



RULING OF THE CHAIR

SENATE FORUM FOR POLICY RESEARCH (SFPR) – APPLICABILITY OF PROVISIONS REGARDING FUNCTIONS AND POWERS OF STANDING AND OTHER COMMITTEES

Ch. Muhammad Anwar Bhinder, Member, Senate Forum for Policy Research, vide letter dated 27th January, 2016, has asked the Chairman Senate, in his capacity as Patron of the Forum to settle the question of the status of the Forum for Policy Research.

2. He has contented that under sub-rule (2) of rule 276 of the Rules of Procedure and Conduct of Business in the Senate, 2012, (hereinafter referred to as “the Rules”) the status of a Standing Committee of the Senate has been conferred upon the Forum, thereby, vesting the Forum with the powers conferred under Chapter XVII of “the Rules”.

3. In order to examine this question, it is necessary, that in the first instance, the provisions relating to and dealing with, Standing Committees and or Functional Committees be taken into consideration. After a perusal of “the Rules”, it emerges as under;

- (i) Chapter XVII is titled as, “*STANDING COMMITTEES, SPECIAL COMMITTEES AND GENERAL PROVISIONS REGARDING STANDING COMMITTEES.*”
- (ii) Rule 158 of “the Rules”, provides for Standing Committees of the Senate. Sub-rule (1) of the said rule provides, there shall be Standing Committees of the Senate for each Ministry of the Government and shall include Functional and other Committees. It then names the Functional Committees. Sub-rule (2) of the said rule provides, that each Committee shall deal with the subject assigned to the Ministry with which it is concerned or any other relevant matter referred to it by the Senate.

- (iii) Rule 165 of “the Rules”, provides for the composition of the Standing Committees, wherein, its membership shall not exceed more than 14 Members to be elected by the Senate.
- (iv) Rule 166 of “the Rules”, provides for the functions of the Standing Committee.
- (v) Rule 174 of “the Rules”, provides for elections of the Members of the Standing and Functional Committees by the Senate.

4. From the above discussion, it is evident that Standing Committees are constituted and deal with the subject matter of a Federal Ministry, of which is it is the Standing Committee. Its Members are elected by the Senate and its functions primarily are related with and pertain to, the Federal Ministry concerned.

5. Now I will proceed to examine the rules pertaining to the Senate Forum of Policy Research. It emerges as under;

- (i) The rules governing the Senate Forum for Policy Research are from rules 269 to 276 of “the Rules”.
- (ii) These rules are placed in Chapter XVIII which is titled, General Rules of Procedure.
- (iii) The composition of the Forum is determined under rule 270 of “the Rules” which provides, that it shall consist of 16 Members, 8 sitting Members of the Senate and 8 retired Members of the Senate, nominated by the Chairman in consultation with the Parliamentary Leaders in the House.
- (iv) The functions of the Forum are described in rule 273 of “the Rules”, they pertain to and deal with, varying issues, to assist and advice when required the Senate, the Chairman, the Committees, the Members and the Secretariat of the Senate; to recommend various policy options; to act as an idea generating and support Forum; it shall promote partnership amongst sitting and former Members of the Senate. In all there are 16 functions that have been specified.
- (v) Rule 274 of “the Rules”, deals with the meetings of the Forum.
- (vi) Rule 275 of “the Rules”, pertains to reports of the Forum.

(vii) Rules 276 of "the Rules", is titled as "Miscellaneous".

6. The upshot of para no. 5, hereinabove, is that the Forum is a body for research, considering various policy options, prepare Statute Book of Pakistan, keep the compendium of Pakistani laws updated, compile the Rulings of the Chairman, suggest ways and means to promote democratic traditions and suggest ways of better coordination between the two Houses in respect of the Finance Bill and matters related to the subject Committees/Joint Committees, IPU and the CPA. It comprises of half of its Members who have retired from the Senate, and the sitting Members are to be nominated by the Chairman in consultation with the Parliamentary Leaders in the House as opposed to the Standing and Functional Committees whose Members are elected by the House.

7. I will now take up the contention of Senator Chaudhary Anwar Bhinder with reference to sub-rule (2) of rule 276 of "the Rules". Rule 276 of "the Rules", is reproduced as under;

"276. Miscellaneous.- (1) The expenses for running the Forum shall be provided by the Senate.

(2) It shall have the status of Standing Committee of the Senate and shall be regulated by the Rules of Procedure of the Senate.

(3) A former Member of the Senate appointed to the Forum shall be allowed the TA, DA and accommodation expenses available to a sitting Member while attending meetings or performing functions related to or in connection with the Forum."

