003, pp.149-53.



¹ The Legal Framework (Amendment) Order 2002 (C.E.O. No. 24 of 2002).

² The Legal Framework (Second Amendment) Order, 2002 (C.E.O. No. 32 of 2002).

Seventeenth Amendment

The Constitution (Seventeenth Amendment) Act, 2003 validated and affirmed all the amendments made in the Constitution by the Legal Framework Order 2002.

Eighteenth Amendment

Since 1973, the Constitution had been amended successively, often by the military rulers, a twenty-seven members Special Parliamentary Committee on Constitutional Reforms (SPCCR) was commissioned in 2009 to roll back these amendments and to restore the Constitution to its original position as of 1973. The SPCCR was set up after consultation with the leaders of all the political parties.

After marathon consultations in 77 meetings, the SPCCR, under the chairmanship of Senator Raza Rabbani finalized its report and the historic 18th Constitutional Amendment was passed by the National Assembly on 8 April, 2010 and by the Senate on 15 April, 2010 respectively and the 1973 Constitution stood restored to its original position.

Nineteenth Amendment

The Supreme Court of Pakistan passed an Order dated 21st October, 2010, in various constitution petitions challenging certain amendments, including Article 175-A, made in the Constitution through the Constitution (Eighteenth Amendment) Act 2010 (X of 2010). Pursuant to the said order of the apex court, the Constitution (Nineteenth Amendment) Act, 2010 was passed which mainly deals with the appointment of the judges, change in composition

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of the judicial commission and addition of the Islamabad High Court in the list of higher judiciary.

Twentieth Amendment

The Constitution (Twentieth Amendment) Act 2012 was passed in the light of the direction of the Supreme Court of Pakistan to the Federation to constitute Election Commission of Pakistan in accordance with the amended provision of the Constitution of the Islamic Republic of Pakistan and to legally cover the bye-elections conducted by the Chief Election Commissioner in the interregnum. Further it was also necessary to give due independence to the Election Commission of Pakistan and to provide for the manifestation of the Interim Cabinets.

Twenty-first Amendment

All parties conferences held in aftermath of the sad and terrible terrorist attack on the Army Public School at Peshawar on 16 December 2014 resolved to permanently wipe out and eradicate terrorists from Pakistan, and to achieve this objective, it was decided to amend the Constitution to provide for the establishment of military courts for speedy trial of offences relating to terrorism; hence the Constitution (Twenty-first Amendment) Act 2015 (Act I of 2015) which came into force on January 8, 2015. This provision would cease to form part of the Constitution after a period of two years, i.e. by January 8, 2017.

PUNJAB LEGISLATURES (2002-2014)

Under the Provisional Constitutional Order 1999, the Assemblies were placed under suspension w.e.f. October 12, 1999. Later, on June 20, 2001, the orders of suspension of legislative bodies were

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converted into dissolution. The Chairman and Deputy Chairman of the Senate had already ceased to hold their offices, while the Speaker and the Deputy Speaker of the National Assembly and the Provincial Assemblies also ceased to hold their respective offices. In order to revive the political institutions, the Chief Executive of Pakistan promulgated a Legal Framework Order 2002 (Chief Executive's Order No. 24 of 2002).

The LFO, as amended from time to time, brought significant changes in the 1973 Constitution including alteration in the set up of the Assemblies e.g. membership of the Assemblies was increased, a substantial percentage was fixed for seats reserved for women. The members to fill the general seats were to be elected by direct and free vote on the basis of joint electorate and single member constituency and the seats reserved for women and non-Muslims were to be filled through proportional representative system.

On October 10, 2002, general elections were held and the fourteenth Punjab Assembly was constituted on November 25, 2002. In 2007, when the Assemblies were about to complete their constitutional tenure of five years, the then Chief of Army Staff (President) declared emergency in the country on November 3, 2007. A Provisional Constitution Order was issued and the Constitution was again held in abeyance. The National Assembly stood dissolved on completion of its constitutional tenure on November 15, 2007, however, all the Provincial Assemblies (including Punjab Assembly) were dissolved on November 18, 2007 by the Governors on the advice of Chief Ministers, few days before completion of their tenure in order to hold elections of all the Assemblies on January 8, 2008, which were, later, postponed till February 18, 2008.

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The next (fifteenth) Punjab Assembly was constituted on April 9, 2008, as a result of February 2008 general elections and was dissolved on March 20, 2013. The current (sixteenth) Punjab Assembly was constituted on June 1, 2013 as a result of general elections held on May 11, 2013.

PUNJAB ASSEMBLY DECISIONS 2000–2014

The previous edition of the book contained decisions of the Chair from 1947 to 1999. When Speaker, Rana Muhammad Iqbal Khan was re-elected as Speaker in 2013, he felt its importance and directed to continue this worthwhile practice. The present edition comprises decisions made by the Chairs subsequently.

The Presiding Officers who gave their rulings include Rana Muhammad Iqbal Khan, Rana Mashhood Ahmad Khan, Chaudhry Pervez Elahi, Chaudhry Muhammad Afzal Sahi, Sardar Shaukat Hussain Mazari and Sardar Sher Ali Gorchani. To facilitate the readers, a comprehensive index has also been appended at the end of the book.

It is hoped that the publication will serve as valuable reference for public representatives, lawyers, courts, research scholars, students, government departments, media, youth and citizens alike.

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Editorial Board

PROVINCIAL ASSEMBLIES AND FUNCTIONARIES (2000 – 2014)

THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN (1973)¹ [MODIFIED UPTO TWENTY FIRST AMENDMENT]

THE PROVISIONAL CONSTITUTIONAL ORDER (PCO) 1999²

LEGAL FRAMEWORK ORDER (LFO) 2002³

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¹ Passed by the National Assembly on 10 April 1973; received the assent of the President on 11 April 1973; and, came into force on 14 August 1973 under Article 265(2). It was placed in abeyance under the Proclamation of Martial Law dated 5 July 1977, published the same day in the Punjab Gazette (Extraordinary), p.411. After certain amendments, the Constitution was revived on 30 December 1985 when Martial Law was lifted under the Proclamation of Withdrawal of Martial Law, dated 30 December 1985, published the same day in the Gazette of Pakistan (Extraordinary), p.431-32.

 ² PCO No 1 of 1999 as published in the Gazette of Pakistan Islamabad Extraordinary, Part I, 27 May to 31 December 1999, dated: 14 October 1999, pp.1267-68.

³ The Gazette of Pakistan Islamabad Extraordinary, Part-I, 6 July to 11 December 2002, dated: 21 August 2002, pp.1031-33.

ASSEMBLIES

Provincial Assembly of the Punjab

25 November 2002¹ to 18 November 2007² 09 April 2008³ to 20 March 2013⁴ 01 June 2013⁵ to date

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¹ Provincial Assembly of the Punjab Debates 2002, Vol.1, 2, 3, 4, (Nos.1-2, 1,1,1) dated: 25 November, 2002 pp.1-15.

² The Governor dissolved the Assembly vide S&GAD (Cabinet Wing) Notification No.CAB.II/2-3/2002, dated: 18 November 2007, published the same day in the Punjab Gazette (Extraordinary), p.1613.

³ Provincial Assembly of the Punjab Debates 2008, Vol.1, 2, 3, (No.1,1), (1 to 2) dated: 09 April, 2008, p.10. On 25 February 2009 the President promulgated Governor's Rule in the Province of Punjab which was lifted on 30 March 2009. Proclamation of Governor's Rule – The Gazette of Pakistan Islamabad (Extraordinary) 10 Jan to 28 December 2009 Part-I dated: 25 February, 2009, pp.21-22. Revocation of Proclamation of Governor's Rule on 30 March 2009 - The Gazette of Pakistan Islamabad (Extraordinary) 10 Jan to 28 December 2009 Part-I dated: 30 March, 2009, p.67.

⁴ The Governor dissolved the Assembly vide Law & Parliamentary Affairs Department Notification No.PA:4-4/2013/1121, dated: 20 March 2013, published the same day in the Punjab Gazette (Extraordinary), p.2503.

⁵ Provincial Assembly of the Punjab Debates 2013, Vol.1, (No.1), dated: 1 June 2013, pp.1-14.

RULES OF PROCEDURE

The Rules of Procedure of the Provincial Assembly of the Punjab 1997¹

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¹ Initially made by the Governor under Article 67 read with Article 127 of the Constitution (1973); however, the Assembly adapted the same on 25 June 1997. For details, see Provincial Assembly of the Punjab Notification No.PAP/Legis-1(94)/96/11, dated 29 January 1997, published the same day in the Punjab Gazette (Extraordinary), pp.73-128 and No.Legis-1(94)/96/82 dated: 25 June 1997.

GOVERNORS

Lt General (Retd) Muhammad Safdar 25 October 1999¹ to 27 October 2001²

Lt General (Retd) Khalid Maqbool 29 October, 2001³ to 16 May, 2008⁴

Mr. Salmaan Taseer 16 May, 2008⁵ to 04 January, 2011⁶

Sardar Muhammad Latif Khan Khosa

13 January 2011^7 to 24 December, 2012

Makhdoom Syed Ahmad Mehmud

25 December, 2012⁸ to 15 July, 2013⁹

- ¹ For appointment/oath, see Cabinet Secretariat Notification No.2-20/99-Min.II, dated 26 October 1999, published the same day in the Gazette of Pakistan (Extraordinary) (Part-III), p.1735.
- ² Resigned Cabinet Secretariat Notification No.8-9/2001-Min. dated 27 October 2001, published the same day in the Gazette of Pakistan Islamabad (Extraordinary) Vol-2, Part-3, p.1411.
- ³ For Appointment/Oath, See Cabinet Secretariat Notification No.8-9/2001-Min., dated: 1st November 2001, published the same day in the Gazette of Pakistan Islamabad (Extraordinary), Vol-2, Part-3, p.1421.
- ⁴ Resigned Cabinet Secretariat Notification No.8-9/2001-Min. II., dated: 17th May 2008, published in the Gazette of Pakistan Islamabad (Extraordinary), (Part-III), dated: 20 May 2008, p.1241.
- ⁵ For Appointment/Oath, See Cabinet Secretariat Notification No.2-4/2008-Min. II., dated: 17th May 2008, published in the Gazette of Pakistan Islamabad (Extraordinary), (Part-III), dated: 20 May 2008, p.1241.
- ⁶ Passed away Cabinet Secretariat Notification No.2-4/2008-Min-II., dated: 4th January 2011, published in the Gazette of Pakistan Islamabad (Extraordinary), (Part-III), dated: 12 January 2011, p.7.
- ⁷ For Appointment/Oath, See Cabinet Secretariat Notification No.2-1/2011-Min. II., dated: 17th January 2011, published the same day in the Gazette of Pakistan Islamabad (Extraordinary), (Part-III), p.47.
- ⁸ For Appointment/Oath, See Cabinet Secretariat Notification No.3-1/2012-Min.II., dated: 26th December 2012, published in the Gazette of Pakistan Islamabad (Extraordinary), (Part-III), dated: 27 December 2012, p.3981.
- ⁹ Resigned Cabinet Secretariat Notification No.3-1/2012-Min-II., dated: 17th July 2013, published in the Gazette of Pakistan Islamabad (Extraordinary), (Part-III), dated: 19 July 2013, p.3025.

