

# SENATE OF PAKISTAN



## **Decisions of the Chair**

**1987 - 1997**

## PREFACE

The first Senate of Pakistan functioned from August 14, 1973 to July 4, 1977. With the imposition of Martial Law in the country on the 5<sup>th</sup> of July, 1977, the constitutional provisions relating to Senate were kept in abeyance. The Senate was revived in March 1985. During all this period, a number of rulings on various issues were pronounced by the presiding officers. The rulings covering the period between August 14, 1973 to July 4, 1977 and 21<sup>st</sup> March, 1985 to 20<sup>th</sup> March, 1987 have already been published in two volumes.

The "decisions of the Chair" contained in the present volume, cover the period from 1987 to 1997. Every effort has been made to reproduce substantially all relevant facts, contentions raised and arguments advanced by members in the House so as to ensure their conformity textually to the printed debates of the House.

This volume is reflective of the collective effort of the officers and staff of the Senate Secretariat. I would like to make particular mention of the active support and cooperation of Raja Muhammad Amin, Joint Secretary Senate and Mr. M. A. Javed Consultant, who deserve thanks and commendation for the hard work and dedication with which they accomplished this task. This edition has been printed indigenously, which has substantially

reduced the expenditure. The present volume, is therefore, an official publication of the Senate Secretariat.

To enable the members to trace out the relevant ruling easily, an exhaustive index with various appropriate heads, arranged alphabetically, has also been appended at the end of the volume.

**ABDUL QAYYUM KHAN  
SECRETARY  
SENATE OF PAKISTAN**

Islamabad, the  
20<sup>th</sup> March, 1997.

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1. **ADJOURNMENT MOTION: Grant of citizenship rights to Hindus residing in occupied Jammu and Kashmir by India: Issue involved violation of U.N. Resolution and affected vital interests of Pakistan: Held to be *prima facie* in order: Leave granted to the mover to move the motion:**

On 1st October, 1987, Prof. Khurshid Ahmed sought leave to move a motion for adjournment of the business of the Senate to discuss an urgent matter of general public importance, namely, the reported attempt on the part of India to grant citizenship rights to Hindus residing in occupied Jammu and Kashmir. He explained that this was a step to disturb the equation between Hindu and Muslim population of Jammu and Kashmir and constituted a violation of the U.N. Resolution under which that territory had been accepted as a disputed territory and on which Pakistan was seeking referendum. The issue, therefore, affected vital interests of Pakistan.

Rana Naeem Mahmud Khan, Minister of State for Defence did not oppose the motion.

The Chairman observed that the motion involved an issue of vital interests of Pakistan and held the motion to be *prima facie* in order. The House granted leave to the mover and the motion was admitted for discussion.

*Senate debate*  
01.10.1987.  
PP 488- 492.

2. **ADJOURNMENT MOTION: Statement of Mr. G. M. Syed in India criticizing the creation of Pakistan and soliciting help of Rajiv Gandhi for establishment of Sindhu Desh : Held in order:**

On 11th October, 1987, Mr. Muhammad Tariq Chaudhary sought leave to move for the adjournment of the business of the Senate to discuss an urgent matter of general public importance, namely, the statement made by Mr. G. M. Syed in India in which he criticized the creation of Pakistan and solicited help of Rajiv Gandhi for establishment of Sindhu Desh.

Raja Nadir Pervaiz Khan, the Minister for Interior, explained that the Prime Minister had already publicly held that such a statement was most irresponsible one coming from a man who called himself a political leader and that he had categorically advised the so-called political leaders to refrain from making such statements. He informed the House that the Government had instructed the Sindh Government to go into the case deeply and to take legal action in the matter. He hoped that appropriate action would be taken under the law in a few months. He, however, opposed the motion on the ground that a question on the subject had recently been answered in the National Assembly. As such he argued that the motion in hand was barred under rule 71(d). A member pointed out that the said rule could be invoked only when an adjournment motion on the subject had been discussed and not on an answer to a question. Thereupon the Minister said that he had no objection to its discussion, if the House so desired.