8. Rule 276 of "the Rules", alongwith all other rules dealing with, pertaining to or related with the Forum, i.e. rules 269 to 276, are not placed in Chapter XVII of "the Rules", which deals with Standing Committees, Special Committees and General Provisions Regarding Standing Committees. Instead they are placed in Chapter XVIII of "the Rules", which deals with General Rules of Procedure. The distinction made in the placement of the rules pertaining to the Forum is deliberate as the Committees in Chapter XVII of "the Rules", draw their strength from clause (5) of Article 66, Constitution, 1973, as being Committees drawing their membership from the two Houses constituted under Article 51 and 59 of the Constitution, 1973. While the Forum consists

of Members whose term have expired and those sitting Senators which are its Members are nominated by the Chairman in consultation with the Parliamentary Leaders in the House.

9. Further through rules, which may flow from the Constitution, powers conferred on Committees under Chapter XVII of "the Rules" cannot be conferred upon a Forum or any such other body, as the privileges of Members under Article 66 and the provision of Courts not to inquire into proceedings of Majlis-e-Shoora (Parliament) under Article 69, Constitution, 1973, cannot be conferred as clause (5) and clause (3) of Article 66 and 69, respectively, Constitution, 1973, define Majlis-e-Shoora (Parliament) to mean "either House or a Joint Sitting, or a Committees thereof."

10. This is further elaborated by rule 163 of "the Rules", wherein, the provisions relating to Standing Committees has been made applicable on Functional Committees. The said rule is reproduced as under;

"163. Provisions relating to Standing Committees to apply to Functional Committees.

All other matters including the composition and election to these Committees shall be regulated mutatis mutandis by rules relating to Standing Committee appearing hereinafter." (emphasis provided).

11. It is to be noted that where the intention of the rule makers was to make applicable the mode of election in the composition and all other matters. It explicitly stated that the "rules" relating to Standing Committees shall be applicable. This draws from the discussion in paras No. 8 and 9 hereinabove. Whereas, in sub-rule (2), the word "used" is "status". In dealing with the word "status", I tend to agree with the line of arguments adopted in para 7/N of the file, but before I elaborate, it is essential that the intention of the rule makers is understood. I alongwith the Senator Chaudhary Anwar Bhinder and Secretary Senate, was a Member of the Sub-Committee constituted to draft the said rules of the Forum. The necessity for sub-rule (2) of rule 276, "the Rules", drew from the fact that Members of the Forum both retired and sitting will not be entitled to the TA, DA and accommodation expenses, unless a provision was provided for. Therefore, it was decided that the status of a Standing Committee, should be conferred upon the Forum like the status of a Minister or Minister of State, is conferred upon any person by the Federal Government, which entitles him to the pay and allowances of a Minister or Minister of State, but does not confer upon him the powers of a Minister or a Minister of State nor does it

allow him the right of audience in either House of Parliament. It was pointed out that this "status" will only entitle sitting Members to the TA, DA and accommodation expenses available to Members of the Standing Committee, therefore, as a explanation or enabling provision, sub-rule (3) of rule 276, "the Rules", was provided. The same is reproduced as under;

"(3). A former Member of the Senate appointed to the Forum shall be allowed the TA, DA and accommodation expenses available to a sitting Member while attending meetings or performing functions related to or in connection with the Forum."

12. In the light of the intent explained hereinabove, when sub-rule (2) and sub-rule (3) of rule 276, "the Rules", is read together, one goes behind the veil of confusion. The veil is lifted, when on further scrutiny of clause (2) of rule 276, "the Rules" the words "used" are, " _ _ _ and shall be regulated by the Rules of Procedure of the Senate." (*emphasis provided*). It does not refer to the Rules of Procedure and Conduct of Business in the Senate, 2012. Wherever, otherwise in "the Rules", the intention is the application of the Rules of Procedure and Conduct of Business in the Senate, 2012, it is explicitly so stated. Here the Rules of Procedure of the Senate means its administrative and financial Rules.

13. From the perusal of the Constitution, the rules, and the intent of the rule makers, I have come to the following amongst other conclusions;

- (i) That the Forum, is a body constituted under the Rules of Procedure and Conduct of Business in the Senate, 2012, with specific functions defined in rule 273 of "the Rules". The functions and powers available under Chapter XVII, "the Rules", to Standing Committees and other Committees formed under the said Chapter are not applicable to the Forum.
- (ii) That to the extent of TA, DA and accommodation expenses, the sitting Members of the Forum shall be entitled to the same as provided under the Rules of Procedure of the Senate relating to Standing Committees and, retired Members of the Senate appointed to the Forum, shall be allowed TA, DA and accommodation expenses available to a sitting Member while attending meetings or performing functions related to or in connection with the Forum.

14. The letter dated 27th January, 2016, written by the Senator Chaudhary Anwar Bhinder, Member, Forum for Policy Research is disposed off in the above terms. He may be informed of the findings recorded hereinabove.



MIAN RAZA RABBANI

NI

Chairman Senate

**Dictated on File No. F.21(4)/2016-Legis
dated 24th February, 2016.**