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Mr. Mohammad Sarwar 05 August, 2013¹ to 29 January, 2015²

Malik Muhammad Rafique Rajwana 10 May, 2015³ to date

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¹ For Appointment/Oath, See Cabinet Secretariat Notification No.3-6/2013-Min.II., dated: 5th August 2013, published in the Gazette of Pakistan Islamabad (Extraordinary), (Part-III), dated: 8 August 2013, p.3127.

² Resigned - Cabinet Secretariat Notification No.3-7/2013-Min-II., dated: 29th January 2015. Consequent upon the acceptance of resignation of Mr. Mohammad Sarwar from the office of Governor of Province of the Punjab, the President, in terms of Article 101 (5) of the Constitution of Islamic Republic of Pakistan, nominated Speaker of the Provincial Assembly of the Punjab to perform the functions of Governor of the Punjab till the appointment of a new Governor. Rana Muhammad Iqbal Khan, Speaker, Provincial Assembly of the Punjab, assumed the functions of the Governor Punjab, Cabinet Secretariat Notification No.3-7/2013-Min-II., dated: 30th January 2015.

³ In exercise of the Powers conferred by clause (1) of Article 101 of the Constitution, the President, on advice of the Prime Minister, appointed Malik Muhammad Rafique Rajwana as Governor of the Province of the Punjab, Cabinet Division Letter No.3-1/2015-Min-II dated: 8th May, 2015. Made oath on 10th May 2015: Governor Secretariat Letter No.PSG-2/2015-31 dated: 10th May 2015.

CHIEF MINISTERS

Chaudhry Parvez Elahi 29 November 2002¹ to 18 November 2007²

Justice (Retd.) Sheikh Ijaz Nisar 19 November 2007³ to 12 April 2008⁴

Sirdar Dost Muhammad Khan Khosa 12 April 2008⁵ to 06 June 2008⁶

- ⁴ Ceased to hold office of Caretaker Chief Minister vide S&GA Department (Cabinet Wing) Notification No.CAB.II/2-2/2008, dated 12 April 2008.
- ⁵ Assumed office vide S&GA Department (Cabinet Wing) Notification No.CAB.II/2-2/2008, dated 12 April 2008.
- ⁶ Resigned on 06 June 2008; but, continued to hold that office, under the provision of Article 133 of Constitution of Pakistan, until his successor assumed that office vide S&GA Department (Cabinet Wing) Notification No.CAB.II/2-2/2008, dated 06 June 2008.

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¹ Assumed office vide S&GA Department (Cabinet-II Section) Notification No.CAB-II/2-1/97, dated 29 November 2002.

² In consequence of dissolution of the Provincial Assembly of the Punjab, the Cabinet of Ministers of Punjab stood dissolved with immediate effect vide S&GAD (Cabinet Wing) Notification No.CAB.II/2-3/2002, dated: 18 November 2007, published the same day in the Punjab Gazette (Extraordinary), dated 16 November to 31 December 2007, p.1613.

³ Assumed office of Caretaker Chief Minister vide S&GA Department (Cabinet Wing) Notification No.CAB.II/2-3/2002, dated 19 November 2007.

Mr. Muhammad Shahbaz Sharif

08 June 2008¹ to 27 March 2013²

Mr. Najam Aziz Sethi 27 March 2013³ to 06 June 2013⁴

Mr. Muhammad Shahbaz Sharif

06 June 2013⁵ to date

¹ Assumed office vide S&GA Department (Cabinet Wing) Notification No.CAB.II/2-21/2008, dated 08 June 2008.

On 25 February 2009, the President promulgated Governor's Rule for a period of two months in the Province of Punjab through a Proclamation No.7-3/2009-Min.I and directed the Governor of the Punjab to assume on his behalf the functions of the Government of the Province. In consequence of the Governor's Rule, under clause (b) (i), the Chief Minister and Provincial Ministers of the Punjab ceased to hold their respective offices as published in the Gazette of Pakistan Islamabad (Extraordinary) 10 Jan to 28 December 2009, Part-I, dated: 25 February 2009, pp.21-22.

On 30 March 2009, Revocation of Proclamation No.7-3/2009-Min.I of Governor's Rule – It is said that the President is satisfied that the grounds on which he issued the Proclamation under Article 234 of the Constitution of the Islamic Republic of Pakistan, on the 25th February 2009, have ceased to exist; now, therefore, in pursuance of Clause (1) of Article 236 of the Constitution, the President is pleased to revoke the aforesaid proclamation as published in the Gazette of Pakistan Islamabad (Extraordinary) 10 Jan to 28 December 2009, Part-I, dated: 30 March, 2009, p.67.

- ² Ceased to hold office on the dissolution of the Assembly vide S&GA Department (Cabinet Wing) Notification No. SO (Cab-II)2-1/2013, dated 27 March 2013.
- ³ Assumed office of Caretaker Chief Minister vide S&GA Department (Cabinet Wing) Notification No.SO(Cab-II)2-1/2013, dated 27 March 2013.
- ⁴ Ceased to hold office of Caretaker Chief Minister vide S&GA Department (Cabinet Wing) Notification No. S.O (Cab-II)2-9/2013, dated 06 June 2013.
- ⁵ Re-elected Assumed office vide S&GA Department (Cabinet Wing) Notification No. SO(Cab-II)2-8/2013, dated 06 June 2013.

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<u>SPEAKERS</u>

Ch. Muhammad Afzal Sahi 27 November 2002¹ to 11 April 2008²

Rana Muhammad Iqbal Khan 11 April 2008³ to 03 June 2013⁴ 03 June 2013⁵ to date

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¹ Elected by the majority of 243 votes - Provincial Assembly of the Punjab Debates 2002, dated: 27 November, 2002, Vol.1, 2, 3, 4 Nos.1-2, 1,1,1, pp.56-58 read with Provincial Assembly of the Punjab Notification No.PAP/Legis-1(3)/2002/409, dated: 27 November 2002, published in the Punjab Gazette Weekly (Extraordinary) Issue, Vol-3, Part-3, dated: 29 November 2002, p.3249.

² Held office after the dissolution of the Assembly in terms of Article 53(8) read with Article 127 of the Constitution of Islamic Republic of Pakistan [As modified upto the 28th February, 2012], until his successor assumed that office – Provincial Assembly of the Punjab Debates, 11 April, 2008, Vol-1,2,3, No.1,1,(1 to 2), pp.71-72.

³ Elected unopposed – *ibid*. Provincial Assembly of the Punjab Notification No.PAP/ Legis-1(03)/2008/1135, dated: 11 April 2008, published in the Punjab Gazette (Extraordinary), dated: 12 April 2008, p.3193.

⁴ Held office after the dissolution of the Assembly in terms of Article 53(8) read with Article 127 of the Constitution of Islamic Republic of Pakistan, 1973 [As modified upto the 28th February, 2012], and was re-elected to the same office - Provincial Assembly of the Punjab Debates, 03 June, 2013, Vol-1, No.1 to 3, pp.35-37.

⁵ Re-elected by the majority of 297 votes - Provincial Assembly of the Punjab Debates 2013, dated: 03 June, 2013, Vol.1 NOs.1-3, pp.35-37 read with - Provincial Assembly of the Punjab Notification No.PAP/Legis-1(2)/2013/891, dated: 03 June 2013, published in the Punjab Gazette (Extraordinary), dated: 06 June 2013, p.2841.

DEPUTY SPEAKERS

Sardar Shaukat Hussain Mazari 27 November 2002¹ to 18 November 2007²

Rana Mashhood Ahmad Khan 11 April 2008³ to 20 March 2013⁴

Sardar Sher Ali Gorchani 03 June 2013⁵ to date

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¹ Elected by the majority of 238 votes - Provincial Assembly of the Punjab Debates 2002, dated: 27 November, 2002, Vol.1, 2, 3, 4 Nos.1-2, 1,1,1, pp.83-84 read with Provincial Assembly of the Punjab Notification No.PAP/Legis-1(3)/2002/410, dated: 27 November 2002, published in the Punjab Gazette Weekly (Extraordinary) Issue, Vol-3, Part-3, dated: 29 November 2002, p.3249.

² Ceased to hold office on the dissolution of the Assembly

³ Elected unopposed - Provincial Assembly of the Punjab Debates, 11 April, 2008, Vol-1,2,3, No.1,1,(1 to 2), pp.85-86 read with Provincial Assembly of the Punjab Notification No.PAP/ Legis-1(03)/2008/1136, dated: 11 April 2008, published in the Punjab Gazette (Extraordinary), dated: 12 April 2008, p.3195.

⁴ Ceased to hold office on the dissolution of the Assembly, Vide Provincial Assembly of the Punjab Notification No.PAP/Legis-1(127)/2013/873, dated: 21 March 2013, published in the Punjab Gazette (Extraordinary), dated: 25 March 2013, p.2513.

⁵ Elected by the majority of 293 votes - Provincial Assembly of the Punjab Debates 2013, dated: 03 June, 2013, Vol.1 NOs.1-3, pp.42-43 read with - Provincial Assembly of the Punjab Notification No.PAP/Legis-1(2)/2013/892, dated: 03 June 2013, published in the Punjab Gazette (Extraordinary), dated: 06 June 2013, p.2843.

