



RULING OF THE CHAIR

ADJOURNMENT MOTION

(Referral of subject matter of an Adjournment Motion to the Committee)

This ruling flows from Adjournment Motion No. AM.No. 01(122)/ 2015-M, notice of which was given on 27-11-2015, by Senator Taj Haider. The Motion was admitted on 22nd December, 2015 and was fixed as the last item on the Orders of the Day for the 28th December, 2015, when it was discussed.

2. At the conclusion of the discussion, a question arose, that the matter be referred to the Standing Committee concerned, the Minister Incharge had no objection. The Chairman Senate, observed as under;

“Thank you. The question before me is that the Government has no objection to referring it to the Committee. There is a demand from the members that it be referred to Committee. The question before me is that I refer it to Committee, it pertains to an individual company and will that be setting a precedent in future. Would it invoke in some manner or another, a question of pecuniary interest. I will reserve my Ruling on this, _ _ _ _ _”.

3. I have perused the available record in the light of the Rules of Procedure and Conduct of Business in the Senate, 2012, (hereinafter referred to as “the Rules, 2012”), read with Black’s Law Dictionary (Ninth Edition), Stroud’s Judicial Dictionary (Seventh Edition), Erskine May Parliamentary Practice (Twenty Third Edition) and MN Kohl Shakadher Practice and Procedure of Parliament (Sixth Edition). My tentative observation, reproduced hereinabove, in as much as it pertains to “pecuniary interest”, is not substantiated, further all are Hon’ble Members but the principle needs to be decided.

4. However, two questions arise, namely;

- i) *Whether a question on which the House has been adjourned can be referred to a Committee of the House by the Chairman Senate?*

- ii) *Whether it is just or proper or within the scope of parliamentary functions, for Parliament or one of its Committees, to act as an arbitrator between any private business and the Government?*

I will now proceed to take up each question individually.

- Q (i)** *Whether a question on which the House has been adjourned can be referred to a Committee of the House by the Chairman Senate?*

5. An Adjournment Motion is dealt with in Chapter XI, rules 85 to 93, of “the Rules, 2012”, in the Rules of Procedure and Conduct of Business in the National Assembly, 2007 (as modified up to 29th January, 2013) the same is dealt with in Chapter XIII, rules 109 to 117. The Rules of Procedure and Conduct of Business in the Lok Sabha (Fifteenth Edition), deals with a Adjournment Motion in Chapter IX, rules 56 to 63. Similarly the Rules of Procedure and Conduct of Business of the Council of States, Rajya Sabha (Eighth Edition) deals with Adjournment Motions under the name of “Motions on Matter of Public Interest” in Chapter XII, rules 167 to 174. The aforementioned rules carry a similarity while dealing with Adjournment Motions, Notice of a Motion, conditions of admissibility of a Motion, asking leave for a Motion, granting or withholding of leave, time limit for determination of admissibility and restriction on number of Motions. Our Parliament defers from the Indian Parliament in the treatment of the Motion after discussion.

(i) “The Rules, 2012”, envisage four situations wherein, the Chairman Senate, may refer a matter to the Standing Committee concerned. In the first instance, rule 55 and other such rules provide in certain cases, the Chairman Senate, after taking the sense or permission of the House may refer a matter to the concerned Committee. In the second instance, rules 75 and 76, where, the Chairman Senate, in his own discretion may refer the matter to the concerned Committee. In the third instance, rule 166 while dealing with the functions of a Standing Committee provides that a Bill, subject or matter may be referred by the Chairman. In the fourth instance, where it is not explicitly provided under the rules the Chairman Senate, may use his inherent powers under rule 264 and refer the matter to a Committee.

(ii) In the instant case rule 92, “the Rules, 2012”, places a fetter on the Chairman Senate, from putting a question to the House as envisaged in the “first instance”. The said rule, for the sake of convenience is reproduced as under;

“92. Question to be put.- On a Motion under rule 85, the only question that may be put shall be “that the Senate do now adjourn” but no such question shall be put after the time for the discussion of the Motion had expired.” (emphasis provided).

In rule 92, “the Rules, 2012”, two words are significant namely “question” and “only”. The word “question” has been defined in May’s Parliament Practice (Twenty Third Edition) at page 381, to mean.

“A matter requiring the decision of the House of Commons is decided by means of a question put from the Chair upon a motion made by a Member. The essential stages in obtaining a decision of the House are the moving of a motion; the proposing of the question by the Chair; and the putting of the question and collection of voices by the Chair.”

“The word “only” has been defined in the “Law Lexicon, the Encyclopaedic Law Dictionary” (Third Edition), as;

“Liable only for the amount opposite his name’, as used in a subscription contract providing that a subscriber shall be liable only for the amount opposite his name is so construed as to make the contract a several obligation.

An endorsement on a bill of exchange to “pay to J.S. only” has been held to be a restrictive endorsement, which operates to put an end to the negotiability of the paper.

As to the, meaning of this word see also 10 All 418: 8 Awn 93. The significance of the word “only” is that, other qualifications being equal, the face, religion or caste of a citizen should not be a ground of preference or disability. *Dorairajan v. State of Madras*, AIR 1951 Mad 120, 133 (FB). (Art. 15(1)29(2), Constitution of India).”

The word “only” in rule 92, “the Rules, 2012”, bars any other question from being put before, during or after the Adjournment Motion under rule 85, “the Rules, 2012”, has been moved, except, “that the Senate do now adjourn.”

