

SENATE SECRETARIAT

REPORT OF THE COMMITTEE ON RULES OF PROCEDURE AND PRIVILEGES ON BREACH OF PRIVILEGE OF THE HOUSE DUE TO INAPPROPRIATE/IRRESPONSIBLE REPLY SUBMITTED BY THE JOINT SECRETARY, CABINET DIVISION, ON THE REPORT OF THE SENATE SPECIAL COMMITTEE ON DEVOLUTION PROCESS WHICH WAS ADOPTED BY THE HOUSE AND SENT TO THAT DIVISION FOR NECESSARY ACTION.

(Report No. 23 of 2016)

I, Chairman of the Committee on Rules of Procedure and Privileges, have the honour to present report of the Committee on Breach of Privilege of the House due to inappropriate/irresponsible reply submitted by the Joint Secretary, Cabinet Division, on the report of the Senate Special Committee on Devolution Process which was adopted by the House and sent to that Division for necessary action.

2. The composition of the Committee is as under:-

1.	Senator Dr. Jehanzeb Jamaldini	Chairman
2.	Senator Zahida Khan	Member
3.	Senator Hilalur Rehman	Member
4.	Senator Atta Ur Rehman	Member
5.	Senator Nighat Mirza	Member
6.	Senator Syed Muzafar Hussain Shah	Member
7.	Senator Saud Majeed	Member
8.	Senator Saeed Ghani	Member
9.	Senator Zaheerud Din Babar Awan	Member
10.	Senator Aitzaz Ahsan	Member
11.	Senator Farooq Hamid Naek	Member
12.	Minister for Parliamentary Affairs.	Ex-Officio Member

3. The details of the matter before the Committee were that the House constituted a special committee on devolution process to oversee the process of devolution in pursuance of 18th amendment in the Constitution. That committee submitted its report to the House which was adopted and was sent to the Cabinet Division for appropriate action. The Joint Secretary of that Division sent a letter to

the Senate Secretariat stating therein the steps taken by that Division on the report mentioning the quarters to which the matter was sent and the response of the same. At the end he proposed that the Senate may reconsider the recommendation made in the report. The reply was placed before the House on 3rd March, 2016. The House discussed the matter in details. The majority of the members, except the Leader of the Opposition, took strong view and requested the Chair to take decision on the matter there and then. They were of the view that there was no need to refer the matter to the committee. However, the Chairman Senate referred the matter to the Committee on Rules of Procedure and Privileges for investigation and report. The committee considered the matter in its meeting held on 7th April, 2016. The Secretary Cabinet and Dr. Iram A. Khan, J.S., Cabinet Division, were summoned to appear before the Committee and explain their position on the matter.

4. The Chairman committee stated that the matter was of very serious nature involving contempt of the House. He said that the Parliament is supreme and all the bureaucracy should take the Parliamentary business seriously.

5. Senator Syed Muzafar Hussain Shah highlighted various aspects of the matter. Referring rule 196 of the Rules of Procedure and Conduct of Business in the Senate, 2012, he stated that there were only two options with the Cabinet Division for responding to the report adopted by the House. The Division should have implemented the recommendations in the report or inform the Senate of the reasons for not implementing the same. Referring rule 9 of the Rules of Business 1973, he stated that the Secretaries' Committee is meant to discuss the administrative matters of the Government. That committee has no authority, whatsoever, to consider and give its opinion on the matters adopted by the Senate. Referring to minutes of the meeting of that committee held on 8th September, 2015, he stated that the advice tendered by that committee to the Cabinet Division to take up the matter with the Senate of Pakistan for reconsideration of recommendations contained in the report

of the special committee on devolution process and finding them implicated, lacking constitutional backing and against the principle of distribution of power between different organs of the state was uncalled for. He said that the Secretaries' committee can not sit over the recommendations of the Parliament. He was of the view that there was only one way to challenge the recommendations and that was challenging the same in a court of law. Referring the personal statement of Dr. Irum A. Khan, Joint Secretary, Cabinet Division, he inquired that how it was a matter of great shock and anxiety for him (the Joint Secretary) on knowing that his letter breached the privilege of the Senate. He said that the Chairman Senate rightly observed that the tone and tenor of the letter and the report enclosed thereto was against the prestige of the House and against the rules. The direction conveyed to the Senate of Pakistan was a contempt of the House. He was of the view that only the approval of the Cabinet was required on the matter and not of the Prime Minister or any other authority. Regarding rule 44 & 45 of the Rules of Business 1973, the Senator stated that if the Division was of the opinion that the matter was detrimental to the public interest or deal with important policy which required the order of the Prime Minister or the Cabinet, it should have referred the case to the Prime Minister or the Cabinet, as the case may be. No other forum or authority was competent to sit on the recommendations of the House. He inquired about the reasons for sending the matter to the Secretaries' committee. He said that the act of referring the matter to that committee was a violation of the Constitution, Senate Rules and Rules of Business of the Government. He said that the Secretaries' committee lowered the dignity of the Senate by issuing directions to it (the Senate) for reconsideration of its recommendations. He said that the Division should have simply informed the Senate that the recommendations could not be implemented as provided vide sub rule (3) of rule 196 of the Rules of Procedure and Conduct of Business in the Senate, 2012. He was of the view that the mistake committed by the Joint Secretary should have been apologized in the working/briefing papers. He said

that the privilege of the House was breached by the letter written by the Joint secretary as well as by the Secretaries' committee by considering the recommendations of the Senate and asking for reconsideration of the same. He stated that the Secretaries' committee was of the opinion that the Senate do not has the powers to make such recommendations which was a clear breach of privilege.