LEADERS OF THE OPPOSITION

Mr. Qasim Zia 19 December 2002¹ to 18 November 2007

Chaudhry Zahir-ud-Din 04 August 2008² to 03 March 2011³

Raja Riaz Ahmad 03 March 2011^4 to 20 March 2013^5

Mian Mehmood-ur-Rasheed

11 June 2013^6 to date

- ² Assumed office Provincial Assembly of the Punjab Notification No.PAP/Legis-1(50)/97/1170, dated: 04 August 2008, Provincial Assembly of the Punjab Debates 2008, Volume-8, (Part-I), (Nos.1-5), dated: 06 August, 2008, pp.14-19.
- ³ Resigned Provincial Assembly of the Punjab Notification No.PAP/Legis-1(50)/97/340, dated: 03 March 2011, published in the Punjab Gazette (Extraordinary), dated: 08 March 2011, p.3559.
- ⁴ Assumed office Provincial Assembly of the Punjab Notification No.PAP/Legis-1(50)/97/340, dated: 03 March 2011, published in the Punjab Gazette (Extraordinary), dated: 08 March 2011, p.3559.
- ⁵ Ceased to hold the office on the dissolution of the Assembly Provincial Assembly of the Punjab Notification No.PAP/Legis-1(127)/2013/874, dated: 21 March 2013, published in the Punjab Gazette (Extraordinary), dated: 25 March 2013, p.2515.
- ⁶ Assumed office Provincial Assembly of the Punjab Notification No.PAP/Legis-1(50)/97/896, dated: 11 June 2013, published in the Punjab Gazette (Extraordinary), dated: 17 June 2013, p.2903.

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Assumed office - Provincial Assembly of the Punjab Notification No.PAP/Legis-1(50)/97/415, dated: 19 December 2002, published in the Punjab Gazette (Extraordinary), dated: 06 February 2003, p.257.

SECRETARIES

Dr. Syed Abul Hassan Najmee 16 December 1993¹ to 14 January 2004^2

Mr. Saeed Ahmad 15 January 2004³ to 07 March 2008⁴

Mr. Muhammad Khan Bhatti 08 March 2008⁵ to 11 March 2008⁶

Dr. Malik Aftab Maqbool Joiya 12 March 2008⁷ to 04 May 2008⁸

Mr. Magsood Ahmed Malik

05 May 2008⁹ to 26 February 2009 11 June 2009 to 28 October 2009

Mr. Muhammad Khan Bhatti

27 February 2009 to 10 June 2009 29 October 2009 to date

- ¹ Provincial Assembly of the Punjab Notification No.E-8/158, dated: 16 December 1993, read with SG&I Department Letter No.SO(E-II)23-6/85, dated: 16 December 1993 and Provincial Assembly of the Punjab Notification No.PAP-E-8/129, dated: 15 December 1996.
- ² Retired on Superannuation Provincial Assembly of the Punjab Notification No.PAP/E-8/475, dated: 07 July 2003.
- ³ Promoted Provincial Assembly of the Punjab Notification No.PAP/Estb/E-8/642, dated: 25 August 2004.
- ⁴ Retired Provincial Assembly of the Punjab Notification No.PAP/Estb/E-691/06/888, dated: 20 January 2007.
- ⁵ Promoted Provincial Assembly of the Punjab Notification No.PAP/Estb/E-8/1104, dated: 06 March 2008.
- ⁶ On Leave.
- ⁷ Provincial Assembly of the Punjab Notification No.PAP/Estb/E-8/1118, dated: 11 March 2008.
- ⁸ Provincial Assembly of the Punjab Notification No.PAP/Estb/E-8/1142, dated: 05 May 2008.
- ⁹ Promoted Provincial Assembly of the Punjab Notification No.PAP/Estb/E-8/1142, dated: 05 May 2008.

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SENIOR SECRETARIES

Mr. Maqsood Ahmed Malik 29 October 2009 to 30 June 2013¹

Dr. Malik Aftab Maqbool Joiya 01 July 2013² to 25 July 2013³

Rai Mumtaz Hussain Babar 26 July 2013⁴ to date

Retired on 30 June 2012 - Provincial Assembly of the Punjab Notification No.PAP/Estb/E-691/440, dated: 08 August 2011. However, he was reappointed for one year from 01 July 2012 to 30 June 2013.

² Promoted - Provincial Assembly of the Punjab Notification No.PAP/Estb/E-81/905, dated: 16 July 2013.

³ Passed away - Provincial Assembly of the Punjab Notification No.PAP/Estb/E-423-A/4747, dated: 26 July 2013.

⁴ Promoted - Provincial Assembly of the Punjab Notification No.PAP/Estb/E-785/952, dated: 31 October 2013.



PUNJAB ASSEMBLY DECISIONS

(1)

ADJOURNMENT MOTION—REPLY

REPLY TO AN ADJOURNMENT MOTION IS NOT THE REQUIREMENT OF RULES.

During the sitting of the Assembly held on Tuesday, December 10th, 2013, Mr Khalil Tahir Sindhu, Minister for Human Rights & Minorities Affairs was presenting the viewpoint of the Government on the Adjournment Motions moved by the Hon'ble Members of Assembly. When the time of Adjournment Motion was over, Sheikh Ala-ud-Din, MPA (PP-181), on a point of order, contended that the replies to the Adjournment Motions should be given by the concerned Minister and, in his absence, by the Law Minister and not by any other Minister. I, Sardar Sher Ali Gorchani, was presiding the session in my capacity as Acting Speaker, promised to look into the matter.

On Thursday, December 12th, 2013, the same Minister was presenting the Government's stance on the Adjournment Motions being moved by the Hon'ble Members. When Sheikh Ala-ud-Din, MPA (PP-181) moved his Adjournment Motion No.741/2013, he once again objected to the replies not being given by the concerned Minister. The Minister for Human Rights & Minorities Affairs was of the view that no where in the rules, it has been provided that the concerned Minister would give the reply to the moved Adjournment Motion. He added that the role of concerned Minister comes into action when the Adjournment Motion is admitted for discussion as per procedure laid down in Rule 85 of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997.

The Acting Speaker, Sardar Sher Ali Gorchani, reserved the ruling

on the matter and pended the decision on the fate of Adjournment Motion No.741/2013.

On the same day, Sheikh Ijaz Ahmad, MPA (PP-68), after moving his Adjournment Motion No.746/2013 relating to Forest Department, also demanded that the reply should be given by the concerned Minister seconding the viewpoint of Sheikh Ala-ud-Din, MPA. The undersigned repeated my promise to give ruling on the matter.

I have given detailed consideration to the issue in the light of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997 and also the rules of other Assemblies as well as the prevalent practice in various legislatures and have reached the conclusion that the primary object of an Adjournment Motion is to draw the attention of the House to a recent matter of urgent public importance having serious consequences and in regard to which a motion or a resolution with proper notice will be too late. The matter proposed to be raised should be of such a character that something very grave which affects the whole Province and the House is required to pay its attention immediately by interrupting the normal business of the House. The Adjournment Motion is thus an extraordinary procedure which, if admitted, leads to setting aside the normal business of the House for discussing a definite matter of urgent public importance.

In Indian Lok Sabha, the practice is that if the Speaker is satisfied prima facie that the matter proposed to be discussed is in order under the Rules, he may give his consent to the moving of the motion and at the appropriate time, that is, after Question Hour, call upon the member concerned to ask for leave of the House to move the Adjournment Motion. If objection to leave being granted is taken, the Speaker will ask those members who are in favour of leave being granted to rise in their places and if not less than the required number rise accordingly, he will declare that leave is granted. If less than the required number rise, the Speaker will inform the member that he has not the leave of the House. There is no such practice or provision in their Rules of Business that the concerned Minister would give reply to the Adjournment Motion at this stage.

I must here quote the procedure prescribed in our Assembly in the year 1954 when laying down the procedural essentials of moving an Adjournment Motion, the Speaker, Ch Fazal Elahi explained as under:-

"I have studied all the Rules and previous rulings on the subject and the procedure that I am now going to propose will be in the interest of the members because they will be given an opportunity to read their Adjournment Motions in the House. Previously, the Speaker used to read these Adjournment Motions himself and, as I pointed out, that was not strictly in according with the rules. The procedure that I am going to lay down is that every Adjournment Motion which is tabled will be given to me before 7:30 am on each day and as soon as the Question Hour is over, I will call upon the member concerned to read his Adjournment Motion. If in my view the Adjournment Motion is clearly out of order, it will be disallowed at that stage and no Hon'ble Member will be permitted to make a speech or discuss it any further. But if I am in doubt or I want some elucidation, I will put some questions to the Hon'ble Member and, may be, I will have to refer the matter to the Government to explain any points with regard to the Adjournment Motion. If after the consideration of all these points, I come to the conclusion that the Adjournment Motion is in order, the leave of the House will be sought. If 63 members support the motion, it will be fixed for discussion at the proper time; but if the leave is refused, the matter will be dropped. In future, therefore, this will be the procedure."

This procedure is present in the West Pakistan Legislative Assembly Debates, dated August 2, 1956, Vol-II, page 90-91. No where in this procedure there is any mention of reply by the concerned Minister.

As far as the Rules of Procedure and Conduct of Business in the National Assembly, 2007 are concerned, they have the following Rule 113 which governs the procedure of Adjournment Motion:

"113. Grant or withholding of leave:-

- (1) If the Speaker is of the opinion that the matter proposed to be discussed is in order he shall ask whether the member has the leave of the Assembly to move the motion and, if objection is taken, he shall ask such of the members as may be in favour of leave being granted to rise in their seats.
- (2) If less than the majority of the members present rises, the Speaker shall inform the member that he has not the leave of the Assembly, and if the majority of members present rises, the Speaker shall announce

that leave is granted and that the motion shall be taken up before the last Calling Attention Notice for discussion for not more than two hours on such day, within the same session, as the Speaker may fix."

Hence, there is no role of the Government or concerned Minister at the time of granting leave for discussion on the Adjournment Motion in the Rules of National Assembly.

In the backdrop of above observations, I rule as under:

"Rule 80 of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997 governs the initial stage of the Adjournment Motion and gives the power to Speaker to allow a mover to move his Adjournment Motion in the House. Rule 85 lays down the procedure for admitting a Motion for discussion. In neither of the two rules, there is any provision for the role of the Government or the concerned Minister. It is the House which grants (or withholds) the leave only "if the Speaker is of the opinion that the matter proposed to be discussed is in order." If members not less than one-sixth of the total membership of the Assembly so rise, the Speaker shall announce that leave is granted and the motion shall be taken up for discussion in the same session for not more than 2 hours on such day, as soon as possible, within three days after the leave is granted, as the Speaker may fix. The role of the Government or the concerned Minister comes into action on the day fixed by the Speaker for discussion of the Adjournment Motion. The

prevalent practice of taking Government stance at the time of moving of the Adjournment Motion is just in order to facilitate the Chair and the House for granting of the leave and not as a matter of right of the mover or requirement of the Rules."

