

(17)

# SENATE OF PAKISTAN



(Report No. 13/2018-21)

**REPORT OF THE COMMITTEE ON  
RULES OF PROCEDURE AND PRIVILEGES**

**ON**

**PRIVILEGE MOTION NO.3(300)/2020-M**

**MOVED BY SENATORS HIDAYAT ULLAH AND MUHAMMAD USMAN  
KHAN KAKAR "AGAINST THE SECRETARY MINISTRY OF  
NATIONAL HEALTH SERVICES, REGULATIONS & COORDINATION  
WHO FLOUTED THE RULING OF THE CHAIRMAN SENATE. THE  
MATTER WAS REFERRED BY HON'BLE CHAIRMAN SENATE  
ON 24<sup>TH</sup> JULY, 2020.**

**PRESENTED BY**

**SENATOR AYESHA RAZA FAROOQ  
CHAIRPERSON**

## SENATE SECRETARIAT

**Subject: REPORT OF THE COMMITTEE ON RULES OF PROCEDURE AND PRIVILEGES ON PRIVILEGE MOTION NO.3(300)/2020-M.**

I, Chairperson of the Committee on Rules of Procedure and Privileges, have the honour to present report of the Committee on Privilege Motion No.3 (300)/2020-M moved by Senators Hidayat Ullah and Muhammad Usman Khan Kakar against the Secretary, Ministry of National Health Services, Regulations & Coordination who flouted the ruling of the Chairman Senate. The matter was referred by hon'ble Chairman Senate on 24<sup>th</sup> July, 2020.

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

|                                               |                           |
|-----------------------------------------------|---------------------------|
| 1. <b>Senator Ayesha RazaFarooq</b>           | <b>Chairperson</b>        |
| 2. Senator Syed Shibli Faraz                  | Member                    |
| 3. Senator Mian Raza Rabbani                  | Member                    |
| 4. Senator Syed Muzafar Hussain Shah          | Member                    |
| 5. Senator Dr. Asif Kirmani                   | Member                    |
| 6. Senator Pervaiz Rasheed                    | Member                    |
| 7. Senator Dilawar Khan                       | Member                    |
| 8. Senator Nighat Mirza                       | Member                    |
| 9. Senator Walid Iqbal                        | Member                    |
| 10. Senator Dr. Sikandar Mandhro              | Member                    |
| 11. Senator Muhammad Ali Khan Saif            | Member                    |
| 12. Senator Manzoor Ahmed Kakar               | Member                    |
| 13. <u>Minister for Parliamentary Affairs</u> | <u>Ex. Officio Member</u> |

3. The matter was taken up for consideration in the Committee meeting held on 13<sup>th</sup> August, 2020. The following Members of the Committee attended the meetings:-

|                                              |                           |
|----------------------------------------------|---------------------------|
| 1. Senator Mian Raza Rabbani                 | Member                    |
| 2. Senator Pervaiz Rasheed                   | Member                    |
| 3. Senator Dilawar Khan                      | Member                    |
| 4. Senator Nighat Mirza                      | Member                    |
| 5. Senator Muhammad Ali Khan Saif            | Member                    |
| 6. <u>Minister for Parliamentary Affairs</u> | <u>Ex. Officio Member</u> |
| 7. Senator Hidayat Ullah                     | Mover                     |
| 8. Senator Muhammad Usman Khan Kakar         | Mover                     |

4. The movers Senators Hidayat Ullah and Muhammad Usman Khan Kakar apprised the Committee about their privilege motion and said that during the sitting of the Senate held on 14<sup>th</sup> May, 2020, Senator Sajjad Hussain Turi had pointed out the policy of the Government under which a 5% provincial quota is reserved for doctors to serve at PIMS. They contended that in complete disregard of this policy, PIMS Administration was planning to repatriate such doctors. Upon which, the Chairman Senate gave a ruling by referring the matter to the Senate Standing Committee on National Health Services, Regulations & Coordination and clearly stipulating that the PIMS should not take any action in the matter till the decision of the Senate Standing Committee on National Health Services, Regulations & Coordination. The Movers further submitted that letters dated 29<sup>th</sup> May, 2020 and 20<sup>th</sup> July, 2020 containing clear directions of the Chairman Senate were also sent by the Senate Secretariat to the PIMS and the Ministry concerned. However, in complete violation of the directions / ruling of the Chair, the Ministry had acted with undue haste and issued Show Cause Notices only two days after the Chairman's ruling, on 22<sup>nd</sup> July, 2020 to the doctors.

