



## RULING OF THE CHAIR

In the present case, this Ruling stems from the following amongst other facts and grounds, which were confirmed by the Hon'ble Minister for Law and Justice, in the House, during the course of his arguments in the sitting of the 250<sup>th</sup> Session of the Senate on 21<sup>st</sup> July, 2016.

2. The National Command Authority (Amendment) Ordinance, 2016, (Ordinance No.1 of 2016) herein after referred to as, "the Ordinance", was promulgated on the 13<sup>th</sup> March, 2016. It was laid in the National Assembly on the 14<sup>th</sup> June, 2016, and in the Senate on the 15<sup>th</sup> June, 2016. "the Ordinance", was to expire on the 11<sup>th</sup> of July, 2016. The National Assembly, where "the Ordinance" was first laid, on the 20<sup>th</sup> June, 2016, extended its life by the way of a Resolution for 120 days with affect from the 11<sup>th</sup> July, 2016, the date of its expiry. Therefore, "the Ordinance" is now valid till the 8<sup>th</sup> November, 2016.

3. The Hon'ble Law Minister, stated the reason for the delay in "the Ordinance" being laid before Parliament, was a difference of opinion between the sponsoring Ministry i.e. the Ministry of Defence and the Ministry of Law, as to whether it was a Money Bill or not. The Attorney General for Pakistan was also consulted and the final conclusion was that it is not a Money Bill, as a consequence a certificate to this affect was issued on 9<sup>th</sup> June, 2016. "The Ordinance" was laid before Parliament on the dates mentioned hereinabove.

4. From the foregoing facts, it emerges that "the Ordinance" which was notified in the official Gazette on 15<sup>th</sup> March, 2016, was laid in terms of clause (2) of Article 89 of the Constitution, 1973, in the Senate on 15<sup>th</sup> June, 2016 after a delay of 92 days and in the National Assembly on the 14<sup>th</sup> June, 2016 after a delay of 91 days.

5. From the admitted facts, the point thus falls for determination is, "**what is the effect of an Ordinance being laid after 92 days of its promulgation on the rights, privileges and functions of the Members of Parliament?**" In order to determine this question, in the Senate sitting of the 249<sup>th</sup> Session dated 15<sup>th</sup> June, 2016, I issued Notice to the learned Leader of the Opposition, Senator Barrister Aitzaz Ahsan, the Hon'ble Federal Minister for Law and Justice Mr. Zahid Hamid, MNA, Mr. Ashtar Ausaf, Attorney General for Pakistan, Senator Muzaffar Hussain Shah, Senator Barrister Saif, Senator Javed Abbasi, Chairman, Standing Committee on Law and Justice and Senator Dr. Zaheer-ud-Din Babar Awan to assist the Chair in the sitting on the 21<sup>st</sup> July, 2016.

6. Subsequently on 13<sup>th</sup> July, 2016, the Senate Secretariat issued reminder Notices to the aforesaid and, in the sitting on the 20<sup>th</sup> July, 2016, I repeated the Notice in the House.

7. Senator Barrister Saif, being out of the country, sent his written arguments with reference to the question hereinabove, through e-mail. The learned Attorney General for Pakistan is out of the country and will not return before the 23<sup>rd</sup> July, 2016, Senator Muzaffar Hussain Shah is also out of the country while Senator Javed Abbasi was present in the House on the said date but choose to leave before the question was taken up. The Hon'ble Minister for Law and Justice, Mr. Zahid Hamid, and the learned Leader of the Opposition, Barrister Aitzaz Ahsan assisted the Chair.

8. The gist of arguments of the Hon'ble Minister for Law and Justice, the learned Leader of the Opposition and the written synopsis of the arguments of Barrister Saif are reproduced herein asunder;