The point of order raised by Sheikh Ala-ud-Din, MPA (PP-181) is disposed of accordingly.¹

¹ Provincial Assembly of the Punjab Debates 2014, Vol-7 (Part-II), (No.9), dated 19 March 2014, pp.862-67.

(2)

ANSWER TO QUESTIONS

PARLIAMENTARY SECRETARY CAN ANSWER QUESTIONS IN THE PRESENCE OF THE MINISTER CONCERNED.

On 31st May 2004, Dr. Tahir Ali Javed, Minister for Health, was giving replies to the Questions relating to his Department. When Hon'ble Member asked a supplementary question, Dr. Farzana Nazir, Parliamentary Secretary for Health, stood up with the permission of the Chair and provided latest information on the subject in the House. Rana Sana Ullah Khan, MPA (PP-70) raised a point of order whether, under the Rules, a Parliamentary Secretary could answer a question in the presence of the Minister concerned. The Chair reserved the ruling.

Later, Speaker, Chaudhry Muhammad Afzal Sahi, ruled as under:-

"I have given anxious thought to the point of order raised by the honourable Member. In my opinion, the institution of questions is a very valuable privilege of the Members. According to Rule 46 of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997, a question may be asked for the purpose of obtaining information on a matter of public concern within special cognizance of the Minister to whom it is addressed. The question shall relate to the public affairs with which the Minister is officially concerned or to a matter of administration for which he is responsible. Moreover, when a starred question has been answered, any Member may ask such supplementary questions as may be necessary for elucidation of the answer. In view of the importance of the questions in the parliamentary proceedings, it has been

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provided in Rule 55 of the Rules of Procedure that the questions shall be answered by the Minister or the Parliamentary Secretary concerned. A Parliamentary Secretary supplements the Minister in the parliamentary affairs of his department. I am, therefore, of the view that a Parliamentary Secretary can answer to a question as well as a supplementary question even in the presence of the Minister concerned in order to provide the requisite information to the House."²

² Please see the Ruling dated 07 June 2004, File No.PAP/Legis-1(19)/2002, p.25.

(3)

ATTENDANCE OF MEMBERS

ATTENDANCE OF MEMBERS: SECRETARY TO MAINTAIN ATTENDANCE REGISTER.

On 17th January 2011, Rana Muhammad Iqbal Khan, Speaker, apprised the House that a meeting was held in his Chamber on 14th January 2011 attended by the following Members of the Provincial Assembly of the Punjab:

Rana Sana Ullah Khan, Minister for Law; Chaudhry Zahir-ud-Din, Leader of Opposition; Mr. Saeed Akbar Khan, MPA; Mr. Muhammad Sana Ullah Khan Mastikhail, MPA; Syed Nazim Hussain Shah, MPA; Rana Muhammad Arshad, MPA; Mr. Khalil Tahir Sindhu, MPA; Mr. Ali Haidar Noor Khan Niazi, MPA; Mr. Muhammad Arshad Jutt, MPA; Mian Naseer Ahmad, MPA; and Syed Hassan Murtaza, MPA.

The matter about attendance register of the Members of Assembly came under discussion during the meeting. The following decision was made unanimously:-

"The Secretary Assembly shall maintain an attendance register.

Every honourable Member entering the House, will be marked present in the register by the Secretary and no honourable Member will be required to mark his attendance himself. Secretary Assembly will take assistance in this regard from one or two officers of the Assembly Secretariat who will be not less than BS-16."³



³ Provincial Assembly of the Punjab Debates 2011, Vol-22, (Part-II), (Nos.8-12), dated 17 January 2011, p.926.

(4)

BAR AGAINST DOUBLE MEMBERSHIP

PROVISION OF ARTICLE 223 IS NOT ATTRACTED IN CASE A CANDIDATE CONTESTS ELECTION ON TWO SEATS AND RESULT ON ONE OF THE SEATS IS DECLARED EARLIER THAN THE OTHER.

On 23rd June 2008, Syeda Bushra Nawaz Gardezi, MPA (W-352) raised a point of order that after having been declared elected (unopposed) as Member of Punjab Assembly from Constituency No. PP-10, the earlier seat occupied by Mr Muhammad Shahbaz Sharif, i.e., Constituency No. PP-48 had become vacant in terms of Article 223 of the Constitution of Islamic Republic of Pakistan, 1973. Since the question required interpretation of an important constitutional issue, Rana Mashhood Ahmad Khan, Acting Speaker reserved his ruling.

Next day, i.e., on 24th June 2008, Acting Speaker, Rana Mashhood Ahmad Khan, ruled as under:-

"Article 223 of the Constitution placing an embargo against double Membership says that no person shall at the same time be a Member of Senate and National Assembly or a House and Provincial Assembly in respect of more than one seat. A person, however, can be a candidate for two or more seats at the same time, in the same body or in different bodies. If such person is elected to more than one seat, he shall within a period of 30 days after the declaration of the result for the last such seat resign all seats except one of his winning seats.

Clause (4) of Article 223 permits a Member of either House or

of a Provincial Assembly to become a candidate for second seat which he cannot hold under clause (1) concurrently his first seat shall automatically become vacant as soon as he is elected to a second seat.

This provision of the Constitution aims at holding two seats concurrently and not on becoming a candidate on two seats or winning two seats. If a person who is already a Member of a body becomes a candidate for second seat which, in accordance with clause (1) of Article 223, he may not hold concurrently with his first seat, then his first seat shall become vacant as soon as he is elected to the second seat.

But situation here is different since Mr Muhammad Shahbaz Sharif did not become a candidate for the second seat (PP-10) after having been elected from Constituency No.PP-48. He had filed nomination papers for these constituencies simultaneously as is permitted by clause (2) of Article 223.

In view of the above deliberations, I am inclined to rule out the point of order raised by the honourable Member which is tantamount to misinterpretation of the constitutional provisions.

I, therefore, hold without any iota of doubt that Mr Muhammad Shahbaz Sharif is constitutionally competent to hold his earlier seat from constituency No.PP-48."⁴

⁴ Provincial Assembly of the Punjab Debates 2008, Vol-7 (Part-II), (Nos.6-11), dated 24 June 2008, pp.515-19.

(5)

BUSINESS ADVISORY COMMITTEE

RULES OF PROCEDURE AUTHORIZE THE BUSINESS ADVISORY COMMITTEE TO MAKE RECOMMENDATIONS TO STREAMLINE THE BUSINESS OF THE HOUSE.

On 14th September 2011, Deputy Speaker, Rana Mashhood Ahmad Khan, announced the following ruling in the House:-

"During the sitting of the Assembly on 14th April 2011, Chaudhry Ehsan-ul-Haq Ahsan Noulatia, MPA (PP-253) raised a point of order asking the Chair to give ruling on the matter whether the Business Advisory Committee could take decisions which are in violation of or in conflict with the Rules of Procedure of the Provincial Assembly of the Punjab, 1997. On 12th May 2011, Chaudhry Ehsan-ul-Haq Ahsan Noulatia, MPA (PP-253) raised the point again. The Chair reserved the ruling.

The background of the case is that though the list of Questions for a particular day contains 35 Questions, but practically two or three questions came under discussion during the hour allotted for the Assembly Questions and the entire time was consumed in the supplementary questions of these two or three Questions. This issue was raised in the Assembly on a number of occasions by a number of hon'ble Members particularly those who had given the notices of Questions and their Questions could not find the time for discussion despite being included in the Questions' list.

On the repeated requests of the Hon'ble Members of the House, the Chair took notice of the issue and the matter was placed before the

Business Advisory Committee during its meeting held on 5th July 2010, the commencing day of 19th Session of the Assembly. It was agreed with consensus that a time period of three minutes would be allotted for discussion on a Question (including supplementary questions). It was also decided that if the mover of the Question was not present, any other Member, belonging to the party of the same alliance, Government or the Opposition, might take up the question, including supplementary questions, on his/her behalf. It was also agreed that no point of order would be raised during the Question Hour.

This procedure was further streamlined during the meeting of Business Advisory Committee held on October 5, 2010 when it was decided that not more than two supplementary questions would be taken up in respect of a Question. I must draw your attention to the fact that after adopting this procedure, there has been a considerable increase in the number of questions discussed during the Question Hour and most of the Members have been expressing their satisfaction on this practice. However, a few of them have been showing their reservations including Chaudhry Ehsan-ul-Haq Ahsan Noulatia, MPA (PP-253).

As stated earlier, Chaudhry Ehsan-ul-Haq Ahsan Noulatia, MPA (PP-253) challenged these decisions of the Business Advisory Committee contending that the Business Advisory Committee had transgressed its powers by imposing such limitations and had violated the provisions of the Rules of Procedure 1997.

It would be expedient to look at the relevant provisions of the Rules of Procedure, dealing with asking of the Questions. I quote the following rule:-

55. Mode of asking Questions and answering: -

- (1) At the time of asking questions, the Speaker shall call successively each Member in whose name a starred question appears in the List of Questions.
- (2) The Member so called shall rise in his place and, unless he states that it is not his intention to ask the question standing in his name, he shall ask the question by reference to its number on the List of Questions.
- (3) If, on a question being called, it is not put or the Member in whose name it stands is absent, the Speaker may, at the request of any other Member, direct that the answer to it be given.

The word "may" appearing in sub-Rule (3) suggests that it is the discretion of the Speaker to allow some Member other than the mover to ask the Question on his/her behalf. No Member can claim it as a matter of right.

Now, coming to the asking of Supplementary Question, I quote Rule 56:

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56. Supplementary Questions. When a starred question has been answered, any Member may ask such supplementary questions as may be necessary for the elucidation of the answer, but the Speaker shall disallow a supplementary question which, in his opinion, either infringes any provision of these Rules relating to the subject matter and

admissibility of questions or is otherwise an abuse of the right of asking questions.

It means that asking of the supplementary questions should not be an abuse of the right of asking questions. The spirit behind the provisions of the above Rules is that to accommodate as many Members as possible to utilize the Question Hour.

My contention is also supported by the practice adopted in the Lok Sabha, the lower House of Indian Parliament. In its sitting held on 12th February 1958, it was observed that no Member can claim a right to be called to ask a supplementary question. It is left to the discretion of the Chair to call upon any Member to ask supplementary question. Precedence in the matter of asking supplementary questions is given to the Member who has tabled the main question and to the Member whose name is clubbed. (It is quoted in Kaul's Practice and Procedure of Parliament, fifth edition at page 478).