The Deputy Chairman, held the motion to be in order and admitted the same for discussion, for not more than two hours, under the rules.

*Senate Debate*  
*Dated: 11.10.1987.*  
*PP 752-762.*

**3. ADJOURNMENT MOTION : Statement of the Indian Prime Minister asserting that Siachin Glacier was part of India: One of the purposes of adjournment motion is to bring to the notice of Government its acts of omission: Conduct of a foreign Government and of its head and also events in a foreign country not to be discussed by way of adjournment motion: Not pressed:**

On 28th February, 1988, Maulana Kausar Niazi, Prof. Khurshid Ahmed and Mr. Muhammad Tariq Chaudhary sought leave to move similar motions for the adjournment of the business of the Senate to discuss an urgent matter of general public importance relating to the statement of the Indian Prime Minister on the Siachin Glacier. They explained that Mr. Rajiv Gandhi had in his statement, asserted that Siachin Glacier was a part of Indian territory and that there would be no compromise on the Indian side on this area. He had also disclosed that the Indian army had been put on alert. The bellicose statement revealed the real intentions of the Indian Government towards the whole territory of the Siachin Glacier.

The Minister of state for Defence, Rana Naeem Mahmud Khan, opposed the motions and made a statement on the background of the issue. He informed the House of the efforts being made by the Pakistan Government to find a peaceful and negotiated settlement with India.

Intervening, Mr. Ghulam Ishaq Khan, Chairman, explained that one of the purposes of moving adjournment motion was to bring to the notice of the Government amongst other things its acts of omission and that the point made by all the three honourable members was to know whether the Government had taken cognizance of this bellicose statement issued by Prime Minister Rajiv Gandhi and assuming that the statement was correct, whether any protest was lodged with India. If it had, was there any response from India ? He observed that this was the whole purpose of moving this adjournment motion. He directed the Minister to get the information on this if not already available with him. Till then the motion was deferred.

At the next sitting of the Senate on 6th March, 1988, the Minister of State for Defence, Rana Naeem Mahmud Khan, informed the House *inter alia* that the Indian Charge D' Affairs was summoned to the Foreign Office on March 2nd and told that Pakistan had taken a very serious note of the statement reportedly made by the Indian Prime Minister claiming ownership

of the Siachin area. The Indian Charge D' Affairs was further told that the remarks made by the Indian Prime Minister were patently untenable and unacceptable to Pakistan. It was also pointed out that the statement flew in the face of the agreement reached between the President of Pakistan and the Prime Minister of India in New Delhi on December 17, 1985, as well as that reached between the two Prime Ministers in Kathmandu in November, 1987, for a peaceful and negotiated settlement of the Siachin dispute.

Thereupon the Chairman, observed that in accordance with the established convention the conduct of a foreign government and that apparently including the head of that Government and also the events in a foreign country on which the government of Pakistan had no control, could not be debated in the House by way of adjournment motion. They certainly could be brought under review and discussed and debated when there was a general debate on foreign policy but not as a specific issue by way of adjournment motions.

In the light of the statement of the Minister and above observations of the Chairman, the movers did not press their motions.

*Senate Debates*

*28-2-1988 & 6-3-1988*

*PP 22 to 30 and 37-39*

4. **ADJOURNMENT MOTION: Increase in the discretionary quota of the Prime Minister for allotment of plots in Islamabad from 10% to 40%: Assertion that allotment of plots in Islamabad led to political corruption in the past: Held in order:**

On 26th March, 1989, Prof. Khurshid Ahmed sought leave to move an adjournment motion to discuss an urgent matter of public importance regarding the increase of Prime Minister's quota for allotment of C.D.A. plots from 10% to 40%. The mover explained that originally this quota was 10% and the previous Prime Minister used it to serve his political ends. He asserted that the allotment of plots to members of Parliament had led to political corruption.

