



Rajya Sabha

Rulings and Observations from the Chair (2018-2022) :

A Supplement



Rajya Sabha Secretariat
New Delhi
2022



RAJYA SABHA

RULINGS AND OBSERVATIONS FROM THE CHAIR (2018-2022): A SUPPLEMENT



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सभापति राज्यसभा

CHAIRMAN, RAJYA SABHA

FOREWORD

Parliament as an apex legislative and representative body holds the pre-eminent position in our democratic polity. It performs the important legislative, deliberative and oversight functions. The deliberations in Parliament are governed by the rules of procedure, relevant constitutional provisions and established parliamentary practices, conventions and precedents. The Rules of Procedure provide the framework for smooth and orderly functioning of the Parliament and define the processes for debate, discussions and decision on matters before the Parliament. In this regard, the Presiding Officers of Parliament play an important role in enforcing and interpreting the rules of procedure while giving each Member an opportunity to raise issues of public importance and to participate effectively in debates and discussions in Parliament. As Presiding Officers, they are also required to ensure that the time allocated to each item of business is strictly adhered to in order to optimally utilize the available parliamentary time.

Given the complexities of legislative processes and the political dynamics in the House, the Presiding Officer is required to do a fine balancing act while conducting the business of the House. During the course of the proceedings of the House, the Chair has to deal with points of order and clarifications regarding the interpretations of rules and parliamentary procedure raised and sought by the Members belonging to the Opposition as well as Treasury Benches. In such situations, the Chair is guided by the past precedents and conventions of the House and gives rulings or makes observations in an impartial and objective manner. The rulings given by the Chair from time to time constitute precedents and become the guiding

(ii)

principles for successive Presiding Officers in dealing deftly with the competing viewpoints on procedural issues as well as the ambiguous situations that arise during the course of the proceedings of the House. In this regard, the compendium on ‘Rulings and Observations from the Chair’ assumes significance as it helps the Presiding Officer to decide the right course of action.

The rulings and observations made by the Presiding Officers of Rajya Sabha since its inception hold enormous precedent value. I am happy to note that the Rajya Sabha Secretariat has compiled such rulings and observations from the Chair, the first edition of which was brought out in 2001 and subsequent editions during the years 2009 and 2018. It is really commendable that the Secretariat has undertaken to bring out a Supplement to the publication brought out in 2018 titled ‘Rulings and Observations from the Chair (2018-2022): A Supplement’.

Over the last two years, the world has been disrupted by the COVID-19 pandemic, which among others, posed serious challenges for the functioning of our Parliament in terms of holding sessions in a safe environment to enable members to discharge their constitutional duties. Rising to the occasion, both Houses of Parliament ensured the continuity of their sittings with the collective efforts of all stakeholders. Complying with the COVID-19 guidelines necessitated requisite modifications in rules governing the conduct of the business of the House and the related matters. I am happy to note that the observations made by the Chair regarding such important measures adopted by the Rajya Sabha to deal with this unprecedented situation also find place in this publication.

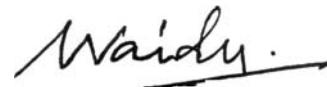
This year holds special significance as our Parliament has completed seventy years of its journey since its first sitting in May 1952. We are also celebrating 75th year of Independence as ‘*Azadi Ka Amrit Mahotsav*’. It should be our collective endeavour to make Rajya Sabha as one of the best performing parliamentary institutions in the world. It is, therefore, important for each and every Member of Parliament to strive to uphold the principles of

parliamentary democracy as envisaged by our Constitution makers. The Parliamentarians should resolve to perform their duties with utmost devotion and sincerity by scrupulously following the rules of procedure and conduct of business of the House and to show respect to the Chair and obedience to its decisions so as to maintain the sanctity and dignity of the House. I would recommend the Members of Rajya Sabha, in particular the new Members, to read the publication on 'Rulings and Observations from the Chair', as the rulings from the Chair clarify the Rules of the House and supplement them, which will help them in understanding the finer nuances of parliamentary procedure and the functional dynamics of the House.

The compilation of rulings and observations from the Chair on various subjects is an important publication as it has immense reference value in the conduct of the business of the House. I appreciate the initiative taken by Shri P.C. Mody, Secretary-General, Rajya Sabha and Dr. P.P.K. Ramacharyulu, former Secretary-General, Rajya Sabha (now Advisor) for bringing out this publication. I compliment officials of the Research and Legislative Divisions of Rajya Sabha Secretariat who are associated with this publication to compile the rulings and observations made by the Chair during the last twelve Sessions of Rajya Sabha (245th Session - 256th Session) spanning over four years in a systematic manner.

I hope that this publication, like its main edition, will prove to be a useful reference tool for the Presiding Officers and Members of Rajya Sabha, officers of the Secretariat at the Table, researchers, scholars and all others interested in the functioning of the Rajya Sabha, Upper House of Parliament of India.

New Delhi;
June, 2022



(M. VENKAIAH NAIDU)

PREFACE

The Presiding Officers are entrusted with powers and responsibilities to ensure smooth functioning of legislative bodies *i.e.* Parliament and State legislatures. They conduct the business of the House and regulate its proceedings as per the Rules of Procedure and established parliamentary practices and conventions in such a manner so that the House performs its mandated legislative, deliberative and oversight roles in a structured and time bound manner. Their role in enforcing and clarifying the Rules of Procedure to ensure smooth and orderly functioning of the House cannot be over-emphasised.

In case of the Council of States *i.e.* Rajya Sabha, the Chair constitutes the Chairman, who holds this position *ex-officio* by virtue of being the Vice President of India; the Deputy Chairman, who is elected by the House from amongst its Members; and a Panel of Vice-Chairmen appointed by the Chairman to assist him and the Deputy Chairman in conducting the proceedings of the House. The Chair while conducting the proceedings of the House relies mainly on the Rules of Procedure and Conduct of Business in the Council of States along with the relevant constitutional provisions and well established parliamentary practices and conventions. Besides, the compendium on the rulings and observations made by the Chair during the course of the proceedings of the House acts as a source of ready reference for the Chair as well as the Members especially when the points of order are raised and the intervention of the Chair is sought on various procedural issues. This compendium titled 'Rulings and Observations from the Chair' is essentially a collection of precedents and interpretations of various procedural matters by the Chair since the inception of the Rajya Sabha. In other words, it is the repository of the collective wisdom of successive Chairmen, Deputy Chairmen and Vice- Chairmen in the form of rulings and observations made by them while interpreting various rules of procedure and relevant constitutional provisions, and passing their judgment on various points of order raised by Members during the

course of the proceedings of the House. As such, these precedents in the form of rulings and observations help the Chair in steering the proceedings of the House through ticklish procedural situations which keep arising from time to time.

The publication titled ‘Rulings and Observations from the Chair’ was first brought out in 2001 covering the rulings and observations made during 1952-2000. Since then two revised editions of the publication covering the periods 1952-2008 and 1952-2017 have also been brought out in 2009 and 2018, respectively.

This publication has been brought out as a supplement to the main publication last revised in 2018 and has accordingly been titled ‘Rulings and Observations from the Chair (2018-2022): A Supplement’. It covers the rulings and observations made by the Chair during a span of over four years starting from the 245th Session (January-April 2018) to 256th Session (January-April 2022) of Rajya Sabha coinciding almost with the tenure of the incumbent Hon’ble Chairman of Rajya Sabha, Shri M. Venkaiah Naidu.

During the last two years, India along with rest of the world has had to bear the brunt of the COVID-19 pandemic which created unprecedented situation and had a telling impact on the functioning of both the Houses of Parliament in terms of holding sessions in a safe environment. As a result, it led to a situation wherein the Chair had to make several observations in accordance with the COVID-19 related protocols *vis-a-vis* timing of the sittings, re-arrangement of the order of the business of the House, doing away with usage of some of the procedural devices due to limited availability of time, modifications in the established procedures wherever required, etc. All such observations by the Chair have been classified as ‘COVID-19 related Measures’ in the Subject Index for ease of locating them at one place.