During the sitting of the Lok Sabha on 8th July 1971, it was ruled by the Chair that unless there is none to ask a supplementary question from any other Party/Group, not more than one member from the same Party/Group is normally permitted to ask a supplementary question after the Member who has tabled the main question.

All of you must appreciate that instead of using his discretion, the Chair considered it appropriate to put the matter before the Business Advisory Committee and the decisions were taken by a body which is represented by the leaders of all the parliamentary parities in the House.

I consider it appropriate to throw some light on the forum of Business

Advisory Committee. In all the parliamentary democracies of the world, the Business Advisory Committee (or the House Advisory Committee) is given a special status and the decisions taken by it are honoured as it is represented by the Parliamentary leaders of all the political parties present in the Assembly.

For the functions of the Business Advisory Committee, I quote Rule 186:

186. Composition and functions.-

- (1) At the commencement of the Assembly or from time to time, as the case may be, the Speaker may, in consultation with the Leader of the House and the Leader of the Opposition, nominate a Business Advisory Committee consisting of not more than twelve Members including the Speaker who shall be the Chairman of the Committee.
- (2) It shall be the function of the Committee to recommend the time that should be allocated for the discussion of the stage or stages of such Government Bills and other business as the Speaker, in consultation with the Leader of the House, may direct for being referred to the Committee.
- (3) The Committee shall have the power to indicate in the proposed time table, the different hours at which the various stages of the Bill or other business shall be completed.
- (4) The Committee shall have such other functions as

may, from time to time, be assigned to it by the Speaker.

In my opinion, this rule authorizes the Business Advisory Committee to make recommendations to streamline the business of the House. The decisions which have been challenged by Chaudhry Ehsan-ul-Haq Ahsan Noulatia, MPA (PP-253), were taken according to the spirit of the Rules and the Committee has not violated any provisions of the Rules of Procedure as alleged by the Hon'ble MPA.

With this observation, the point of order raised by Chaudhry Ehsanul-Haq Ahsan Noulatia, MPA (PP-253) is ruled out of order.⁵

⁵ Provincial Assembly of the Punjab Debates 2011, Vol-30+31, (Nos.1-6), dated 14 September 2011, pp.395-401.

(6)

COMMITTEE MEETING

A COMMITTEE MAY NOT MEET WHILE ASSEMBLY IS SITTING EXCEPT WITH THE APPROVAL OF THE SPEAKER.

On 31st January 2003, Raja Riaz Ahmad, MPA (PP-65) raised a point of order that he could not attend the meeting of the Special Committee held on the day before, as he was attending the session at that time, therefore, the meeting of the Committee should be recalled. Later on, Rana Sana Ullah Khan, MPA (PP-70) also raised a point of order whether meeting of the Special Committee could be held under the rules while the Assembly was in session.

Sardar Shaukat Hussain Mazari, Deputy Speaker, decided as under:-

"Before I ask the honourable Minister to wind up, I would like to give a ruling which is pending about a point of order raised this morning that holding of the meeting of the Special Committee yesterday at 3:30 p.m. was not legitimate in view of the fact that the Assembly was in session at that time. According to Rule 157(1) of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997, a committee may not meet while the Assembly is sitting except with the approval of the Speaker. Since the Speaker had already approved it, I hold that the said meeting was validly held."⁶

⁶ Provincial Assembly of the Punjab Debates 2003, Vol-5, (Nos.1-8), dated 31 January 2003, p.541.

(7)

DECORUM OF THE HOUSE

MAINTENANCE OF DECORUM OF THE HOUSE: SPEAKER ABSENTED TWO MEMBERS FROM THE SITTINGS OF THE ASSEMBLY FOR BREACHING DIGNITY OF THE HOUSE.

During the sitting of the Assembly on June 29th, 2009, a sad incident took place in the House when Syeda Bushra Nawaz Gardezi, MPA displayed in the House a banner which contained derogatory remarks against the Leader of the House. The display provoked the Treasury Benches and they started protesting against the display of the banner and Ch. Abdul Ghafoor, Minister for Prisons rushed towards the opposition benches to stop the display. The situation deteriorated and harsh words were exchanged between both the sides. In the meanwhile, some of the Members threw the copies of agenda on one another. After a while of this hue and cry, the opposition boycotted the proceedings of the House. The Speaker immediately constituted a Committee comprising Deputy Speaker, Ministers and Members from the treasury to go to the opposition and to bring them back in the House. Despite their effort, the opposition refused to attend the proceedings. During this incident, the Speaker continuously kept on requesting both the sides to show patience and observe decorum of the House but to no avail

On 1st July 2009, Speaker, Rana Muhammad Iqbal Khan, ruled as under:-

"Without indulging in the debate that who is responsible for this

sad incident, I am of the view that though it is true that there is no prescribed code of conduct for the Members but in order to maintain the highest traditions in parliamentary life, Members of Assembly are expected to observe a certain standard of conduct, both inside the House as well as outside it. Their behaviour should be such as to enhance the dignity of the House and its Members in general. The conduct of the Members should not be contrary to the usage, or derogatory to the dignity of the House or in any way inconsistent with the standards which the Assembly is entitled to expect of its Members.

While the House is sitting, Members are expected to observe certain Rules which are technically known as the Rules of parliamentary etiquettes. These are based on parliamentary traditions and conventions.

I would like to draw the attention of the Members to Rule 202 and Rule 223 of the Rules of Procedure, 1997 which contain provisions about the conduct of the Members while present in the House, e.g. a Member shall not make a personal charge against a Member, a Minister or the holder of a public office, except in so far as it may be relevant in regard to the matter before the Assembly and shall not use his right of speech for the purpose of willfully and persistently obstructing the business of the Assembly; utter unreasonable, seditious or defamatory words or make use of offensive or unparliamentary expression. Let me explain that 'un-parliamentary expression' means any expression which imputes false motives to a Member or charges him with falsehood or is couched in abusive or indecent or undignified language.

It is pertinent to mention here that even for the admissibility of the parliamentary tools such as Questions, Adjournment Motions,

Resolutions, etc. it is pre-requisite that they should not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements.

In the instant incident, I am of the view, that both the parties had to show patience and tolerance which is the basis of democratic norms. Having said that, to uphold the dignity of the august House, I am duty bound to take some remedial action as under:

- A committee comprising the representatives of all the parliamentary groups and headed by the Deputy Speaker is being constituted to frame a code of conduct to avoid unpleasant situation in future;
- 2. In exercise of powers conferred on me under Rule 210 of the Rules of Procedure, Provincial Assembly of the Punjab, 1997 and all other provisions enabling me in this behalf, I, Rana Muhammad Iqbal Khan, Speaker, Provincial Assembly of the Punjab, hereby direct as under:
 - a) (i) Syeda Bushra Nawaz Gardezi, MPA (W-352) shall absent herself for one day i.e. 1-7-2009 from the sitting of the Assembly; and
 - (ii) On her return in the House, she or her representative MPA shall tender apology to the House.

- b) (i) Ch Abdul Ghafoor, MPA/Minister for Prisons shall absent himself from the sittings of the Assembly for 8 days with immediate effect;
 - (ii) On his return to the House, he or his representative shall tender apology to the House."⁷

Provincial Assembly of the Punjab Debates 2009, Vol-13, (Part-II), (Nos.8-13), dated 1 July 2009, pp.1287-89.

(8)

DEROGATORY REMARKS

DEROGATORY REMARKS BREACH DECORUM OF THE HOUSE.

On 27th May 2004, Syed Ihsan Ullah Waqas, MPA (PP-154) used some derogatory remarks about female Members which ignited uproar by the lady Members in the House. The Chairman, Rai Ijaz Ahmad, MPA adjourning the House till 01:00 pm, stated that the decision would be announced after listening to the tape recording.

On resumption of sitting, Speaker, Chaudhry Muhammad Afzal Sahi, ruled as under:-

"Due to the remarks used by Syed Ihsan Ullah Waqas, MPA, distasteful situation was created in the House. I understand that the Members demand that such discussion should not be held in the House. Every Member should take care of respect of other Members during his speech. The dignity of the House be taken care of. No such remarks be used which may breach the decorum of the House or self-respect of any Member. A detailed discussion was held in my Chamber in the presence of Syed Ihsan Ullah Waqas and the female Members and the matter has been settled. I want to make it clear that I will take an action if such attitude was repeated. No such talk will be allowed which may hurt any honourable Member. Syed Ihsan Ullah Waqas, MPA claims that he did not say anything deliberately and takes his words back if they have hurt my sisters and daughters. The female Members also reacted strongly on the remarks of Shah Sahib and I do not

want to repeat those words in the House. I expunge the remarks of Syed Ihsan Ullah Waqas, MPA. I ask the press not to publish these remarks." ⁸



⁸ Provincial Assembly of the Punjab Debates 2004, Vol-15, (Nos.1-5), dated 27 May 2004, pp.254-61.

(9)

DISCUSSION ON MOTIONS FOR EXTENSION OF TIME

DISCUSSION ON MOTIONS FOR EXTENSION OF TIME FOR PRESENTATION OF REPORTS OF THE COMMITTEES.

On 17th November 2005, when the motions for extension in time for presentation of reports of Committees were being moved, Rana Aftab Ahmad Khan, MPA (PP-63) raised a point of order regarding efficiency of the Assembly Committees stating that these Committees, instead of disposing of the business, try to linger on the matters pending with them. Rana Sana Ullah Khan, MPA (PP-70), not only supported this contention, but also added that whether the motion for extension of time in presentation of report could be opposed and discussed? He demanded the Chair (Malik Nazar Farid Khokhar, MPA (PP-192)/Chairman Committee on Privileges) to give his ruling on the matter. The Chair reserved his ruling. ⁹

On 21st November 2005, Chairman, Malik Nazar Farid Khokhar, MPA (PP-192) announced the following ruling:-

"On 17th November 2005, Rana Sana Ullah Khan, MPA had raised a point of order whether the motions for extension in time for presentation of reports of the Committees could be opposed

⁹ Provincial Assembly of the Punjab Debates 2005, Vol-23, (Part-I), (Nos.1-4), dated 17 November 2005, pp.417-23.

and discussed? I am of the view, that the business of the Assembly and its Committees is regulated by the relevant provisions of Constitution and the Rules of Procedure. Rule 166 of the said rules deals with the reports of the Committees and according to this rule, the report of a Committee shall be presented within the limit fixed by the Speaker under rule 94 or within thirty days from the date on which reference was made to it by the Assembly unless the Assembly, on a motion being made, directs that the time for presentation of the report be extended to a date specified in the motion. Rule 169 of the Rules of Procedure provides that if any doubt arises on any point of procedure or interpretation of the rules, the Chairman may, if he thinks fit, refer the point to the Speaker whose decision shall be final.