This bar overrides the four specific powers of the Chairman Senate to refer a matter to the concerned Committee.

(iii) The rules dealing with or pertaining to the powers of the Chairman Senate, to refer a matter to a Committee of the House the synthesized position that emerges vis-a-vis Adjournment Motion is;

- i) the word “only question”, precludes the Chairman Senate from asking a question as stated in the “first instance”, para 5 (i) herein above;
- ii) there is no specific provision in Chapter XI, “the Rules, 2012”, pertaining to Adjournment Motions, whereby, the Chairman in his discretion can refer a matter to a Committee of the House as envisaged in the “second instance”, para 5(i) herein above;
- iii) the Chairman can not rely on rule 161 as there is an explicit bar placed under rule 92, the “third instance”;
- iv) the Chairman cannot use his inherent powers as provided in the “fourth instance”, para 5(i) herein above, as there is an explicit bar in the said rule;
- v) the position that emerges in the light of the bar placed in rule 92, of “the Rules, 2012”, of raising no other question except, “the Senate do now adjourn” and, there being no other rule allowing the Chairman Senate to use his discretion in referring a matter to a Committee of the House, I conclude that for the reasons stated hereinabove, a matter raised through an Adjournment Motion under rule 85, cannot be referred by the Chairman or the House to a Committee of the House. Thus question No. (i) is disposed off in the above terms.

I will now proceed to take up question No. (ii).

Q (ii) *Whether it is just or proper or within the scope of parliamentary functions, for Parliament or one of its Committees, to act as an arbitrator between any private business and the Government? No matter how national or converted to policy it may soon.*

6. I am guided by what Rumi said “*Rationality leads to love – Rationality opens the doors of truth when you enter there is a veil*”. Private sector enterprises cannot be allowed to use through a Member or otherwise, a parliamentary tool to further their business interests; or, seek dispute resolution with the Government or any other person or body acting through or under it.

(i) This does not preclude Parliament from examining, scrutinizing or monitoring any Government policy or action made, taken or done with reference to or related with the private sector, provided that it falls within parameters defined by the Constitution, law and the rules.

(ii) Question No. (ii) is disposed off in the aforesaid terms.

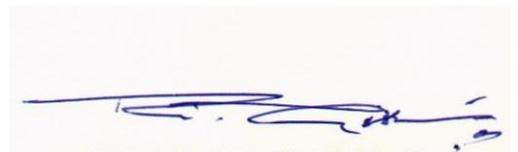
7. The past practice, including during my tenure, inadvertently, may at times have been slightly flawed or not stricto sensu been in consonance with the rules. Therefore, before parting with the Ruling, the procedure inconformity with, “the Rules, 2012”, is enunciated as under;

- (i) Subject to the rules a Motion for Adjournment of the business of the House for discussing a matter of urgent public importance may be made with consent of the Chairman (*rule 85*).
- (ii) Notice of a Motion under rule, 85, explaining the matter to be discussed shall be delivered to the Secretary not less than two hours before commencing of the sitting in which the motions is proposed to be moved. The Secretary shall bring the notice to the knowledge of the Chairman, Leader of the House, the Minister concerned and the Minister for Parliamentary Affairs (*rule 86*).
- (iii) The Secretary shall place on the Orders of the Day, the first three Adjournment Motions received in the Secretariat, in the same order they were received.
- (iv) The Motion should meet the conditions of admissibility as specified in “the Rules, 2012” (*rule 87*).
- (v) Leave to make a motion shall be asked as entered in the Orders of the Day or otherwise (*rule 88*).
- (vi) Leave to make a motion should be asked for only by a Member, if the said Member is absent at the time the matter is taken up it shall be treated as dropped and disposed off. A member may read out his motion. The Chairman shall inquire from the Minister Incharge concerned if the motion is opposed, if so the Minister may make a brief statement thereon to which the member may reply confining himself to the question of admissibility of the motion (*rule 88*).

- (vii) If after hearing the Member and the Minister, the Chairman is of the opinion, that the matter proposed to be discussed is in order, he shall ask whether the Member has leave of the Senate 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. If 1/4th of the total membership of the Senate rises, the Chairman shall announce that leave is granted and fix a time and date for the motion to be taken up as the last item on the Orders of the Day, for discussion (*rule 89*).
- (viii) The total time for asking for leave under rule, 88 or the grant or withholding of leave under rule 89 shall not exceed half an hour. (*rule 90*).
- (ix) Not more than one motion shall be admitted on any one day; but motions if any, remaining unconsidered on the question of admissibility shall be taken for the next day in the same order in which they were received (*rule 91*).
- (x) On a Motion under rule 85, the only question that may be put shall be “that the Senate do now adjourn”, but no question shall be put after the time for discussion of the motion has expired.

Explanation: At the commencement of a motion under rule 85, the motion, “that the Senate do now adjourn”, shall be taken up. The Chairman may, on being satisfied that there has been adequate debate, put the question to the House, and the House shall stand adjourned to meet on the date and time specified by the Chairman (*rule 92*).

In the terms more specifically provided for in paragraphs No. 5(iv) and 6(i) and (ii) herein above the questions raised in paragraph No. 4 are hereby disposed off.



MIAN RAZA RABBANI
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Chairman Senate

Senate Sitting dated 11th February, 2016
124th Session – Announced in the House.