5. The Chairperson of the Committee observed that the Ministry had acted with undue haste by ignoring the ruling of the Chairman whereby the Ministry was directed to maintain status quo till the decision of Senate's Standing Committee on National Health Services, Regulations & Coordination. She stressed that her Committee will support due process of law, but establishment of malafide intent will not be taken in good faith. With regard to the judgments of the Supreme Court referred to in the Show Cause Notice served by PIMS, the Chairperson was of the view that those judgments stricto sensu did not relate to the matter in hand. The Chairperson remarked that the criminal original petitions and review petitions cited originally and made basis for issuing the Show Cause Notice pertain to the making of a conclusive service structure of employees of Federal Government hospitals in ICT. The Chairperson also drew attention of the Committee towards the contradictory stance taken by the Ministry by stating that the status of the doctors, who according to the Ministry were non-civil servants in their respective provinces, changed to civil servants on their absorption in hospitals of the federal capital. She questioned the deference shown by the Ministry in flouting the directions of Chairman Senate, and showing unjustifiable haste in issuing Show Cause Notices for repatriation to doctors, some of whom had been transferred and working in Federal Government hospitals for over ten years.

6. Senator Mian Raza Rabbani held the view that the question of privilege clearly and squarely lay within the domain of this Committee adding that in presence of a clear ruling of the Chairman, the Show Cause Notices were not justifiable or maintainable in the eyes of law. Thus, the conduct on the part of PIMS prima facie amounted to breach of privilege and violation of ruling of the Chair. However, with regard to merits of the case, he observed that it related to the Committee concerned where the matter was already pending for adjudication.

7. Secretary, Ministry of Health Services, Regulations and Coordination submitted that the Ministry had highest regard for the Senate and directions by the Chairman Senate. The Secretary offered an unconditional apology for actions by which privilege of the Senate or its members had been breached. On the issuance of Show Cause Notice, dated 22<sup>nd</sup> July, 2020, he explained that the Ministry had only complied with orders of the Supreme Court and that the doctors had also been granted an opportunity to explain their defense through written replies. He apprised the Committee that the matter was also subjudice before the Islamabad High Court on account of the petitions of doctors to whom Show Cause Notices were issued. The Committee held that the matter pending in the High Court was distinguishable from the Motion under consideration. Further, the rules of the Senate did not bar the Committee from proceeding with the question of privilege without touching upon the merits of the case.

8. By referring to the concept of trichotomy of powers, the Minister for Parliamentary Affairs remarked that Standing Committees of the Parliament had a recommendatory role only, and it was the job of the executive to pass directions and of the judiciary to settle disputes.

9. Senator Mian Raza Rabbani, while commenting on the viewpoint of the Minister, explained that the trichotomy of powers was not unbridled rather the Constitution of 1973 is a harmonious mix of checks and balances. By referring to book "Practice and Procedure of Parliament" authored by M.N Kaul, he stated that utmost sanctity is attached to rulings of the Chairman or Speaker, in all international jurisdictions. In his view, rulings of Chair constitute precedents, which are followed as conventions. Even if a Member of Parliament disputed a particular ruling it would amount to contempt not only of the Chair but also of the House, let alone strangers. The Chairperson also clarified that the Committee had not interfered in the domain of the executive, but as representatives of the people, parliamentarians had a duty to redress grievances when injustice was reported, as was done by doctors in the instant matter.

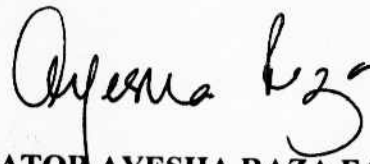
10. Senators Muhammad Ali Khan Saif, Pervaiz Rasheed and Dilawar Khan while expressing their viewpoint said that the Supreme Court Judgments relied on by the Ministry, did not relate to the instant case rather they lay down jurisprudential principles about service structure of civil servants. They observed that the Chairman Senate's directions in the instant case have been violated without any sufficient cause, therefore they urged the Ministry to follow directions of the Chairman and withdraw the Show Cause Notices issued to the doctors.

11. In the end, the Committee observed that while they respected the unconditional apology tendered by the Secretary, Ministry of National Health Services, Regulations & Coordination, the apology was meaningless till the ruling of the Chair was not implemented in true letter and spirit. The Committee unanimously held that breach of privilege had clearly taken place in the instant case and was a continuing breach of privilege till the withdrawal of the Show Cause Notices. The Committee directed the Ministry to withdraw the Show Cause Notices dated 22<sup>nd</sup> July, 2020 and all subsequent Show Cause Notices, if any, till date within 48 hours positively. However, the Committee refrained from discussing the merits of the case as the issue was already on the agenda of the Senate Standing Committee on National Health Services, Regulations and Coordination.

12. It may be pertinent to mention here that in compliance with the directions of the Committee, the Ministry of National Health Services, Regulations & Coordination vide letter dated 19<sup>th</sup> August, 2020 has withdrawn the Show Cause Notices, dated 22<sup>nd</sup> July, 2020 (Annexure-A). The matter stands disposed off accordingly.



**(HAFEEZULLAH SHEIKH)**  
AS / Secretary Committee



**(SENATOR AYESHA RAZA FAROOQ)**  
Chairperson of the Committee