Let me add that the proceedings of the Assembly are also conducted according to the precedents. Now coming to the point raised by Rana Sana Ullah Khan that a motion can be opposed and discussed, I want to make it clear that the motions for extension of time are such motions which are not opposed and discussed. It has been a precedent that whenever such motion is made, it is not opposed and it is always granted by the House. I, therefore, hold that the motions for extension of time for presentation of reports of the Committees can not be opposed or discussed."¹⁰

¹⁰ Provincial Assembly of the Punjab Debates 2005, Vol-23, (Part-II), (Nos.5-9), dated 21 November 2005, pp.640-42.

(10)

HEAD OF PARLIAMENTARY PARTY

DETERMINATION OF HEAD OF PARLIAMENTARY PARTY AS ENVISAGED UNDER ARTICLE 63-A OF THE CONSTITUTION: SPEAKER DECLINED TO RECOGNIZE CERTAIN MEMBERS AS HEADS OF THEIR RESPECTIVE PARLIAMENTARY PARTIES.

On 09th June 2005, Raja Riaz Ahmed, MPA (PP-65) insisted that Mr Speaker must give his ruling whether Mr Qasim Zia MPA/ Leader of Opposition was Head of the Parliamentary Party of PPPP or not. On the same day, Mr Qasim Zia, MPA (PP-155)/ Leader of Opposition and Mr Aftab Ahmad Khan, MPA (PP-63) contended that under Rule 235 of the Rules of Procedure of the Provincial Assembly of the Punjab 1997, it has been provided that all matters not specifically provided for in these Rules and all questions relating to the detailed working of these Rules shall be regulated in such manner as the Speaker may, from time to time, direct. As such Mr Speaker was competent to define the term "Head of the Parliamentary Party" as used in Article 63-A of the Constitution. The Speaker was of the view that he was not competent to interpret those provisions of the Constitution which were not related to the internal proceedings of the Assembly.¹¹

On 12th June 2005, Mr Ehsan-ul-Haq Ahsan Noulatia, MPA (PP-253) and Mr Sami Ullah Khan, MPA (PP-137), on a point of order, insisted that Mr. Speaker must give a ruling as to who was the "Head of the Parliamentary Party" as used in Article 63-A

¹¹ Provincial Assembly of the Punjab Debates 2005, Vol-20 (Part-I), (Nos.1-5), dated 9 June 2005, pp.15-29.

of the Constitution. Rana Sana Ullah Khan, MPA (PP-70) also advanced argument that he must be recognized as Parliamentary Leader of PML (N). Mr Arshad Mehmood Baggu, MPA (PP-122) asserted that Ch. Asghar Ali Gujjar, MPA must be recognized as Parliamentary Leader of the MMA. Speaker, Ch Muhammad Afzal Sahi promised to give his detailed ruling on the matter subsequently.¹²

Later, Speaker, Chaudhry Muhammad Afzal Sahi, ruled as under:-

"Article 63-A of the Constitution of Islamic Republic of Pakistan deals with disqualification of Members on the grounds of defection etc. Article 63-A was for the first time inserted in the Constitution vide the Constitution (Fourteenth Amendment) Act 1997. The original text of Article 63-A as inserted vide Constitution (Fourteenth Amendment) Act 1997 empowered the Head of Political Party to take action if a Member of a parliamentary party defects in accordance with the procedure laid down therein and to intimate his decision to the Presiding Officer. However, Article 63-A *ibid* has been substituted vide Legal Framework Order 2002 and this substitution has been protected vide Constitution (Seventeenth Amendment) Act 2003. The relevant portion of existing Article 63-A reads as under:

- "(i) if a Member of a parliamentary party composed of a single political party in a House-
 - (a) resigns from Membership of his political party or joins another political party; or

Provincial Assembly of the Punjab Debates 2005, Vol-20 (Part-I), (Nos.1-5), dated 9 June 2005, pp.66-85.

- (b) votes or abstains from voting in the House contrary to any direction issued by the parliamentary party to which he belongs, in relation to-
- (ii) election of Prime Minister or Chief Minister; or
- (iii) vote of confidence or the vote of no confidence
- (iv) a money bill;

he may be declared in writing by the Head of the Parliamentary party to have defected from the political party and the Head of the Parliamentary party may forward a copy of the declaration to the Presiding Officer and he shall similarly forward a copy thereof to the member concerned-

Provided that before making the declaration, the Head of the Parliamentary Party shall provide such Member an opportunity to show cause as to why such declaration may not be made against him."

The term "Head of the Parliamentary Party" has been used for the first time in the Constitution, however, it has neither been defined in the Constitution nor in the General Elections Order 2002, nor in the Political Parties Order 2002 and Rules made there under nor in the Rules of Procedure of the Provincial Assembly of the Punjab 1997, nor in the Punjab Provincial Assembly (Salaries, Allowances and Privileges of Members) Act 1974.

No Member of the Provincial Assembly of the Punjab from the

date of taking oath on 25th November 2002 to the date of filing of declaration under Article 63-A of the Constitution in April 2005 had made an application to the Speaker that he had been nominated or appointed to exercise the power of "Head of the Parliamentary Party" under Article 63-A of the Constitution. When Rana Sana Ullah Khan, MPA, Mr Qasim Zia, MPA/Leader of Opposition and Ch Asghar Ali Gujjar, MPA exercising the powers of the 'Head of the Parliamentary Party' filed declaration of disqualification against certain members of PML (N), PPP and MMA, they were advised by me to quote the relevant provisions of Constitution, law or Rules under which each one of them claimed to be the "Head of the Parliamentary Party" concerned. Each one of them quoted a different mode of his appointment as "Head of the Parliamentary Party".

Rana Sana Ullah Khan, MPA forwarded two resolutions dated 28th March 2005 and 16th April 2005 respectively signed by 40 Members belonging to PML(N) authorizing Rana Sana Ullah Khan to proceed against certain Members of PML(N) under Article 63-A *ibid*.

On the other hand Mr Qasim Zia in his letter dated 1st June 2005 stated that the Assembly Secretariat had addressed him as 'Parliamentary Leader of PPPP' in its communication dated 18th March 2003 dealing with seating arrangements of the Members in the House under Rule 8 of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997.

Contrary to the above two versions Ch Asghar Ali Gujjar stated in his original declaration dated 23rd May 2005 that he had been nominated as "Head of the Parliamentary Party" by the Provincial

President of MMA.

Under Rule 209 of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997 a point of order to be raised in the Assembly must relate to the interpretation or enforcement of the said Rules or such article of the Constitution as regulate the business of the Assembly and shall raise a question which is within the cognizance of the Speaker. The interpretations of such Article of the Constitution which do not regulate the business of the Assembly do not fall within the cognizance of the Speaker.

In view of the provision of the Constitution and the rules quoted above I am constrained to rule that I am not inclined to recognize Rana Sana Ullah Khan MPA, Mr Qasim Zia, MPA/Leader of Opposition and Ch Asghar Ali Gujjar, MPA as "Head of the Parliamentary Party" in terms of Article 63-A of the Constitution of Islamic Republic of Pakistan, 1973. Before filing a declaration under Article 63-A *ibid* they must prove their authority as "Head of the Parliamentary Party" in the light of constitutional and legal provisions. I further rule that the interpretation of the term "Head of the Parliamentary Party" used in Article 63-A of the Constitution is not within the cognizance of the Speaker.

This ruling disposes of the point of order raised by the honourable Members mentioned above.¹³

¹³ The Ruling was communicated to all the Members vide Provincial Assembly of the Punjab Secretariat Letter No.PAP/Legis-1(19)/2002/187, dated 8 July 2005, pp.43-45.



(11)

LOCAL BODIES ELECTIONS

LOCALBODIES ELECTIONS ON NON-PARTY BASIS: ISSUE DOES NOT RELATE TO INTERPRETATION OF RULES AND RUNNING BUSINESS OF THE HOUSE.

On 7th September 2004, Rana Sana Ullah Khan, MPA (PP-70) raised a point of order about holding of Local Bodies Elections on non-party basis.

On 8th September 2004, Chairman, Malik Nazar Farid Khokhar, ruled as under:-

"Yesterday, i.e., on 7th September 2004, Rana Sana Ullah Khan, MPA raised an issue pertaining to the Local Government Department. There was no business regarding the said Department yesterday. Secondly, the issue does not relate to the interpretation or enforcement of Rules or such Articles of the Constitution, as regulate the business of the Assembly. Thirdly, the issue raised on a point of order, was not related to the running business before the Assembly at that moment, therefore, I declare that the point of order was not valid."¹⁴

¹⁴ Provincial Assembly of the Punjab Debates 2004, Vol-17, (Part-I), (Nos.1-5), dated 8 September 2004, pp.510-11.

(12)

ORDINANCE—**PROMULGATION**

PROMULGATION OF ORDINANCE BY THE GOVERNOR AFTER SUMMONING OF THE ASSEMBLY BUT BEFORE THE COMMENCEMENT OF THE SESSION.

During the sitting of the Punjab Assembly on 2nd October 2006, Mr. Arshad Mehmood Baggu, MPA raised a point of order that the Governor had promulgated the Punjab Border Military Police (Amendment) Ordinance 2006 on 26th September 2006, whereas, the Governor had already issued an order on 20th September 2006, summoning the Assembly to meet on 28th September 2006. He requested the Speaker to give his ruling on the point whether an Ordinance could have been promulgated by the Governor after issuing the summoning order but before the commencement of the Session. Since the point of order required interpretation of the Article 128 of the Constitution, the ruling on the point of order was reserved.

On 5th October 2006, Speaker, Chaudhry Muhammad Afzal Sahi, ruled as under:-

"Under Article 128 of the Constitution, the Governor, subject to his satisfaction as to urgency, may promulgate an Ordinance except when the Assembly is in session. The term 'when the Assembly is in session' has been defined in May's Parliamentary Practice and Procedure (20th Edition), p.271 in the following terms-

"A session is the period of time between the meeting of a Parliament whether after a prorogation or dissolution, and its prorogation."

The said definition has been approved by the Supreme Court of Pakistan in the case— Presidential Reference No.1 of 1988, reported as PLD 1989 Supreme Court 75, at p.107.