The Minister for Parliamentary Affairs conceded that the discretionary quota for the Prime Minister had been increased to 40% but contended that this did not mean that discretion would be left solely in the hands of the Prime Minister. He stated that a committee consisting *inter alia* of public representatives was being constituted to recommend the names of persons to whom plots should be allotted. He assured the House that the Prime Minister had no intention to allot these plots to the members of the Parliament.

The mover pleaded that the allotment of plots in Islamabad on the discretionary basis was a great injustice to the deserving persons particularly the Government servants to whom these should be allotted by ballot.

Nawabzada Jehangir Shah Jomezai expressed the view that Islamabad being the capital of the Federation, the plots therein should be allotted by ballot in such a way as to give representation to all the provinces with an embargo on their re-sale.

On the conclusion of the discussion on the admissibility of the motion, Syed Muhammad Fazal Agha, the Deputy Chairman, held the motion in order and admitted the same for discussion.

*Senate Debate*  
26.03.1989.  
PP 104 - 115

**5. ADJOURNMENT MOTION: Attack on the office of daily 'Markaz' Islamabad allegedly by supporters of P.P.P: Alleged facts denied by the Minister of State for Information and Broadcasting: Police vigorously carrying out investigations: Ruled out of order under rule 75 (f):**

On 23rd May, 1989, Prof. Khurshid Ahmed, Maulana Sami-ul-Haq and Mr. Muhammad Tariq Chaudhary sought to move an adjournment motion to discuss an urgent matter of general public importance, namely, the reported attack by about 30 persons on the office of the daily 'Markaz' Islamabad. The assailants equipped with dangerous weapons raided the office of the newspaper and destroyed part of its machinery, furniture and news print. It was stated in the adjournment motion that the attackers were chanting pro-PPP slogans saying that they would destroy all those who would write against PPP. In support of the adjournment motion, the movers contended that the matter pertained to the responsibility of the Federal Government as the incident took place in Islamabad, only half a kilometer away from the Parliament House, and, therefore, called for the interference by the Senate. It was argued that the matter pertained to the freedom of press which was a federal responsibility.

Mr. Javed Jabbar, Minister of State for Information and Broadcasting opposed the adjournment motion on the ground that the government had nothing to do with the matter and that the allegation about the assailants being supporters of a political party was incorrect. He also said that the police investigation was in progress and every effort would be made to apprehend the culprits and bring them to trial. He also said that there was no delay in the recording of the FIR or in the progress of the investigation. The Minister for Interior had visited the premises himself and the Management had not complained to him against the investigation being carried out.

After hearing the movers and the Minister of State for Information and Broadcasting, the Chairman, Mr. Wasim Sajjad announced the following ruling on 28th May, 1989:-

"Under rule 75(f) of the Rules of Procedure and Conduct of Business in the Senate, 1988 an adjournment motion is not admissible, unless it relates to a matter which is primarily the responsibility and concern of the Government or to a

financial interest. The government has denied any involvement in the matter and has described the accusation as false. No nexus of the government with the incident has been established so far. An incident of this nature requires the government to take appropriate steps for investigation and take all measures for awarding punishment to persons responsible. These steps, according to the honourable Minister, are being taken and the government has acknowledged its responsibility in this part of the matter. In these circumstances the adjournment motions are hit by rule 75(f) of the Rules of Procedure and Conduct of Business in the Senate, 1988. I, therefore, rule the adjournment motions out of order."

*Senate Debates*

*23.5.89. Pages 593-99*

*28.5.89 Pages 890-94*

**6. ADJOURNMENT MOTION: Alleged failure of Government to shift ammunition depots from Niaz Beg Lahore and Malir Karachi and other congested areas of Pakistan to other areas: Matter not of recent occurrence: Ruled out of order:**

On 25th May, 1989, Prof. Khurshid Ahmed sought leave to move an adjournment motion to discuss an urgent matter of Public importance, namely, the alleged failure of Government to shift army ammunition depots from Niaz Beg, Lahore and Malir, Karachi, and other congested areas of the country to other areas, due to financial reasons.