This supplement covers rulings and observations made during 12 out of 13 full sessions of Rajya Sabha presided over by the Chairman, Shri M. Venkaiah Naidu since he assumed office in August 2017. As Chairman of Rajya Sabha, Shri Naidu has been quite steadfast

and proactive in soliciting the cooperation of both treasury as well as opposition benches for running the proceedings of the House in a smooth and unhindered manner. Through his rulings and observations, he has all along urged the Members to work towards enhancing the productivity of the House so that the esteem of the apex legislature is further enhanced in the eyes of the citizens. All through his tenure, he has emphasised the need for maintaining decorum and dignity in the House, and has always appreciated disciplined conduct by the Members. He has been expressing concern on the issue of disruption of the proceedings of the House which leads to erosion of public trust in parliamentary institutions. According to him, frequent disruptions leading to forced adjournments of the House deny opportunities to such Members who wish to raise issues of public importance in the House.

Following the methodology used for preparing the main editions of the publication, this supplement also presents the pith and substance of the rulings and observations along with the backdrop of the circumstances which led the Chair to give a ruling or make an observation. In order to facilitate easy understanding of the context in which a ruling or observation has been made by the Chair, the relevant text of the ruling or the observation extracted from the official debates has been reproduced. Besides, a comprehensive Subject Index has been given at the end of the publication to facilitate easy and quick reference and consultation.

I take this opportunity to express my deep sense of gratitude to the Hon'ble Chairman, Rajya Sabha, Shri M. Venkaiah Naidu for his illuminating 'Foreword' and also for his encouragement and being a source of inspiration all through to bring out this publication.

As in the case of main editions of the publication, the rulings and observations made by the Chair between 245th and 256th Sessions of Rajya Sabha have been culled out from the official debates. I was meticulously assisted by a team of officers and staff of the Rajya Sabha Secretariat in compiling and editing these rulings and observations. I would like to acknowledge and appreciate the

commendable work done by Dr. P. P. K. Ramacharyulu, former Secretary-General; Shri Mukul Pande, OSD; Shri S. D. Nautiyal, Joint Secretary; Shri Surendra Kumar Tripathi, Joint Secretary; Shri D. S. Prasanna Kumar, Director; Shri Narendra Kumar, Additional Director; Ms. Noyaline Vinitha F.C., Deputy Director; and Ms. Vunglunmoi Hangzo, Assistant Research Officer to bring out this supplement.

I also appreciate the Bill Office, Legislative Section and Table Office for rendering valuable assistance and Printing and Publications Service as also Government of India Press in bringing out this publication.

I hope that Presiding Officers and Members of Rajya Sabha, academics, researchers and all those who are interested in deeper understanding of the functioning of the Rajya Sabha, the Upper House of Indian Parliament in particular and Parliament of India in general will find this publication useful.

The electronic version of this publication is available at the Rajya Sabha website (www.rajyasabha.nic.in).

New Delhi;
June, 2022

P. C. Mody
Secretary-General
Rajya Sabha

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BILLS

AMENDMENTS

1. Bills: Amendments: Notice of amendments for a Bill has to be submitted one day before the day on which the Bill is to be considered

On 5 April 2022, following the passage of the Delhi Municipal Corporation (Amendment) Bill, 2022 by the House, Shri Sanjay Singh sought a clarification from the Chair regarding his notice of amendments on the said Bill. Clarifying to the Member, the Deputy Chairman observed:

...Under Rule 95 (1) of the Rules of Procedure and Conduct of Business in Rajya Sabha, 'A notice of an amendment has to be given one day before the day on which the Bill is to be considered' ... The above Bill is listed for consideration and passing in today's List of Business, that is, 05.04.2022, while the notice of amendments by Shri Sanjay Singh was received today, 05.04.2022 at 12.45 p.m. Accordingly, the notice of amendments could not be admitted.

(R.S. deb.* dt. 5.4.2022, pp. 365-366)

GENERAL

2. Bills: Parties should ensure that their Members are present when important Bills are taken up for discussion

On 7 August 2018, the Chairman referred to the lack of adequate presence of Members in the House when an important legislation was being discussed and passed the previous day. The Chairman observed:

Yesterday, we passed a historic Bill unanimously. I also felt very happy. Even I tweeted also about giving Constitutional status to the OBC Commission...

What was the total presence in the House? It was 156. And what is the strength of the House? On such a Constitutional Amendment

* Uncorrected

where there is unanimity, where there is concern, we just scraped through because two-thirds majority and more than half to be present, etc., are required. So, in such matters, parties also, through their whips, should see to it that the Members are cautioned or guided or directed to be there in time and also vote in such things.

(R.S. deb. dt. 7.8.2018, p. 25)

3. Bills: Paras of Statement of Objects and Reasons do not form part of the Bill

On 11 December 2019, when the Citizenship (Amendment) Bill, 2019 was taken up for discussion, Shri Sukhendu Sekhar Ray brought to the attention of the Chair the notice he had given under Rule 230 of the Rules of Procedure and Conduct of Business in Rajya Sabha. Shri Ray pointed out that there was no reasonable nexus between the Statements of Objects and Reasons (SOR) and the Bill and urged the Chairman to adjourn the debate till such period the Bill was rectified. Rejecting Member's demand for the adjournment of the debate on the Bill, the Chairman ruled:

I have gone through the Rules of Procedures also. The Lok Sabha has discussed it, approved it and then I have received the Bill. I have gone through the Bill and then I have given permission after getting myself fully satisfied that this Bill is in order. There is no ground made out for seeking any adjournment of the debate on the Bill under Rule 230 on the paras of SOR which do not form part of the Bill, which is under consideration of the House... The motion appears to attract sub-rule (2) of Rule 230 being an abuse of Rules of Council... I have given a ruling.

(R.S. deb. dt. 11.12.2019, p. 404)

4. Bills: Absence of opposition parties from the House cannot prevent the House from taking up the Business of the House

On 23 September 2020, the Chairman informed the House that he had received a letter from the Leader of Opposition,

Shri Ghulam Nabi Azad, along with several other Members, some of whom are under suspension, urging the Chair not to have some important Bills, namely, the Occupational Safety, Health and Working Conditions Code, 2020; the Industrial Relations Code, 2020; and the Code on Social Security, 2020 which were before the House, passed in the House in the absence of opposition parties. In this regard, the Chairman observed:

I discussed it with the Secretariat and I have gone through the previous precedents also. There are a number of precedents where even when some Members walked out or boycotted, the House has taken up the Business as per the schedule and approved Bills also. There are a number of instances. For instance, on 2.5.2013, Finance Bills; in 2013 again, the Appropriation Bill, when some Members walked out; then, Labour Laws Bills and also the Mines and Minerals Bills and all. So, keeping that in mind, we took the decision. Had I received a letter saying that they would like to attend and requested to postpone the Bills, I would have, at least, discussed it with the Government. There is no such assurance. On the other hand, we read in the newspapers that some of the people are justifying what they have done. So, after considering all these things. I took the decision, and told the Deputy Chairman to go ahead with the Bills. Also, as per Article 122, the validity of any proceedings of Parliament cannot be questioned.

(R.S. deb. dt. 23.9.2020, p. 550)

5. Bills: Minister may move the Bill for consideration if the copies of the Bill are made available to the Members two days prior to the day the motion is moved

On 18 March 2021, the Insurance (Amendment) Bill, 2021 was being taken up for discussion. The Deputy Chairman informed the House about a letter received from Shri Shaktisinh Gohil raising a point of order opposing the introduction of the Bill as the said Bill had been included in the Revised List of Business for that day without following the requisite notice period of two days under Rule 123.