The above verdict of the Supreme Court is, no doubt, in respect of Article 89 which relates to the President's powers of issuing an Ordinance, it is squarely applicable to Article 128 which pertains to the Governor's similar powers. Viewed in that context, the phrase-'except when the Provincial Assembly is in session' means period commencing on the day of the first sitting of the Assembly after having been summoned and ending on the day the Assembly is prorogued or dissolved. The mere signing of the summoning order regarding commencement of Assembly Session by the Governor or even its notification does not originate the session prior to the date fixed for the purpose by the Governor.

The Governor, by his order dated 20th September 2006, summoned the Assembly to meet on 28th September 2006; and signed the Punjab Border Military Police (Amendment) Ordinance 2006 (Bill No.15 of 2006), on 26th September 2006, when the session of the Assembly had not yet started.

I am also supported by the ruling of former Speaker, Chaudhry Pervez Elahi given by him on 12th June 1997 on an identical point of order raised by Mr. Saeed Ahmad Khan Manais, the then

Leader of Opposition, reported in Punjab Assembly Decisions 1947-1999, pp-288-289.

Since the Assembly was not in Session when the Ordinance was promulgated on 26th September 2006, no violation of the Constitution is involved. The point of order is disposed of accordingly." ¹⁵



 ¹⁵ Provincial Assembly of the Punjab Debates 2006, Vol-26 (Part-I), (Nos.1-6), dated 5 October 2006, pp.554-55.

(13)

POINT OF ORDER

INTERPRETATION OF RULES ABOUT POINT OF ORDER: DECISION OF SPEAKER ON A POINT OF ORDER IS FINAL AND NOT OPEN TO DEBATE AND CRITICISM. POINT OF ORDER SHOULD NOT BE FRIVOLOUS, IRRELEVANT AND AIMED AT OBSTRUCTING THE ASSEMBLY PROCEEDINGS.

During the sitting of the Assembly on 13th June 2011, Mr Ahmed Hussain Deharr, MPA (PP-200) raised a point of order stating that some ongoing development schemes had not been included in the budget despite their approval by the Assembly during the last budget. He protested against the policy of the Planning & Development Department and demanded ruling from the Chair.

The Acting Speaker, Rana Mashhood Ahmad Khan, ruled as under:-

"I have noticed that the Hon'ble Members frequently raise points of order and then insist on the ruling thereon. In this regard, let me clarify the position under the Rules. Rule 209 of the Rules of Procedure deals on points of order. The said rule reads as under:

"Rule 209. Decision on points of order:-

 A point of order shall relate to the interpretation or enforcement of these Rules or such Articles of the Constitution as regulate the business of the

Assembly and shall raise a question which is within the cognizance of the Speaker.

(2) A point of order may be raised in relation to the business before the Assembly at the moment:

Provided that the Speaker may permit a Member to raise a point of order during the interval between the termination of one item of business and the commencement of another if it relates to maintenance of order in, or arrangement of business before, the Assembly.

- (3) A point of order may not be raised before the Speaker has disposed of the earlier point of order.
- (4) Subject to the provisions of sub-Rules (1), (2) and (3), a Member may formulate a point of order and the Speaker shall decide whether the point raised is a point of order and, if so, give his decision thereon, and his decision shall be final.
- (5) No debate shall be allowed on a point of order, but the Speaker may, if he thinks fit, hear the Members before giving his decision.

- (6) A point of order is not a point of privilege.
- (7) A member shall not raise a point of order –

- (a) to ask for information; or
- (b) to explain his position; or
- (c) when a question on any motion is being put to the Assembly; or
- (d) which may be hypothetical; or
- (e) that Division Bells did not ring or were not heard.
- (8) There shall be no discussion on a decision on a point of order."

The gist of the above Rule is that a point of order can be raised strictly in accordance with the requirements of this Rule. Precisely a point of order must relate to the interpretation or enforcement of these Rules, or such Articles of Constitution as to regulate the business of the Assembly and must relate to the business or matter of the Assembly at the time of point of order is raised. Precisely to say a point of order is a pure question of procedure or irregularity raised only when something happens in the course of proceedings which is considered to be a technical defect in the formal and procedural matters. It should not be a frivolous or irrelevant and should not aim at obstructing the proceedings of the Assembly. The decision of the Speaker on a point of order shall be final and not open to debate and criticism. Now, coming to the point of order raised by Mr. Ahmed Hussain Deharr, MPA non-inclusion of development schemes in the budget is in no way a hindrance to

the business of the Assembly. The Hon'ble Members has option of raising of such issues in the Assembly by exercising various parliamentary tools for instance Assembly Questions, Resolution, Motion, and Privilege Motions etc. He may also raise such issues during general discussion on Annual and Supplementary Budget as well as during moving of the cut motions at the time of discussion and voting of grants for demands. The ruling of the Chair during such matters is unwarranted. This clarifies the point of order raised by Mr Ahmed Hussain Deharr, MPA."¹⁶

¹⁶ Provincial Assembly of the Punjab Debates 2011, Vol-27 (Part-III) 28+29, (Nos.11-13), dated 27 June 2011, pp.1030-33.

(14)

PRIVILEGES OF MPAs

STATUS OF THE MPAs: MEMBERS ARE VIPs AND HAVE CERTAIN PRIVILEGES.

On 14th November 2005, Mr Najaf Abbas Sial, MPA, asked the Chair to give ruling about the status of the Members of the Assembly.

The Chairman, Malik Nazar Farid Khokhar, ruled as under:-

"I hold that the status of an MPA is defined in the Privileges Act, 1972; according to which the Members of Assembly are VIP. I think all the Members know that when a Member is arrested. its information is to be given and if the Member is released, information is also conveyed. The Members may visit hospitals and jails. Besides this, an MPA has the same basic civil rights that a common man enjoys, you may study Constitution, and you have the right of speech. Your status is defined. If you need more than that, you may bring a Bill on Private Members' day. You can give your opinion in this Bill, that you are not satisfied with the present Privileges. If the Bill would be in favour of the Members, they would definitely support you. Your status cannot be raised through point of order and would remain the same as has been defined in the Constitution. Under Article 128 of the Constitution, you have all the privileges like that of an MNA and a Senator. So far, as the matter has been discussed about Privileges Committee, in my opinion, it is the first Assembly whose Privilege Committee has taken such decisions which have never been taken before When I

took office as Chairman, Committee on Privileges, I was told that we have no power to punish anybody. Definitely, we do not have to punish anybody, we just have to recommend punishment. The Privileges Committee has decided about 45 out of 54 privilege motions whereas 10 motions are still pending. Among these, we have terminated services of a DSP. Before this, none of the committees of Assembly has ever terminated the services of anyone. On a privilege motion moved by Rana Sana Ullah Khan, we have reverted a police officer. Whether an MPA, an MNA or a Senator, they are representatives of the people and the officers are servants of the people. So your status is clearly defined. You should understand your status. You should study the constitution and the Privileges Act. If you want further addition in it, you may present a Bill for proper legislation on Private Members' day. When an honourable Member does not press his motion, there is no option except to dispose it of."¹⁷

 ¹⁷ Provincial Assembly of the Punjab Debates 2005, Vol-23, (Part-I), (Nos.1-4), dated 14 November 2005, pp.84-85.

(15)

SPEAKING FROM THE GALLERIES

NO ONE IS ALLOWED TO SPEAK FROM THE GALLERIES.

During the proceedings of the House on 28th July 2003, Malik Nazar Farid Khokhar, MPA, criticized the Press on which someone reacted from the Press Gallery. Acting Speaker, Sardar Shaukat Hussain Mazari observed that it was against the parliamentary norms as well as decorum of the House. Rana Sana Ullah Khan, MPA defending the press gallery stated that whatever had been said from the gallery, did not relate to the proceedings of the House. Acting Speaker, Sardar Shaukat Hussain Mazari, however, did not agree to this contention and ruled as under:-

"From the galleries nobody can speak. This is what has happened in the past and this is what is happening at present. This forum is for the Members of the Assembly to talk. If you invite the people from the gallery to participate in the session then the session will not work. This House is meant for the Members of the Assembly, only they can participate, otherwise if every body from the galleries start speaking then you won't be able to speak. It is in the interest of the House. This is my ruling and I stick to this ruling." ¹⁸

¹⁸ Provincial Assembly of the Punjab Debates 2003, Vol-11, (Part-I), (Nos.1-4), dated 28 July 2003, pp.220-23.

(16)

SUMMONING OF SESSION

GOVERNOR MAY SUMMON ASSEMBLY SESSION WHENEVER HE DESIRES EVEN IN THE MONTH OF MUHARRAM.

The fourteenth session of the Assembly was summoned by the Governor to commence from 23rd February 2004 at 11.00 am. On the first day of the Session, Rana Sana Ullah Khan, MPA (PP-70) and Rana Aftab Ahmad Khan, MPA (PP-63) contended that the instant Assembly session had been summoned just in order to give oath to the Member-elect Mr Haroon Akhtar Khan. They were critical about the manner in which the Assembly Session was summoned in the month of *Muharram*.

The Speaker, Chaudhry Muhammad Afzal Sahi, ruled as under:-

"The Session of the Assembly has been summoned by the Governor in accordance with to the Constitution. The Governor is empowered to summon the Assembly Session whenever he desires. In the likewise manner, the instant Session has been summoned by the Governor under Article 109 of the Constitution. The Assembly Session can also be held during the month of Muharram as there are precedents in this regard."¹⁹

¹⁹ Provincial Assembly of the Punjab Debates 2004, Vol-14, (Nos.1-3), dated 23 February 2004, pp.17-25.

(17)

SUMMONING OF THE SESSION

SUMMONING OF THE SESSION BY THE PRESIDENT UNDER ARTICLE 4 OF THE LEGAL FRAMEWORK ORDER 2002, THE PRESIDENT WAS AUTHORIZED TO SUMMON THE PROVINCIAL ASSEMBLY OF THE PUNJAB FOR ASCERTAINMENT OF THE CHIEF MINISTER.

After a period of three years of military intervention, from 1999 to 2002, the Punjab Assembly was constituted as a result of general elections held on 10th October 2002. The then President of Pakistan summoned the Provincial Assembly of the Punjab to meet on 25th November 2002 for administering oath to the members-elect and to hold elections for the office of the Speaker and Deputy Speaker.²⁰ The then President of Pakistan again summoned the Assembly to meet on 29th November 2002 for ascertainment of the members who commands the confidence of the majority of the members of the Assembly (i.e., the Chief Minister).²¹

On 29th November 2002, Rana Aftab Ahmad Khan, MPA (PP-63) raised a point of order that under Article 109 of the Constitution of Islamic Republic of Pakistan, the power of summoning and prorogation of the Assembly vested in the Governor and summoning of the Assembly session by the President was unconstitutional

²⁰ Please see President's Order communicated to the Secretary, Provincial Assembly of the Punjab through Parliamentary Affairs Division, Government of Pakistan's Office Memorandum No.F.1(13)/2002-P.A, dated 20th November 2002.