The motion being opposed by the Minister of State for Parliamentary Affairs, the mover explained that the continuance of army ammunition depots near the congested areas of the country might lead to situation such as the Ojheri Camp, Rawalpindi in April, 1988. With the increase of population in the towns, the Government should have prepared plans for the shifting of the ammunition depots situated in the congested areas to other suitable places.

Dr. Sher Afgan, Minister of State for Parliamentary Affairs asserted that the matter proposed to be discussed was neither of recent occurrence nor did it relate to one definite issue. The motion was therefore, inadmissible under rule 75(a), (b) and (c) of the Rules of Procedure and Conduct of Business in the Senate, 1988.

Mr. Wasim Sajjad, Chairman Senate observed:

"It appears to me that the ammunition depots have been there for some time. It is not a matter of recent occurrence. Accordingly the motion is hit by rule 75(a) and is ruled out of order."

*Senate Debate*  
25.5.1989  
PP 832 - 38.

7. **ADJOURNMENT MOTION: Clash between Sindhis and Muhajirs in Hyderabad and Karachi resulting in death of fourteen persons and injuries to several others: Handbills from Sindhi extremist organization distributed threatening non-Sindhis to leave Sindh: Minister's contention that it was a provincial matter: In view of Prime Minister's statement describing situation in Sindh as a mini insurgency motion held in order:**

On May 22, 1989, Mr. Muhammad Tariq Chaudhary sought leave to move an adjournment motion to discuss an urgent matter of general public importance, namely, the law and order situation in Hyderabad and Karachi arising out of the clash between Sindhis and Muhajirs in which fourteen persons were killed and several others injured.

Dr. Sher Afgan, Minister of State for Parliamentary Affairs opposed the motion. The mover contended that as reported in the press, the clash between Sindhis and Muhajirs took place over the demand from the students for use of unfair means in two examination centres in Hyderabad and it

resulted in the death of fourteen persons and injuries to several others. After the clash, handbills from the Sindhi extremist organization were distributed, threatening non-Sindhies to leave Sindh. Army was also called to restore law and order. This development caused grave concern to the people in the entire country.

Dr. Sher Afgan, Minister of State for Parliamentary Affairs, pleaded that the law and order being a provincial matter, the Federal Government was not primarily concerned with it.

At this juncture, the Chairman, Mr. Wasim Sajjad drew attention of the Minister to the recent statement of the Prime Minister wherein she had described the situation in Sindh as a mini insurgency and held that in view of that statement, the matter would become the responsibility of the Federal Government in terms of Article 148(3) of the Constitution. He adjudged the motion to be in order and observed:

"Recently the honourable Interior Minister made a statement that the Government wanted to convene an All Parties Conference to deal with the matter. This also shows that the Government is accepting responsibility and its concern with the matter. In these circumstances, I hold the adjournment motion to be in order."

*Senate Debate.*

*22.5.1989.*

*PP 524 - 28.*

**8. ADJOURNMENT MOTION: Shortage of materials in Hyderabad for preparing identity cards: Facts denied: Also matter not of urgent nature and of recent occurrence: Ruled out of order:**

On 28th May, 1989, Prof. Khurshid Ahmed sought leave to move an adjournment motion based on a report appearing in the daily 'Jassarat' dated 17th April, 1989 according to which the work of preparation of National

Identity Cards was held up in Hyderabad area for want of material required for the printing of these cards. The mover in support of his adjournment motion contended that the matter pertained to the Federal Government and was a matter of public importance because it related to the printing of the Identity Cards which were essential for the identification of the citizens of the country.

Dr. Sher Afgan, Minister of State for Parliamentary Affairs while opposing the motion stated that the matter was purely a local problem and it was not a matter of even provincial nature. Moreover, it was not a matter of urgent nature because shortage of material took place over a period of time and not overnight. It was not a matter which had arisen all of a sudden. He also stated that at the moment there was no shortage of material and the process of production of identity cards was continuing in routine.