The Deputy Chairman, while disallowing the point of order raised by the Member, ruled:

The ‘To be introduced’ version of the Bill was circulated to Members electronically on Members’ Portal on Saturday, the 13th March, 2021, and the Bill has already been introduced in the Rajya Sabha on Monday, the 15th March, 2021. Therefore, the stage for moving a motion for opposing the introduction of the Bill is already over. As per Rule 69, after a Bill is introduced, the Minister-in-charge may move a motion that the Bill be taken into consideration provided that the copies of the Bill have been made available two days before the day on which the motion is made. As the Bill was circulated on 13th March, 2021, the requirement of Rule 69 is fulfilled. Further, the Bill was included in the advance List of Business for today, 18th March, 2021, issued by the Secretariat on 16th March, 2021 and therefore adequate time has been given to Members. In view of the above, the point of order sought to be raised by Shri Shaktisinh Gohil, M.P., quoting the wrong rule, is inadmissible.

(R.S. deb. dt. 18.3.2021, pp. 117-118)

6. Bills: The established procedure for passage of a Bill does not allow pausing the voting procedure during its clause-by-clause consideration

On 24 March 2021, the Government of National Capital Territory of Delhi (Amendment) Bill was taken up for clause-by-clause consideration. A Member raised a point of order under Rule 266. The Member made a submission that the Chair may exercise his powers under the said rule to pause the voting procedure on the Bill, taking into consideration the fact that several Members from Kerala, West Bengal, Tamil Nadu, Puducherry and Assam were campaigning in their respective States. The Minister of Law and Justice clarified to the Chair that law making was a part of regular parliamentary business and there was no merit in the point of order

raised by the Member. After hearing both the view-points, the Deputy Chairman observed:

There is a set procedure for passing of Bill. This stage of holding the passing of the Bill does not come in the purview of the procedure. Rule 266 does not apply here.

(R.S. deb. dt. 24.3.2021, p. 180)

7. Bills: Discussion on a Bill should be confined to its subject matter wherein Members can speak either in support of the Bill or for the rejection of the Bill

On 5 August 2021, during the discussion on the Essential Defence Services Bill, 2021, several Members spoke about the Pegasus issue instead of speaking on the Bill. The Deputy Chairman then ruled:

As per Rule 110, I would like to mention in the House that the discussion on a motion that the Bill be passed shall be confined to the submission of arguments either in support of the Bill or for the rejection of the Bill. As per Rule 110, you have to speak on the subject...

(R.S. deb. dt. 5.8.2021, p. 62)

Subsequent to the ruling, several Members raised a point of order under article 105(1) of the Constitution of India which refers to the powers, privileges, etc. of the Houses of Parliament and of the Members and Committees thereof. Clause (1) of the said article states that subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament. The Deputy Chairman after listening to the point of order raised by the Members again ruled:

I would like to mention that freedom of speech under Article 105 is subject to the Rules of Procedure and Conduct of Business of the House. Therefore, Rule 110 of the Rules of Procedure and

Conduct of Business in Rajya Sabha limiting the scope of the discussion is valid... I gave you an opportunity and I have given the ruling...

(R.S. deb. dt. 5.8.2021, p. 64)

JOINT/SELECT COMMITTEE

8. Bills: Joint/Select Committee: The Motion of a Member to refer a Bill to a Select Committee and the Motion for consideration of the Bill are taken up for discussion together

On 9 January 2019, the Constitution (One Hundred and Twenty Fourth Amendment) Bill, 2019 was taken up for discussion. Shrimati Kanimozhi then moved a motion for reference of the said Bill to a Select Committee. Shrimati Kanimozhi and some Members pressed that the motion for reference of the said Bill to the Select Committee be taken up for voting. Clarifying the existing practice in this regard, the Deputy Chairman ruled:

Hon'ble Members, before the House adjourned for the lunch, Smt. Kanimozhi, Member Rajya Sabha who has moved a Motion for Reference of the Constitution (One Hundred Twenty Fourth Amendment) Bill, 2019 to a Select Committee of the Rajya Sabha demanded that her amendment be first put to the vote of the House before the discussion on the motion for consideration of the Bill and the amendment thereto takes place.

I would like to inform that as per well-established practice, after the Motion for consideration of a Bill is moved by the Minister-in-charge of the Bill, any Member with prior notice can move an amendment for reference of that Bill to a Select Committee/Joint Committee. Thereafter, both the Motion for consideration of the Bill and amendment moved thereto for reference of the Bill to the Select Committee, are taken up for discussion together. After the discussion is over, first the amendment moved by the Member for reference of the Bill to the Select Committee is put to the vote of the House. If it is carried, Motion for consideration of the Bill is not taken up, but in case the Motion for Reference of the Bill to the Select Committee is negatived, the Motion for consideration

of the Bill is taken up. I would like to give a few examples in this regard.

On 21st December, 2011, the Motion for consideration of the Academy of Scientific and Innovative Research Bill, 2011 as passed by the Lok Sabha was moved by the Minister-in-charge of the Bill. Thereafter, an amendment for reference of the said Bill to the Select Committee of the Rajya Sabha was moved by some Members. This was followed by the discussion on the motion for consideration of the Bill and the amendments moved thereto which lasted for about two and half hours. After the discussion, the reference of the Bill to the Select Committee was put to the vote of the House. As this amendment was negatived, Motion for consideration of the Bill was put to the vote of the House. Similarly, the same procedure was followed in respect of many Bills such as the Mines and Minerals (Development and Regulation) Amendment Bill 2015, the Insurance Regulatory and Development Authority Bill 1999 and the Prevention of Money Laundering Bill, 1999. Thus, it is the well-established practice that both the Motion for consideration of the Bill and the amendments moved thereto for reference of the Bill to the Select Committee are first taken up for discussion together before putting to the vote of the House.

Accordingly, Smt. Kanimozhi's amendment for reference of the Bill to the Select Committee will be put to the vote of the House after the discussion is over.

(R.S. deb. dt. 9.1.2019, p. 35)

9. Bills: Joint/Select Committees: If Members want a Bill to be referred to Joint/Select Committee, the names of Members for the Joint/ Select Committee must be provided while moving the motion

On 1 August 2019, the National Medical Commission Bill, 2019 was moved for consideration by the Minister of Health and Family Welfare. Thereafter, three Members namely, Dr. Santanu Sen, Shri Tiruchi Siva and Shri Elamaram Kareem moved amendments

for reference of the said Bill to a Select Committee of Rajya Sabha. However, all the three Members had not given the names of the Members of the Select Committee while moving the amendment. While pointing out the inadmissibility of the amendments moved by the Members to refer the Bill to a Select Committee of Rajya Sabha, the Chairman observed:

You have to give the names of Members for the Select Committee. If names of Members for the Select Committee are not provided by the Members at this stage, then, the amendments become infructuous and will be deemed as 'not moved'. There were rulings from the Chair in 2000, on 25th January, 1980 (45th Constitutional Amendment), and, on other occasions also. So, the Members should take care of that... You have not given the names. So I have to conclude that you have not given the names. Amendments will not be there.

(R.S. deb. dt. 1.8.2019, p. 29)

BULLETIN

10. Bulletin: Matters of urgent public importance raised through Zero Hour Submissions and Special Mentions, which could not be taken up due to disruptions, to be included in the Parliamentary Bulletin Part - I for record

On 30 July 2021, the Chairman, announced that he has started a new practice of recording the matters of urgent public importance, that Members wanted to raise in the House through Zero Hour Submissions and Special Mentions but could not do so on account of continuous disruptions, in the Parliamentary Bulletin Part - I. The Chairman observed:

Yesterday onwards, we have started a new system whereby it will be a part of the Bulletin that so and so Member has raised so and so issue. At least, that will be a part of the Bulletin. For future generation, parliamentary books will be there, and they can understand from that also. All these things will be a part of the Bulletin in the coming days.