²¹ Please see President's Order communicated to the Secretary, Provincial Assembly of the Punjab through Parliamentary Affairs Division, Government of Pakistan's Office Memorandum No.F.1(13)/2002-P.A, dated 24th November 2002.

and illegal. He stressed the Chair to give his ruling on the point. Speaker, Chaudhry Muhammad Afzal Sahi reserved his ruling.

On 24th December 2002, Speaker, Chaudhry Muhammad Afzal Sahi, ruled as under:-

"Under clause (3) of Article 2 of the Legal Framework Order 2002, the President of Pakistan was empowered to summon the Provincial Assembly of the Punjab for purposes of oath taking and the election of the Speaker and the Deputy Speaker. Similarly, under clause (4) of the said Article, the President was authorized to summon the Provincial Assembly of the Punjab for purposes of the ascertainment of the Member who commanded the confidence of the majority of the Members for the office of the Chief Minister. In fact, at the relevant time, the Governor had no power to summon the Assembly under Article 109 of the Constitution, as the said Article was under suspension and stood revived on the date on which the Chief Minister assumed office as such. In the circumstances, it is ruled out that the President had summoned the Assembly in accordance with law.

The point of order is disposed of accordingly." ²²

Provincial Assembly of the Punjab Debates 2003, Vol-5, (Nos.1-8), dated 24 December 2002, p.1227.

(18)

TIME LIMIT ON SPEECH OF LEADER OF THE OPPOSITION

The 23rd Session of the Assembly commenced from Friday, 11th March 2011. On the first day of the Session, the joint opposition of Pakistan Peoples Party Parliamentarians and Pakistan Muslim League staged protest over the recent political developments in the Province of Punjab. Amidst the protest, Raja Riaz Ahmad, Leader of the Opposition, started a speech on the prevailing political situation in the Province. Most of the time during the entire sitting was utilized by the Leader of the Opposition. The regular business of the House could not be conducted on 11th March due to his speech and on his own will, the sitting of the day was adjourned till Monday, 14th March 2011.

On 14th March 2011, Raja Riaz Ahmad, Leader of the Opposition took a point of order and resumed his unfinished speech for the second day. The regular business of the House could not be conducted on the second consecutive day and the House was later adjourned till 15th March 2011.

On 15th March 2011, the entire proceedings of the House remained occupied with the protest of the joint opposition over the issue of increase of salaries of young doctors of the Province. The House was adjourned till 16th March 2011.

On 16th March 2011, the Leader of the Opposition, Raja Riaz Ahmad again took a point of order during Question Hour and

resumed his speech. The Chair, time and again, asked the LOP to wind up his speech, but the LOP was of the view that it was his first speech as LOP and he would take another three days to wind up his speech. In the meanwhile, the LOP, the Law Minister and a few other Members came to the rostrum of the Chair and the LOP offered the Chair that he would wind up his speech in an hour. However, when he returned to his seat and resumed his speech again, he changed his mind and insisted that no limitation of time should be imposed on his speech. When reminded by the Law Minister of his undertaking to wind up his speech in one hour, the LOP, on the floor of the House, admitted that he had agreed at the rostrum of the Chair to wind up his speech in one hour, however, he was of the view that no limitation of time should be imposed on the speech of LOP according to the traditions of the House. He, as a protest, declined to continue his speech. ²³

On 21st March 2011, Raja Riaz Ahmad, Leader of the Opposition raised a point that the Speaker was not empowered to fix a time limit on the speech of Leader of the Opposition as he enjoyed the same privilege as of Leader of the House in this regard. He asked the Chair to give his ruling on this point. As the point involved interpretation of law/rules, the Speaker reserved his ruling on the matter.

Later, Speaker, Rana Muhammad Iqbal Khan, ruled as under:-

"I have given detailed consideration to the point raised by the Leader of the Opposition. Before dilating upon the matter in detail,

Provincial Assembly of the Punjab Debates 2011, Vol-23, (Part-II), (Nos.6-9), dated 21 March 2011, pp.455-57.

I consider it appropriate to explain the Rule governing the point of order. A careful study of Rule 209 clarifies that the point of order to be raised in the Assembly must relate to the interpretation or enforcement of the said Rules or such article of the Constitution as regulate the business of the Assembly and shall raise a question which is within the cognizance of the Speaker. There is another very important aspect of the problem to which I must invite the attention of honourable Members before I conclude. This relates to the unnecessary and wholly inexcusable expenditure of the time of the House involved in raising so called points of order which are simply frivolous and quite irrelevant. These can only be characterized as attempts to obstruct the business of the House persistently and willfully, that is to say, a Member who without actually transgressing any of the Rules of debate uses his right of speech for the purpose of obstructing the business of the House. It must be realized that anything that appears on the order paper of the day, is the property of the House and the business stated therein must be transacted in priority to anything else. While it is the Speaker's duty to see that the majority of the House does not oppress the minority, it is equally his duty to see that the minority does not obstruct the business of the House and that its entire proceedings are conducted in a manner consistent with its own dignity as well as with the dignity of its Members.

According to the strict application of this rule, the matter raised by the Leader of the Opposition did not fall within the meaning of point of order; yet, I provided ample opportunity and time to the Leader of the Opposition to express his view point. However, when he himself vowed before me on my rostrum that he would wind up in an hour, I asked him to fulfil his own pledge.

I would like to add that as far as fixing of time limit for his speech is concerned, there are a number of places in the Rules of Procedure of the Provincial Assembly of the Punjab which provide time limit for speeches; the logic behind is to save the time of the House in order to transact and dispose of the normal business of the House. Let me quote the Rule 88, Rule 123, Rule 206, Rule 207, and many others which impose time limit for the Members to speak on particular occasions but the logic behind is common in all the cases, i.e. to facilitate the disposal of normal business of the House.

Coming to the point raised by the LOP about his status being equivalent to the Leader of the House, I would like to say that even Leader of the House will not be allowed to speak for unlimited time and he would also be curtailed, if considered by the Chair, that he is misusing his right of speech in the House.

Having said that, I am of the view that putting of limit of one hour on the speech of Leader of the Opposition was at his own stance and absolutely in accordance with the spirit of the Rules of Procedure of Assembly. The point raised by the Leader of the Opposition is, therefore, stands disposed of."²⁴

²⁴ Please see the Ruling dated 28 March 2011, File No.PAP/Legis-1(19)/2002, p.65.

(19)

WITHDRAWAL OF MEMBER

WITHDRAWAL OF A MEMBER FROM THE ASSEMBLY: THE MEMBER DIRECTED TO WITHDRAW FROM THE ASSEMBLY WILL ALSO BE PREVENTED FROM ENTERING INTO THE PRECINCTS OF THE ASSEMBLY.

On 15th June 2005, Rana Sana Ullah Khan, MPA (PP-70), time and again, used objectionable language during the proceedings of the House which were strongly condemned by the treasury members and were expunged by the Chair.²⁵

Next day, i.e., on 16th June 2005, the House passed a resolution against Rana Sana Ullah Khan, MPA (PP-70), moved by the Minister for Law and Parliamentary Affairs, recommending for suspension of his membership of Assembly and expulsion from attending the instant session. ²⁶ Order by the Speaker was issued accordingly.

On 17th June 2005, Mr Aftab Ahmad Khan, MPA (PP-63), through a point of order raised the issue that under Rule 210 of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997, Mr Speaker was competent to direct a Member whose conduct was grossly disorderly to withdraw from the sitting of the Assembly but he was not competent to prevent a member from entering into

Provincial Assembly of the Punjab Debates 2005, Vol-20 (Part-I), (Nos.1-5), dated 15 June 2005, pp.481-94.

²⁶ Provincial Assembly of the Punjab Debates 2005, Vol-20 (Part-II), (Nos.6-11), dated 16 June 2005, pp.571-73.

the precincts of the Assembly. Speaker, Ch Muhammad Afzal Sahi reserved his ruling to be announced subsequently. ²⁷

Later, Speaker, Chaudhry Muhammad Afzal Sahi, ruled as under:-

"I have given anxious thought to the point raised by Mr Aftab Ahmed Khan, MPA in the light of the relevant provisions of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997. Rule 210 of the Rules *ibid* provides that the Speaker shall preserve order and shall have all powers necessary for the purpose of enforcing his orders. The Speaker may direct any Member whose conduct is, in his opinion, grossly disorderly, to withdraw immediately from the Assembly, and any Member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the sitting. If any Member is ordered to withdraw a second or subsequent time in the same session, the Speaker may direct the Member to absent himself from the sitting of the Assembly for any period not exceeding fifteen days and the Member so directed shall absent himself accordingly.

As is evident that according to Rules *ibid* the words "withdrawal from the Assembly" and absenting from the sitting of the Assembly have the same effect.

Moreover the term "Assembly" has been defined in Rule 2 of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997, to mean the Provincial Assembly of the Punjab, the "House" has been defined to mean the Assembly; and the "Precincts of the Assembly" have been defined to mean the Assembly Chamber's

Provincial Assembly of the Punjab Debates 2005, Vol-20 (Part-II), (Nos.6-11), dated 17 June 2005, p.581.

building, courtyard and gardens, Committee rooms appurtenant thereto, and includes the Hall, Members' lobbies, galleries, rooms of the Speaker, the Deputy Speaker, the Ministers and other offices of the Government located inside the Assembly Building, and the offices of the Assembly Secretariat and any other premises which are notified as such for a specified time by the Speaker in the Gazette.

It is evident from the above mentioned provisions of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997, that the Speaker is competent to direct a Member to withdraw from the Assembly and precincts of the Assembly. Therefore, the Member directed by the Speaker to withdraw from the Assembly for a specified period would also be prevented from entering into the precincts of the Assembly for the said period. Accordingly, I rule out the point of order raised by Mr Aftab Ahmed Khan, MPA (PP-63) on 17th June 2005."²⁸

²⁸ The Ruling was communicated to all the Members vide Provincial Assembly of the Punjab Secretariat Letter No.PAP/Legis-1(19)/2002/4445, dated 29 June 2005, pp. 39-40.





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