



RULING OF THE CHAIR

PROCEDURE REGARDING TREATMENT OF BUSINESS DURING A REQUISITIONED SESSION

A requisition, in terms of Clause 3 of Article 54 read with Article 61 of the Constitution, 1973, was received in the Senate Secretariat on 2nd February, 2016. As per requisition, the Members have used their constitutional right to requisition a sitting of Senate to discuss the following issues:-

- “1 Brutal killing/ injuring of PIA workers including media persons.
2. The enforcement of “The Pakistan Essential Services (Maintenance) Act, 1952”.
3. Government’s decision to further burden Gas consumers with Rs. 101bn.
4. Depriving masses of benefits of Gross reduction in Petroleum Prices in international market.”

2. Accordingly, on 5th February, 2016, I summoned the Senate to meet on 10th February, 2016. After the issuance of summons, the Senate Secretariat placed a file before me for orders as to the Business to be transacted in the first sitting of the requisitioned Session. Record of previous requisitioned sessions was also annexed which revealed that since 2003, sixteen sessions were summoned by the Chairman on requisitions of Members, as provided in the Constitution, 1973, however, the agenda items of the said requisitions were not incorporated in the Orders of the Day. Furthermore, in almost all the cases the agenda items of the requisition were taken up on agitation by the Members who had requisitioned the session either through relaxation of rules in the very first sitting of the requisitioned session or on subsequent days under motion 218. This situation leads to following two questions that need to be addressed:-

- (i) Whether the agenda items of the requisition should be included on the Orders of the Day of a requisitioned session by the Secretariat.

- (ii) Whether the Orders of the Day should be limited only to the requisition agenda item(s) or other business including Government Business be included in the Orders of the Day.

3. It is imperative to make reference to the Constitutional scheme and procedural requirements as provided in the Rules of Procedure and Conduct of Business in the Senate, 2012. Article 54 of the Constitution deals with summoning and prorogation of the Senate, National Assembly and joint sitting of Parliament. Clauses (1) and (3) of the said Article read as under:-

“Summoning and prorogation of Majlis-e-Shoora (Parliament).

54. (1) *The President may, from time to time, summon either House or both Houses or Majlis-e-Shoora (Parliament) in joint sitting to meet at such time and place as he thinks fit and may also prorogue the same.*

(2)

(3) *On a requisition signed by not less than one-fourth of the total membership of the National Assembly, the Speaker shall summon the National Assembly to meet, at such time and place as he thinks fit, within fourteen days of the receipt of the requisition; and when the Speaker has summoned the Assembly only he may prorogue it.”*

In terms of Article 61 of the Constitution, clause (3) of the instant Article is equally applicable to the Senate as it applies to the National Assembly.

4. Similarly, the procedure for summoning session of the Senate has been provided in the Rules of Procedure and Conduct of Business in the Senate, 2012. Rule 3 of the said Rules provides as under:-

“3. Summoning of the Senate.-*When the Senate is summoned by the President under Article 54(1), or by the Chairman under Article 54(3) on a requisition signed by not less than one-fourth of the total membership of the Senate, the Secretary shall cause a notification to be published in the Gazette stating the date, time and place of the meeting, and shall, as far as practicable, also cause it to be issued to each member:*

5. A conjunctive reading of Article 54, Constitution, 1973, and provisions of Rules of Procedure and Conduct of Business in the Senate, 2012, in general and Rule 3 of the said Rules in particular, provides :-

- (i) Clause (1) of Article 54, Constitution, 1973, clubs together, the summoning of the Senate, the National Assembly and a joint sitting, separately or together, to transact “Government Business”. In terms of rules of Business, 1973, of the Government, the President summons the Session in terms of clause (1) of Article 54, Constitution, 1973, on the advice of the Prime Minister.
- (ii) Clause (3) of Article 54, Constitution, 1973, provides that on a requisition signed by not less than one fourth of the total membership the Presiding Officer of the House (Chairman Senate in case of Senate and Speaker in case of National Assembly) shall summon the House at such time and place as he thinks fit, within fourteen days of the receipt of the requisition.
- (iii) After receiving a requisition signed by not less than one-fourth of the total membership of the Senate, the sole authority to summon the session rests with the Chairman Senate.
- (iv) As regard the summoning of session by the President, the session is summoned for transaction of Government business. Rules 21 to 31 provide procedure with regard to business to be transacted during a regular Session summoned by the President. The said rules provide in detail about the classification and arrangement of the business of the scheduled or Government summoned sessions in the same Chapter subsequent to rule 21, which provides for provisional calendar of Sessions for the Parliamentary Year to be prepared by the Government in consultation with the Chairman Senate, furthermore, said rule also provides that the “President on the advice of the Prime Minister shall summon the Senate to meet, as far as practicable, on dates mentioned in the provisional calendar. Hence, rules 22 to 31 flow from rule 21; after identifying the three types of classes of business in rule 24 and allotment of time (days of private member business and the government business) in rule 25 for transaction, the Rules provide detailed and elaborate arrangement for government business and treatment

of private members business with regard to a regular session summoned by the President in terms of clause (1) of Article 54, Constitution, 1973.