(R.S. deb. dt. 30.7.2021, p. 1)

BUSINESS OF THE HOUSE

11. Business of the House: Legislative Business can be taken up after the Private Members' Business

On 10 August 2018, Shri Derek O'Brien raised a point of order referring to Rule 25(4) regarding the List of Business. The Member stated that the Private Members' Resolutions had been listed after the Government Legislative Business. Raising objection about the order in which the Business had been listed, the Member mentioned that it had been a precedent and convention that on Friday afternoon, Legislative Business is not taken up before Private Members' Business. The Chairman after listening to the point of order observed:

Hon'ble Members, on the day when Shri Karunanidhiji expired, I had called a meeting here, after having a word with the Leader of the Opposition and in that meeting it was suggested that on Friday we will have Legislative Business, rather than Private Members' Business. But, after talking to others, I have now decided that we will have Private Members' Business now and after that we will have two Bills on which there is a broad consensus. That is the understanding.

(R.S. deb. dt. 10.8.2018, p. 358)

12. Business of the House: Demand for suspension of listed business: Members can avail of the opportunity of discussion on the Motion of Thanks to the President's Address to raise their issues

On 2 February 2021, Leader of the Opposition, Shri Ghulam Nabi Azad mentioned that he had submitted a notice under Rule 267 for the suspension of the Question Hour to take up a discussion on farmers' issues. The Chairman informed the House that he had received a notice from the Leader of the Opposition and some other Members under Rule 267 seeking suspension of the Business of the House listed for the day to discuss the agitation of farmers on the outskirts of Delhi against three farm laws passed by the

Parliament. The Chairman while rejecting the notices observed:

Hon'ble Members, I have received a notice from Shri Ghulam Nabi Azad, Shri Tiruchi Siva, Shri Sukhendu Sekhar Ray, Shri Elamaram Kareem, Shri Binoy Viswam, Prof. Manoj Kumar Jha and also Shri Ashok Siddharth. I have gone through the notice. It is given under Rule 267, seeking suspension of the Business listed for the day as to discuss the ongoing agitation of farmers on the outskirts of Delhi against the three farm laws passed by the Parliament. The Members who gave notice have highlighted the need to resolve the issue in national interest. I understand the concern of the Members over the situation and need to resolve the issue at an early date in the national interest. As Chairman of this House, I cannot go into the merits of the position taken by the agitating farmers and the Government. Both the sides have so far held several rounds of discussion and expressed desire to further continue the dialogue. Neither this side nor that side of the House is opposed to any discussions between the farmers and the Government and also to discuss the farmers' issue in the House. It needs to be held at the earliest and it is a matter of time. Hon. Rashtrapati *ji* has referred to farmers' agitation in his Address to the Members of both the Houses on 29th of the last month. Discussion on the Motion of Thanks to the President for the Address is scheduled to be started tomorrow... As we are going to discuss the President's Address tomorrow as the first item, hon'ble Members can avail themselves of this opportunity and then participate and express their viewpoints. That is why I am not able to accept the notice given to suspend the Business of the House.

(R.S. deb. dt. 2.2.2021, p. 21)

CHAIR

13. Chair: Chair cannot act according to the whims and fancies of Members

On 7 February 2018, a Member from the Opposition Benches was making his maiden speech. He had exceeded his time limit of fifteen minutes. When the Chair pointed out to the Member that he had exceeded his time limit, other Members requested the Chair to allow the Member to continue for a few more minutes. The Deputy Chairman then observed:

Before he started, I told him that his time is fifteen minutes. He spoke for seventeen minutes. I have noted it. There is a tendency of some Members that when the speech is palatable they want it to continue. But when the speech is not palatable, they want the Chair to stop it... The Chair cannot act according to the whims and fancies of Members. So, you sit down.

(R.S. deb. dt. 7.2.2018, p. 328)

14. Chair: Prior permission of the Chair is mandatory for a Minister to make a statement on behalf of another Minister

On 13 February 2019, during the laying of papers on the Table of the House, when the Chairman took the name of Shri Kiren Rijiju, Minister of State in the Ministry of Home Affairs to make a statement regarding the status of implementation of recommendations/observations contained in the report of the Department-related Parliamentary Standing Committee listed against his name, the Minister was not present. Then, Shri Vijay Goel, Minister of State in the Ministry of Parliamentary Affairs requested to Chair that he may be allowed to make the statement on behalf of Shri Kiren Rijiju, the Chairman observed:

No, no. You have not taken permission. For laying a Paper, it is okay. But, to make a statement, you have to take permission.

(R.S. deb. dt. 13.2.2019, p. 31)

15. Chair: When in the Chair, the Deputy Chairman and Panel of Vice-Chairmen perform the role of the Chairman

On 17 September 2020, the Chairman made the following observation regarding the role of the Deputy Chairman and the Panel of Vice-Chairmen when in the Chair:

Please note that the Deputy Chairman and the Panel of Vice-Chairmen follow the guideline or the decision of the Chair. Once they are in the Chair, they will be performing the responsibility of the Chairman. Please note this. Sometimes what the Deputy Chairman says or the Vice-Chairman says may not be to our liking, but please understand that there are rules and there are precedents and there is a guidance by the Chair to the presiding Chairperson at the time. He has to follow it scrupulously.

(R.S. deb. dt. 17.9.2020, p. 384)

16. Chair: If a Member disobeys the Chair, the entire issue raised by the Member will not be a part of the proceedings

On 5 April 2022, a Member while raising a matter with the permission of the Chair during the Zero Hour exceeded his time limit. When the Chairman repeatedly requested the Member to conclude his speech, the Member did not pay heed to the Chair's request. The Chairman then ruled:

If a Member does not obey the Chair, the entire issue raised by the Member will not be a part of the proceeding. This is my ruling. For future also, if anybody goes beyond the Chairman's permission, what they had said will not go on record.

This has to be taken note of by the Secretariat and also the media. The House has to run in accordance with some rules, regulations and principles. It has become a fashion for some people that even when the Chairman speaks they go on speaking to show as if they are arguing.

(R.S. deb.* dt. 5.4.2022, p. 59)

17. Chairman: A ruling by the Chairman cannot be criticised nor any observation against the Chairman can go on record

On 6 February 2018, when the Deputy Chairman announced that the discussion on Motion of Thanks on President's Address will be taken up, Shri Ghulam Nabi Azad, Leader of the Opposition, questioned the decision of the Chair to dispense with Zero Hour and Question Hour to take up the discussion on the Motion. The Deputy Chairman observed:

Whatever be the ruling of the Chairman, you cannot criticize that... If such a difference of views is there, and especially when you expressed that it is with regard to this morning when hon'ble Chairman was in the Chair, my advice is, please meet the hon'ble Chairman in his Chamber, discuss and sort it out. Anyhow, no observation against the Chairman will go on record.

(R.S. deb. dt. 6.2.2018, pp. 377-378)

18. Chairman: Change in the format of letter to be addressed to the Chairman and the manner of addressing the Chairman

On 6 February 2018, when the papers were laid on the Table of the House, the Chairman made an observation regarding the format of the letter addressed to the Chairman and the form of address. The Chairman observed:

I also want to tell the hon'ble Members that it has been decided that the format of the letter to be addressed to the Chairman will be changed and hereafter, it will not be written as 'yours faithfully', it will be written as 'yours sincerely' or in any other respectable manner....

...I also want to tell all the hon'ble Members that as you know the Chairman of the Rajya Sabha is holding dual responsibility of Chairman, Rajya Sabha and also the Vice-President of India, I often find an embarrassing situation where the Members and also others call the Vice-President as 'Your Excellency'. I would

request and suggest the hon'ble Members and also the general public that they should address the Chairman or even the Vice-President of India as the hon'ble Vice- President. There is no need to use the words 'His Excellency' or 'Her Excellency'. There is no need to use such phrases in future.