After hearing the mover and the Minister of State for Parliamentary Affairs, Mr. Wasim Sajjad, the Chairman, ruled the motion out of order and observed :

"In view of the statement of the honourable Minister of State for Parliamentary Affairs and particularly the statement by which he has denied the truth of allegations and also the fact that this is not a matter of an urgent public importance as shortage takes place over a period of time, I hold the adjournment motion out of order."

*Senate Debate*  
*28.05.1989*  
*PP 887 - 890.*

9. **ADJOURNMENT MOTION: Arrest of the Editor of 'Hurmat' and 'Pakistan Observer': Matter *sub-judice*: Ruled out of order under rule 75(1):**

On 18th September, 1989, Mr. Muhammad Tariq Chaudhary, Syed Faseih Iqbal and Prof. Khurshid Ahmed sought leave to move an adjournment motion based on the reported arrest of Mr. Zahid Malik, Editor of weekly 'Hurmat' and 'Pakistan Observer'. Prof. Khurshid attached a copy of the daily 'Nawa-i-Waqt', dated 17th of August, 1989, where details of this incident had been given. According to the newspaper, the journalist Mr. Zahid Malik had been arrested by the FIA and a case under the Official Secrets Act had been registered against him for writing a book titled 'Dr. Abdul Qadeer and the Islamic Bomb'. It was also reported in the newspaper that Mr. Zahid Malik would be produced before the court of the Magistrate the following day for obtaining his remand. According to the movers the arrest of the journalist was a flagrant violation of the right of free speech and the freedom of individual guaranteed by the Constitution of Pakistan.

Dr. Sher Afgan Khan, Minister of State for Parliamentary Affairs opposed the adjournment motion. His main argument was based on rule 75 sub-clause (1) of the Rules of Procedure and Conduct of Business in the Senate, 1988, which reads as follows:

"An adjournment motion shall not relate to a matter pending before any court or other authority performing judicial or quasi-judicial functions."

There is a proviso to this clause which states:

"Provided that the Chairman may, in his discretion, allow such matter being raised in the Senate as is concerned with the procedure or subject or stage of inquiry and if he is satisfied that it is not likely to prejudice the consideration of the matter by such court or authority".

Ruling the motion out of order, the Chairman, Mr. Wasim Sajjad observed:

"I have been informed that Mr. Zahid Malik has already been

granted bail by the High Court. I have also been told by the honourable Minister of State for Parliamentary Affairs that the challan of the case has been submitted to court and, therefore, the matter is before the court for consideration. I am of the opinion that the matter is subjudice and I would not like to exercise my discretion to allow a discussion because it might prejudice the trial of the case by the competent court. In these circumstances I hold this adjournment motion to be out of order."

*Senate Debate*  
18.9.1989  
PP 113-124.

10. **ADJOURNMENT MOTION: Questionnaire asking for religious inclination of Government servants and political affiliations of their relatives allegedly issued by the Establishment Division: Alleged facts denied by Minister of State for Parliamentary Affairs but could not describe the contents of the Questionnaire circulated in the Press: In view of incomplete information given by the Minister about subject matter, motion admitted for discussion:**

On 3rd December, 1989, Senator Qazi Abdul Latif sought leave to move an adjournment motion to discuss an urgent matter of general public importance namely, the situation arising out of the Questionnaire issued by the Establishment Division requiring all Gazetted Government servants to furnish the information *inter alia* as to whether they were liberals or fundamentalists and what were the political affiliation of their relatives. He had based his motion on the news item appearing in a local newspaper. He contended that the Questionnaire had created a lot of anxiety among civil servants as it was generally believed that the information asked for therein would be used for deciding their cases for promotion.

The motion was opposed by the Minister of State for Parliamentary Affairs on the ground that it was not based on facts.