- (v) In case of requisitioned Session, the same is summoned to discuss certain definite agenda item (s). The authority to summon requisitioned session lies entirely with the Custodian of the House with no role of any kind to any of the executive authority or the President. The authority to prorogue such a session is also the sole discretion of the Custodian of the House.
- (vi) While the Constitution explicitly provides for summoning a session on the requisition submitted by required membership of the House in the same Article and at the same pedestal, the process and procedure of requisitioned session is almost non-existent in both the Constitution and the Senate Rules which has resulted in contradictory interpretation and explanation causing heated debates and arguments in the arrangement and treatment of the agenda item of the business submitted with the requisition viz-a-viz the regular and other business of the House.
- (vii) It is important to note that the Senate Rules not only find no mention of treatment and arrangement of business of a requisitioned session distinguished from a scheduled Session, there is also no provision to the effect that any of the provisions related to the Private Members' Day or Government Business day will be applicable to the said Session. The only rule that provides to deal with such a situation is rule 264 where by all matters not specifically provided for in the rules and all questions relating to the detailed working of the rules shall be regulated in such manner as the Chairman may, from time to time, direct.

6 In this matter I am guided by the wisdom of framers of the Constitution. Reference is made to the National Assembly of Pakistan (Constitution – making) debates, official report of Monday, March 19, 1973, wherein, the Members debated Article 57 (at that time Article 54 was numbered as 57), in the following terms:-

“The third method which has been provided in the body of the Article is that if members were to requisition the session of the National Assembly for any particular important national issue then they should not look towards the President only, because the

President may not be interested in that National issue, the Prime Minister may not be interested in that National issue, and to suggest to the President to call a session of the National Assembly, but being the public representatives a section of the Parliament might be interested to debate that particular issue at the floor of the House. This particular inclusion has been given in order to facilitate for those members who want to debate any particular national question at the floor of the House.”

“The object of a requisition meeting is that if there is an important issue before the country or a formal respectable and sizeable section of the people feel, then there must be a session in which these points can be aired. Sometimes the lack of debate results in creating a situation which is unfavourable and unhelpful to the country. It creates a sense of frustration, it creates a choking sensation and a debate in the House and a meeting of the House is always welcome to the people.”

7. Non provision of specific procedure with regard to treatment of items/ matters received with the requisition has often led to acrimony in the House proceedings. Furthermore, there is a clear and conscious distinction between a regular session summoned by the President under clause (1) of Article 54 and requisitioned session summoned under clause (3) of Article 54 of the Constitution, 1973. Previously a procedure was adopted to facilitate discussion on the items/ matters referred vide requisition through suspension of rules for moving a Motion under rule 218. A perusal of the verbatim of all said requisitioned sessions reveal that suspension was used to facilitate/ enable the Members to translate their issues/ matters into a Parliamentary tool on which discussion could take place and not to test the strength of members who have signed the requisition.

8. In view of the Constitution, Rules and spirit of the Constitutional scheme as spelled out by the drafters during discussion on Article 57 (as then it was), the questions at para No.2 are answered in the following terms:-

Q.No.1. Whether the agenda items of the requisition should be included on the Orders of the Day of a requisitioned session by the Secretariat.

- (i) The object of a requisitioned session is that if there is an important issue before the country or a formal respectable and sizeable section of the

people feel, that there must be a session in which the points of National/ public importance can be aired.

- (ii) In a requisitioned Session the priority is required to be given to the issues/ matters mentioned in the requisition.
- (iii) The Senate Secretariat shall communicate the said issues/ matters to the Ministry of Parliamentary Affairs for further necessary action.
- (iv) Said issues/ matters shall be placed on the Orders of the Day.
- (v) The mode of taking up such issues/ matters shall be through a Motion under Rule 218.
- (vi) The Notice in terms of Rule 218 will be considered to be received on the date when the requisition was received in the Senate Secretariat. Furthermore, the requirement of Notice period of seven days will not be applicable in this instance.

Q.No.2. Whether the Orders of the Day should be limited only to the requisition agenda item(s) or other business including Government Business be included in the orders of the day.

1. In terms of answer to the question No. 1, issues/ matters mentioned in the requisition will be given priority, however, subsequently, Government Business can also be transacted.
2. Private Members Business i.e. Motions under rule 218, Resolutions and Private Members Bills, will be placed on the Orders of the Day of Private Members Day i.e. Monday. However, if a Private Members Day does not fall within the tenure of session, then the Notices in respect of said parliamentary tools will be automatically carried forward for the next session of the Senate
3. Notices received in respect of all other Parliamentary tools, as provided in the Rules of Procedure and Conduct of Business in the Senate, 2012, and other matters due for the next regular Session will be automatically carried forward for the next Session, as the same will not be treated during the requisitioned Session.
4. There will be no Question hour during the requisitioned Session.

9. The Senate Secretariat is directed to adhere to the procedure provided in para 8 while processing the issues / matters mentioned in the requisition from this date and time onwards.



MIAN RAZA RABBANI
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Chairman Senate

Senate Sitting dated 10th February, 2016
124th Session, Announced in the House