(R.S. deb. dt. 6.2.2018, pp.10-11)

19. Chairman: Prior permission of the Chairman is necessary for a Minister to lay a paper on behalf of another Minister

On 12 March 2018, when Shrimati Smriti Zubin Irani, Minister of Textiles laid a paper on behalf of Shri Ajay Tamta, Minister of State in the Ministry of Textiles against whom the paper was listed in the List of Business, the Chairman observed:

Last time also I said it. Let the Ministers take note of the same. Any of the Ministers has got every right to represent the other Minister and, then, lay Papers on the Table of the House, but they should seek permission of the Chair before doing so. In the instant case, I have permitted because we have to go ahead with the Business. But I want to repeat my advice to the hon'ble Members and also to the Ministers to see in future that a proper advance notice is given. I hope the Minister of Parliamentary Affairs will take note of the same.

(R.S. deb. dt. 12.3.2018, pp. 2-3)

20. Chairman: No further discussion must be done on any matter which the Chairman has treated as closed

Shri Anand Sharma raised a point of order under Rule 238(v) on 1 August 2018 stating that a Member while participating in a discussion had referred to some past Prime Ministers and had used derogatory and unparliamentary words against them. The Chairman while referring to the point of order gave a ruling on 2 August, 2018 that no such reference had been made by the Member and that the matter must be treated as closed. However, despite the ruling by the

Chairman some Members raised objections. Then Shri Bhupender Yadav raised a point of order under Rule 258 regarding the conduct of Members on the ruling by the Chairman. Responding to his point of order, the Chairman observed:

Mr. Bhupender Yadav, I heard your point. My suggestion to all is, once the Chairman has said, ‘I am treating the matter as closed’, let us go ahead, please.

(R.S. deb. dt. 2.8.2018, p. 13)

21. Chairman: No subject matter can be re-opened and re-discussed after the Chairman has given a ruling on it

On 9 March 2021, during the Zero Hour, Shri Tiruchi Siva raised a point of order under Rule 258 enquiring about the notice submitted by some Members under Rule 267 for suspension of business of the House to take up a discussion on the hike in fuel prices. In this regard, the Deputy Chairman said that the Chairman had already given a ruling on the previous day stating that the subject matter of the notice could be raised during the course of the discussion on the Appropriation Bill. The Deputy Chairman observed:

As you know, the Chairman *Sahib* has given the ruling and I have already informed the House that it cannot be re-opened and re-discussed.

(R.S. deb. dt. 9.3.2021, p. 34)

22. Chairman: The decision of the Chairman for the admission of notices is final

On 10 August 2021, during a Short Duration Discussion on ‘the agricultural problems and solutions’, Shri Jairam Ramesh raised a point of order citing a ruling by the Chair on 3rd December, 2015 from the ‘Rulings and Observations from the Chair’ (pp. 48-49). He stated that his notice for Calling Attention Motion on the repeal of the farm laws and the ongoing farmers agitation had been converted into a Short Duration Discussion on a general topic of ‘Agricultural

Problems and Solutions'; and asserted that no sense of the House had been taken in the matter. The Vice-Chairman then observed:

This is the decision of the Chairman, I cannot go back to that.

(R.S. deb. dt. 10.8.2021, p. 56)

23. Deputy Chairman: Removal: A Resolution and not a Motion is required for the removal of Deputy Chairman with a notice period of 14 days

On 22 September 2020, the Chairman informed the House that he had received a Motion of No Confidence from Shri Ghulam Nabi Azad, Leader of the Opposition and forty-six Members against the Deputy Chairman. The said Motion sought the removal of the Deputy Chairman for allegedly violating the established parliamentary procedure and norms. The Chairman informed the House that according to the rules for the removal of Deputy Chairman, a notice for a Resolution and not a Motion is submitted to the Chairman. The Chairman also added that a notice period of 14 days is required for submission of such a Resolution. Disallowing the notice for the Motion of No-Confidence on both the counts, the Chairman observed:

..the rule clearly says that it should be a resolution to remove the Deputy Chairman, and not a motion. The Opposition or any Member has got a right to move a resolution, but if you go through the text, or the beginning itself, it is a No Confidence 'Motion'. It should have been a resolution. I am not on the technical point alone. Article 90 of the Constitution says, "(c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council: Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days notice has been given of the intention to move the resolution." There was no 14 days' prior notice. That is clear. That is the rule. ..After 14 days, we have to take up that resolution if the resolution is in order. Now, only two or three days have gone by since I received the notice. Now, one, the notice is not in order because it mentions 'Motion' and not 'Resolution' and, second is the

14 days' time. Now, the interpretation is, within that time-period, the Deputy Chairman shall not preside over the House. That is wrong. That would be after I agree to take it up for consideration. When the resolution is under the consideration of the House, the person against whom the resolution has been moved is not supposed to preside over the House.

(R.S. deb. dt. 22.9.2020, pp. 383-384)

DEBATES

ALLEGATIONS

24. Debates: Allegations: Prior intimation in writing and permission from the Chairman is required for taking the name of a person or making an allegation against him

On 11 February 2021, during the discussion on the Union Budget 2021-22, the Chairman clarified to the Members and cautioned them against making allegations against a person on the floor of the House without giving prior written notice or seeking permission for the same. Reminding the Members to confine themselves to the issues concerning their States and their achievements, the Chairman observed:

Any Member, taking the name of any person, making an allegation, must give it in writing to me beforehand. Otherwise, that will not be part of the record. Any speech, in which some references are made, and if somebody objects then and there, that will be looked into. If people have not objected and it did not come to the notice of the Chair or was not properly understood then, then also, subsequently, if notice is given, that will be looked into. I got a notice the other day. That speech is also being examined. In the same way I would like to ask you to please confine to the issues of your State and what you have achieved; in that context if you want to take the name of anybody, I have no problem. But, if you want to make allegation and all, then it has to be given in writing and permission has to be taken.

(R.S. deb. dt. 11.2.2021, pp. 88-89)

25. Debates: Allegations: Members should exercise restraint while making allegations against Governments when they are not present in the House to defend themselves

On 19 March 2021, during Zero Hour the Chairman reminded the Members not to criticise or make allegations against the State

Governments or Central Government when concerned Ministers are not present in the House. The Chairman observed :

..Some Members tend to drag Governments and then make criticism. What I am saying is that you can definitely refer to an incident. But making allegation against a State Government which is not here to defend itself and even against the Central Government because we have not given it to the concerned Minister to respond here, it is not going to solve any problem.

(R.S. deb. dt. 19.3.2021, p. 61)

CLARIFICATIONS

26. Debates: Clarifications: Members should avoid making speeches while seeking clarifications on a Statement made by a Minister

On 16 March 2022, referring to the proceedings of the House on the previous day when the Members sought clarifications on the Statement made by a Minister on that day, the Chairman observed:

Hon'ble Members, I have observed yesterday that while seeking clarification, people were giving speeches. Clarification means clarification only. I am not referring to any individual's name.

(R.S. deb.* dt. 16.3.2022, p. 80)

EXPRESSIONS

27. Debates: Expressions: Casual comments without any unparliamentary expressions made by a Member cannot be expunged

On 2 February 2018, Shri Javed Ali Khan while referring to the rules to be observed by Members while speaking in the House, raised a point of order. He mentioned that Members while speaking should not make any derogatory statements or comments of ridicule and pointed out that another Member while speaking had passed comments on his speech. The Deputy Chairman clarified that the Member had only said, 'it is a serious discussion and you have not

* Uncorrected

taken the serious discussion seriously'. Shri Sukhendu Sekhar Ray also supported the point of order raised by Shri Khan. Shri Khan further insisted that the Chair must expunge the comments made by the Member who was also a Minister. The Deputy Chairman then ruled:

...it is parliamentary practice in all Houses, not just in this House, that such casual comments are made by Members and all such things will be on record. If any Member has an objection to a particular statement or comment, then, when you speak, you have a right to reply to that. The thing here is only that. I am only saying that I cannot expunge it, because there is nothing unparliamentary in that.