6. Senator Sehar Kamran stated that while considering the matter under consideration, it was the opinion of the House that the letter written by the officer was a breach of privilege of the House. She said that it was not an opinion of any individual Member rather it was collective opinion of the House. She also stated that the response on the recommendations of the House clearly shows the mindset of the Government. The contents of the letter and report of the Secretaries' committee shows the intent. Condemning the attitude of the concerned persons, she said that such type of behavior was not acceptable.

7. Senator Col. (R) Syed Tahir Hussian Mashhadi agreed to the point of view of Senator Syed Muzafar Hussain Shah. He added that bureaucratic mind set had not been changed. He said that it was a clear cut breach of privilege of the Senate. He also said that the breach of the privilege of the House is like contempt of court. He was of the view that the authority of the Senate was challenged by proposing reconsideration of its recommendations. He said that a group of Secretaries can ^{not} sit on the recommendations of the House. He was of the view that consideration of recommendations of the Senate by the Secretaries' committee was unconstitutional.

8. The Chairman Committee endorsed the rules position explained by the Members. He was of the view that the proposal by the officer for reconsideration of the recommendations of the Senate was unjustified and uncalled for. He said that the regret showed by the officer was not enough and ^{not} acceptable. The officer had not accepted the mistake in his written statement and has not apologized for the same.

He said that the point of view of the Secretaries' committee cannot be accepted. He directed that the Secretaries' committee should refrain from such practices in future.

9. Dr. Irum A Khan, Joint Secretary, Cabinet Division, stated that the competent authority in the case was Prime Minister. He sent the case to the Prime Minister for approval and after having been approved by the Prime Minister he wrote the letter to the Secretary Senate and not to the House.

10. The Minister for law and Justice said that it was not based on facts that the officer concerned has not apologized. He informed that the officer had apologized three times in his written statement. He stated that the letter was written to the Senate Secretariat and not to the House. The officer conveyed the decision of the competent authority to the Senate Secretariat which was not his personal point of view or he has not written the letter at his own. It was not disrespect to the House. The matter, involving a number of steps to be taken, was referred to the Secretaries' committee. The Division was required to submit the report on the recommendations of the Special Committee within two months. A summary was prepared for Cabinet approval also, however, the Cabinet meeting was not held during that period due to which a request for extension was made. The second extension was not granted second time. The case was also referred to the Ministry of law for opinion. He referred the statement made by the Leader of the Opposition in the House on the matter under consideration and stated that he (Leader of the Opposition) realized the factual position. He said that the point of view expressed in the letter was the point of view of the Prime Minister and not of the Joint Secretary. He was of the view that the implementation of recommendations of the special committee required wide spread amendments in various laws which was not possible within two months. On a query made by Senator Syed Muzafar Hussain Shah, the Minister stated that the matter was referred to the Secretaries' committee in pursuance of rule 9 of the Rules of Business 1973. The idea behind referring the matter to that

committee was to have collective wisdom. He said that the matter was referred to that committee keeping in view the time constraints.

11. Senator Atta Ur Rehman stated that it was the point of view of the whole House that the privilege of the House was breached in the case in hand. He said that the House was not in favour of referring the matter to the committee for investigation and wanted to decide it there and then in the House. He asked the officer concerned to tender apology.

12. Senator Mushahid Ullah Khan endorsed the point of view of Senator Syed Muzafar Hussain Shah on the subject matter. He stated further that the senior officers do not take care of such type of communications and they sign the letters drafted by the juniors without reading the same.

13. The Minister of State for Parliamentary Affairs stated that the Government is answerable to the Parliament and is a part thereof. He said that the Government cannot even think to degrade the Senate. He requested to forego the matter.

14. Senator Ilyas Ahmad Bilour stated that behaviour of the Secretaries was not changed towards the Parliament. He said that the Secretaries' committee has no power to discuss the recommendations made by the committee of the Senate. He was of the view that the officers were not willing to realize the mistake and tender apology thereon.

15. The Secretary, Cabinet Division, apologized on his own behalf and on behalf of the Secretaries' committee. He assured that more care will be taken in future. He stated that they have utmost regard for both Houses of Parliament as well as for the Parliamentarians. Denying the existence of such mind set in the bureaucracy, he said that the bureaucracy respects the Parliamentarians.

16. Dr. Irum A. Khan, Joint Secretary, Cabinet Division, said that he used the word that he was shocked as he cannot even think to do anything against the

prestige of the House. He said that he has a lot of respect for the Parliament. He tendered unconditional apology.

17. The Committee was informed that the matter under consideration of the Committee was the breach of privilege of the House and not of an individual Member. The Committee can not dispose off the matter of contempt of the House at its own. The Committee can only make recommendations to the House and it is the prerogative of the House to accept the same or otherwise. Final decision on the matter will be taken by the House.

18. Senator Atta Ur Rehman stated that the committee has decisive powers in the matter under consideration. He proposed that the committee should decide the matter at its own as was being done in the past. He also proposed that after disposing the matter a report in this regard may be laid before the House. He was of the view that that there was no need to linger on the matter. He said that the head of Secretaries' committee has apologized and there was no need to defer the matter. The Chairman committee and Senators Ilyas Ahmad Bilour and Mushahid Ullah Khan agreed to the point of view of Senator Atta Ur Rehman,

19. All the members present in the meeting were of the view that the privilege of the House was breach^{ed} by the Joint Secretary as well as by the Secretaries' committee. However, most of the members were of the view that the apology tendered by the Secretary and Joint Secretary, Cabinet Division, may be accepted.



(Muhammad Anwar)
A.S. / Secretary Committee



(Senator Dr. Jehanzeb Jamaldini)
Chairman