(R.S. deb. dt. 2.2.2018, p. 340)

GENERAL

28. Debates: House can consider the CAG Report on a State Budget if it has been considered by the Public Accounts Committee and reported to the Parliament

On 19 July 2018, during the discussion on the Prevention of Corruption (Amendment) Bill, 2013, Shri Digvijaya Singh while participating in the debate made a reference to the State Budget of Gujarat. Then Shri Bhupender Yadav raised a point of order that it was parliamentary practice that a Comptroller and Auditor General (CAG) Report will be first discussed in the Public Accounts Committee (PAC). He added that any audit report of a State Assembly cannot be discussed in the House until it has been examined by the PAC. The Vice-Chairman then observed:

The Member will consider if that CAG report has been considered by the PAC, or, whether the PAC has given the report to the Parliament. If it has given the report to the Parliament, it is the property of the House.

(R.S. deb. dt. 19.7.2018, p. 407)

29. Debates: There is nothing wrong if a Member is quoting from a speech or a document

On 24 July 2018, during the Short Duration Discussion on the non-implementation of the provisions of Andhra Pradesh Re-organization Act, 2014, Shri G.V.L. Narasimha Rao referred to a speech made by the then Chief Minister of Andhra Pradesh. Some Members raised objection pointing out that Shri Rao had taken the name of a Chief Minister and quoted him. The Chairman then observed:

I will not allow any charge. Mr. Bhubaneswar Kalita, I am here to see that no charge against anybody, including Chief Minister, particularly, Mr. Chandrababu Naidu or any other person, can be made in the House, without any substantial proof. You don't worry on that. I will take care of it. The question is, if somebody is quoting a document, speaking of a fact according to him, you cannot have any objection to it. If it is an allegation, yes. But if somebody is quoting a speech or a document or a reference to Council, Assembly, or Parliament as Mr. Chowdary has quoted the PM, we cannot object to that.

(R.S. deb. dt. 24.7.2018, p. 393)

30. Debates: Members should not read their speeches while participating in a discussion

On 6 August 2018, when the Constitution (One Hundred and Twenty-third Amendment) Bill, 2017 and the National Commission for Backward Classes (Repeal) Bill was being discussed, a Member while participating in the discussion on the Bills was reading his speech. The Chairman then observed:

Members, please take note — it is not my intention, but the rule says very clearly and specifically and there are a number of rulings — nobody can read a speech. They have to speak. If there is a reference or if you want to quote something, you can quote from any source and then you can say that you are authenticating this

source. Please keep this in mind. Otherwise it will be odd for me to stop in-between and say, 'Please do not read'.

(R.S. deb. dt. 6.8.2018, p. 351)

31. Debates: Lok Sabha: Members cannot refer to what happened in the Lok Sabha

On 3 January 2019, during the Zero Hour, Shri A. Navaneethakrishnan referring to an instance in the Lok Sabha stated that on the Mekedatu issue, the Lok Sabha had suspended all the AIADMK Members. Disallowing the mention of what happened in the other House, the Chairman observed:

You cannot mention what happened in the Lok Sabha here. It is against rules.

(R.S. deb. dt. 3.1.2019, p.17)

32. Debates: When a Statement by a Minister is converted into a discussion, other related matters on the subject can be discussed under separate notices

On 16 September 2020, Shri Derek O'Brien, raised a point of order under Rule 176 (Short Duration Discussion). He stated that Dr. Harsh Vardhan, Minister of Health and Family Welfare had made a *suo moto* statement on 15th September, 2020 regarding COVID-19 pandemic and the steps taken by the Government. He pointed out that some Members wanted to seek clarifications on the statement made by the Minister; however, it would be limited to only health. Mentioning that the COVID-19 issue had several other facets, he wanted to know whether a separate notice for discussion under Rule 176 can be admitted by the Chair. Hon'ble Chairman informed the Members that he had already taken cognisance of other issues such as economy, GST etc. which also fell under the ambit of COVID discussion. Responding to the point of order, the Chairman observed:

...What is a discussion? In a discussion, you raise the issue. In a discussion, you ask for clarifications. In a discussion, you make suggestions, you give your ideas. You share the shortcomings, if

any identified, and then what can be rectified, that you say. It is according to my understanding. I don't have that much understanding because I have been there only for 24 years... Discussion includes questioning the Government; discussion includes highlighting shortcomings; discussion includes suggestions and improvement. But, that too, it is being such a sensitive matter and that is why the people are looking to us. They are all in stress. People are looking to us for some new ideas. It is a matter to be dealt by, as rightly said, the States as well as the Centre. So, keeping that in mind, the Health Minister has made a detailed Statement about the steps taken as far as the health of the country is concerned. I do agree that there are other issues. Economy is another issue. We are discussing it separately. For example, GST is an issue. We are discussing that also.

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The point is this. What I am saying is, we have heard the Minister. Let us discuss that and after that, if anything else remains, that will be seen under separate notice.

(R.S. deb. dt. 16.9.2020, pp. 282-283)

33. Debates: Maiden Speeches: Suspension of maiden speeches by Members due to the extraordinary situation caused by COVID-19 pandemic

On 17 September 2020, during the Zero Hour, the Chairman made an observation regarding the suspension of Maiden Speeches during the ongoing Session on account of the limited functional time of the House due to the COVID-19 pandemic. The Chairman observed:

Hon'ble Members, as I have already said, in this special Session because of the extraordinary situation, there is nothing like a maiden speech. They will be given an opportunity in the regular Session next time. There are many new Members who will be speaking. They are more than 42.

(R.S. deb. dt. 17.9.2020, p. 383)

34. Debates: Members/ parties should adhere to the well-established rules/practices for participating in a debate/discussion

On 16 March 2022, the Deputy Chairman while reminding the Members to adhere to the well established practice for participating in a debate/discussion, made the following observation:

Hon'ble Members, as you are aware that as per well established practice, for participating in a debate/discussion, Members should give their name at least half an hour before the scheduled discussion is taken up in the House. It has, however, been observed that some Members/parties give their names after the discussion starts and insist on their being called to participate in the discussion. This causes avoidable inconvenience to the Chair as well as to the parties/Members whose names were received well in time. Further, sometimes a demand is made to increase the time of a particular party/Member beyond the allotted time to that party/ Member. It is also not possible that names of the Members are called by the Chair in the order in which they are received because a system of proportional time allotment has been followed in this House for many decades. Similarly, for seeking clarifications on a statement by the Minister, it is not possible to call every Member of a party who has given his name if other Members from that party have already got the opportunity to seek clarifications so that Members from maximum parties/groups in Rajya Sabha could be accommodated in the given time frame. The Chair's limitation is that it cannot violate the rules/practices created by this august House itself. The Chair ensures that parties/Members get the opportunity to participate in a debate/discussion as per the strength of that party in Rajya Sabha. I therefore, appeal to all of you to please adhere to the rules/practices so that the House can function smoothly.

(R.S. deb. ^{*} dt. 16.3.2022, pp. 193-194)

* Uncorrected

35. Debates: Members should give association slips for Zero Hour Submissions/ Special Mentions within the prescribed time for timely compilation of verbatim proceedings

On 30 March 2022, the Chairman observed that Members can associate themselves with the Zero Hour Submissions/ Special Mentions raised by other Members. The Chairman, while referring to the established practice in this regard, observed:

Hon'ble Members, as per practice, Members are allowed to associate themselves with Zero Hour Submissions and Special Mentions made in the House by sending their names on slips devised for the purpose. Many a time, these slips are received very late causing delay in preparation and finalization of verbatim proceedings of the day. Therefore, for timely completion of verbatim proceedings of the House, Members are requested that association slips should reach the Table of the House by 1.00 p.m. for matters raised till 12 noon. For Special Mentions taken up before adjournment of the House for the day, such slips may be sent to the Notice (Office), Room No. 26, Parliament House, within half-an-hour of adjournment of the House. This has to be taken care of.

(R.S. deb.* dt. 30.3.2022, p. 33)

RULES

36. Debates: Rules: Members should not make running commentary while sitting

On 19 March 2021, reminding the Members to desist from making unwarranted comments from their seats, the Chairman urged the Members that they should speak only when permission is granted by the Chair. In this regard, the Chairman observed:

Some Members are developing a habit of making running commentary while sitting. That is not going to solve any problem. Any solution can be found only if you bring it through proper

* Uncorrected

system to the notice of the Chairman. If the Chairman thinks it fit or if it is appropriate to accept, then permission would be given.

(R.S. deb.dt. 19.3.2021, p. 61)

STATE MATTERS

37. Debates: State Matters: Members while raising sensitive matters should not refer to the names of other States

On 5 April 2022, during the Zero Hour, Dr. Anbumani Ramadoss while raising the issue of demand for intervention by the Union Government in the Cauvery Water Dispute, made a reference to a State. Shri G.C. Chandrashekhar objected to the reference made by the Member. After Dr. Anbumani concluded his submission, the Chairman observed:

...when we are raising an issue which is sensitive, we should not take names of other States. It is a simple thing. We are the Council of States. We are not here to accuse each other. Only the issue will go on record, no mention of any State. Any reference to any State which will be part of it will not go on record.

(R.S. deb.* dt. 5.4.2022, pp. 59-60)

HOUSE

CONVENTION

38. House: Convention: Interruptions should be avoided when a member is delivering his/ her maiden speech

On 7 February 2018, there were several interruptions when Shri Sanjay Singh was delivering his maiden speech. Then Shri Sukhendu Sekhar Ray, raised a point of order quoting Rule 235(2). Shri Ray pointed out that the Treasury Benches were interrupting the Member who was making his maiden speech. He added that the House has a convention that when a new Member makes his maiden speech, nobody should interrupt. The Deputy Chairman then observed:

I uphold the point of order. I agree that the convention in this House is that maiden speech is never interrupted. I told the interrupters many a time, yet interruption came. I have already said that I don't approve of that interruption, especially when it is against the Member making his maiden speech...

(R.S. deb. dt. 7.2.2018, p. 328)

DECORUM AND DIGNITY

39. House: Decorum and Dignity: Members making running commentary and defying the Chair can be named

On 22 November 2019, the Chairman made some observations regarding the need to follow rules, decency and decorum of the House. Displeased with the conduct of the Members, the Chairman observed:

...If Members persistently defy the Chair and go on making commentaries, I have no option other than naming them. I want to appeal to all the Members not to take me to that extent to name anybody... running commentary and defying the Chair cannot be allowed.

(R.S. deb. dt. 22.11.2019, p. 29)

40. House: Decorum and Dignity: Members to refrain from displaying objects inside the House

On 22 November 2019, the Chairman called upon the Members to refrain from displaying objects inside the House and observed:

Display of any article whether it is air purifier, water bottle, mask or anything, is totally unauthorised and not allowed in this House. Sometimes, when you do it, others object; when they do it, you object. But I object to all. Anybody bringing anything to the House is not allowed as per the rules... Please bear with me. We are the House of Elders. Just now we have observed the commencement of the 250th Session...Please bear with me and follow the rules, decency and decorum of the House.

(R.S. deb. dt. 22.11.2019, p. 17)

PROCEEDINGS

41. House: Proceedings: Members should sit and speak in view of special seating arrangements on account of COVID-19 pandemic

During the 252nd Session, special seating arrangements were made in accordance with the COVID-19 protocols. Members were seated in Chambers of Lok Sabha and Rajya Sabha; and in the Galleries of Rajya Sabha except Press Gallery. Special arrangements were also made in respect of sound and console system. In view of the special arrangements, the Chairman on 17 September 2020 observed:

...Members have to sit and speak. This is also a new practice. Normally, we stand and speak. That was the rule earlier. But because of the mike system and sound system and all, both the Speaker and I came to the conclusion that Members will be made to sit and speak. Please keep that also in mind.

(R.S. deb. dt. 17.9.2020, p. 383)

42. House: Proceedings: Adjournment: Government can only recommend the adjournment of the House, Chair will take the final decision on when to adjourn the House *sine die*

On 23 September 2020, the Minister of State in the Ministry of Parliamentary Affairs, made a statement regarding allocation of time for disposal of Government and other Business for the day. The Minister also informed the House that the Government has taken a decision to adjourn the House *sine die* on that day after the passage of some important Bills as agreed to in the Business Advisory Committee. Thereafter, the Chairman took the sense of the House and observed:

I would like to tell the Parliamentary Affairs Minister that ‘recommending the adjournment of the House’, the Government can do it. But when to adjourn, particularly, after you have given Business, that is with the Chair. So once I (am) convinced that the Business that we have been given is totally completed or you withdraw the Bill, either way, then only the House can be adjourned.

(R.S. deb. dt. 23.9.2020, p. 27)

TIME

43. House: Time: Allocation of time to parties is made for efficient functioning of the House

On 17 September 2020, when a Member requested the Chair to be liberal with time allocation during discussions, the Chairman observed:

Then comes the question about time allocation to parties. That is done as per the total allocation of time. Yesterday, it was revised and accordingly informed to the parties. Every person speaking on behalf of the party must adhere to the time. Otherwise, he will be eating into the time of his colleagues. Try to understand this. That is why the Deputy Chairman has told me, “Sir, I am finding it very difficult in spite of...” The guidance is that the Deputy

Chairman will tell the Member one minute before, “Please conclude”. If the Member does not adhere to that, then after waiting for half a minute, he will be calling the next person. Whatever the next person speaks will go on record. The other thing will not go on record. This is for the better facilitation of the functioning of the House.

Further, in this regard the Chairman also made an appeal to the Leader of the Opposition and leaders of different political parties. The Chairman observed:

I also have an appeal to make to the Leader of the Opposition and the leaders of different political parties. After time is allotted to parties, while giving the list of names, you have to demarcate among yourselves how much time for Member ‘A’ and how much time for Member ‘B’ instead of the Chair doing it. We are partly following the party system also. Leaders must keep that in mind and then see to it that Members adhere to the time that is allotted to their respective parties.

(R.S. deb. dt. 17.9.2020, p.384)

44. House: Time: Change in the time of sittings of the House necessitates the change in timing of raising the Calling Attention and submitting the notices for Special Mentions

On 2 February 2021, in view of the change in the timings of the sittings of the House due to COVID-19 protocol, the Chairman made an announcement in the House regarding the change in the deadlines for submission of notices for Zero Hour Submissions and Special Mentions. The Chairman announced:

Hon’ble Members are aware that sittings of the House from 2nd February to 8th April, 2021, will be from 9 a.m. to 2 p.m. Rule 180(5) of the Rules of Procedure and Conduct of Business in Rajya Sabha provides for admitting Calling Attention notices and states that they should be raised at 2 p.m. and no other time during the sitting of the Council. That is the rule. So, in view of the change in the time of the sittings of the House, it is not possible to take up the Calling Attention at 2 p.m. Accordingly, the Calling

Attention shall be raised in the House at such a time as may be decided. Similarly, Rule 180(C)(1) provides that the time for submitting notices for Special Mentions shall be up to 5 p.m. on a day for raising the matter on the next day of sitting. Again, in view of the change in timings, it has been decided that the time for submitting notices of Special Mentions shall be up to 12 noon on a day for raising the matter on the next day of sitting. I hope the House accepts these modifications.

(R.S. deb. dt. 2.2.2021, p. 5)

On 2 February 2022, a similar observation was made by the Chair in view of the change in the timings of the sittings of the House due to COVID-19 protocol. The Chairman made an announcement in the House regarding the change in the deadlines for submission of notices for Zero Hour Submissions and Special Mentions. The Chairman announced:

Hon'ble Members, as you are all are aware, the sittings of the House from today, the 2nd February, 2022 onwards, will be from 10.00 a.m. to 3.00 p.m. Rule 180 of the Rules of Procedure and Conduct of Business in Rajya Sabha provides for admitting Calling Attention notices and sub-rule (5) states that they should be raised at 2.00 p.m. and at no other time during the sitting of the Council. In view of the change in the time of the sittings of the House during this Session, for the sake of convenience, Calling Attention shall be raised in the House at such a time as may be decided instead of strictly at 2.00 p.m., as provided in the rules. Similarly, Rule 180(C)(1) provides that the time for submitting notices for Special Mentions shall be up to 5.00 p.m. on a day for raising the matter on the next day of sitting. Again, in view of the change in timings, it has been decided that the time for submitting notices of Special Mentions shall be up to 1.00 p.m. on a day, for raising the matter on the next day of sitting. I hope the House accepts these modifications. Regarding Zero Hour, keeping in view the time constraint, it will be taken up in the first half-an-hour of the

sitting. I appeal to the Members that instead of taking three minutes they may take two minutes, so that more and more Members get an opportunity.

(R.S. deb. * dt. 2.2.2022, pp. 9-10)

45. House: Time: Restoration of normal sitting hours of the House

On 8 March 2021, the Chair made an announcement regarding the restoration of normal sitting hours of the House. The House had functioned from 10 a.m. to 3.00 p.m. from the 252nd Session onwards in order to adhere to the COVID-19 protocols. The Vice-Chairman observed:

Hon'ble Members, on the request received from many Members from various parties, hon'ble Chairman has decided that from tomorrow, Tuesday, the 9th March, 2021, the sitting of Rajya Sabha will commence from 11.00 a.m. up to 6.00 p.m., as per usual timings of the House. The Members will be seated in the Rajya Sabha Chamber and the Galleries only, with some distancing. Details of the sitting plan will be intimated to the Members today.

(R.S. deb. dt. 8.3.2021, p. 36)

46. House: Time: Need to adhere to time limit allotted for discussion by the Business Advisory Committee

On 3 February 2022, prior to the commencement of the discussion on the Motion of Thanks to the President's Address, the Chairman made an observation stressing on the need to adhere to the time allotted by the Business Advisory Committee. The Chairman observed:

...once the time was allocated, various parties were informed about the time allocation. Respective parties have been told to give names accordingly and also, if possible, mark the time that they want to give to each Member. Now, I am told that they have sent it to Members, but they are not following it. The problem is,

if some speakers take more time and leave less time for their colleagues, there would be practical problems. I do not want to name any party here. I would request all the leaders to see to it that whatever time Members have been allocated is followed by one and all.

(R.S. deb.* dt. 3.2.2022, p. 31)

LEAVE OF ABSENCE

47. Leave of Absence: Ground for leave of absence from the sittings of the House has to be valid

On 6 February 2019, a Member had requested for ‘leave of absence’ citing pre-occupation with party work. Leave of Absence was granted to the Member after taking the sense of the House. In this regard, the Chairman observed:

Any Member writing to the Chair seeking permission to be absent from the House has to state a valid reason. Particularly, it is health and all, and, normally, it is considered positively. ‘Party work’ or ‘family work’ is not a reason that can be cited for asking for leave.

(R.S. deb. dt. 6.2.2019, pp. 5-6)

MEMBERS

GENERAL

48. Members: Members to speak with the permission of the Chair and to make comment only as part of a speech

On 13 March 2018, the Chairman made some observations relating to effective functioning of the House. The Chairman *inter alia* observed:

...It is against the rules for any Member to speak without Chairman's permission...It is against the traditions and also the rules to make comments while sitting, any side and at any time. Any comment has to be made as a part of the speech only because unnecessarily we will be creating tension in the House and we will not be able to function.

(R.S. deb. dt. 13.3.2018, p. 28)

49. Members: Members should be in their seats before the Chairman arrives

On 7 August 2018, the Chairman reminded the Members to be in the House before the arrival of the Chairman and the commencement of the Business. The Chairman observed:

I have been seeing that hon'ble Members are coming one by one after the Chairman comes and the House assembles. You have got the right. I am not denying that. But, at the same time, the practice is that everybody should be in their seats before the Chairman comes and then we must start the Business. That will send a good message. I request you all to please focus on this.

(R.S. deb. dt. 7.8.2018, p. 24)

50. Members: Members to listen to Minister's reply patiently

On 27 November 2019, a Short Duration Discussion on the economic situation of the country took place. On the same day, at the end of the discussion, the Minister of Finance replied to the

Members. Displeased with the frequent interruptions by the Members during the Minister's reply, the Chairman observed:

...the point I want to make is that when 23 Members or 24 Members have made their suggestions or comments or made their speeches whatever you may call it, they must have the patience to hear the Minister also who has to respond. There is no rule that says that at the end of the reply of the Minister you should get satisfied. Sometimes you may not be satisfied. Then the best way is walking out. That has been the accepted practice of our parliamentary system in our country. Talking out and later walking out can be done in a responsible and respectable manner...The moment the Minister started talking, you cannot make running commentaries or you can't express your disagreement with the Minister...Please see to it that when you raise issues and that too issues of such national importance, you must have the patience to hear the Minister. At the end of the Minister's reply, still if you are not satisfied, I remember it out of my experience, you can then say, "Sir, we are not satisfied with the reply of the Minister and we are walking out." ...In future, I suggest to the Members not to obstruct and wait till the end of the debate, and if you are not happy, you can walk out. That is a respectable way.

(R.S. deb. dt. 27.11.2019, pp. 496-497)

51. Members: Members should not avoid appearing before any investigating agency by citing the reason of House duty

On 19 March 2020, when the matters of urgent public importance were being taken up during the Zero Hour, the Chairman made an observation regarding the duty of Members to respect the law and legal procedures. The Chairman observed:

I would like to mention that no Member of the House should avoid appearing before any investigating agency, when she or he is called upon to do, by citing the reason of the House duty. As law makers, it is our bounden duty to respect the law and legal procedures. It applies to all, in all cases, because you can only inform that the House is in Session, seeking further date, but you

cannot avoid the enforcement agencies or the law enforcing agencies' summons or notices. This has to be taken note of by all.

(R.S. deb. dt. 19.3.2020, p. 53)

52. Members: Procedure for the Members to speak in view of special seating arrangements on account of COVID-19 pandemic

During the 252nd Session, special seating arrangements were made in accordance with COVID-19 protocols. Members were seated in Chambers of Lok Sabha and Rajya Sabha and in the Galleries of Rajya Sabha except Press Gallery. On 15 September 2020, the Chairman made an observation in order to ensure smooth functioning of the House in view of the special arrangements. He observed:

In view of the experience yesterday, the Members who are going to speak should raise their hand, identify themselves, tell their name, and also, one more point is added, 'Sir, from the Chambers; Sir, from Gallery Number 4; from Lok Sabha' so that the camera can focus. I will be able to see it because I am seeing the TV. So, if you identify and say, 'Sir, speaking from the Lok Sabha Chamber, then camera will focus on that particular Member. Please understand the rationale behind this suggestion and try to follow it. It will be easy for the officials also who are managing the control rooms for sound and visual. They are taking time to immediately switch on his mike, focus the camera on him as they are not aware of the place from where the Member is speaking. The camera has to move in different directions and all.

(R.S. deb. dt. 15.9.2020, pp. 1-2)

53. Members: A Member should belong to either a political party or a Group, he cannot belong to both at the same time

The United Group (UG) consisting of 20 Members owing allegiance to different political parties/Independents/Nominated was formed for the purpose of participating in the debates and attending

Business Advisory Committee (BAC)/Leaders' Meetings, on the 5th of October, 2016, with Shri Naresh Gujral, Member belonging to Shiromani Akali Dal, as Convenor of the Group, after the then Chairman, Rajya Sabha accorded recognition thereto. The recognition of the Group was subject to the conditions *viz.*, (i) the Group will not claim any preference in calling of names of their Members before the Members of recognized political parties during any discussion in the House; (ii) only the Leader of the Group will be authorised to communicate with the Hon'ble Chairman, Rajya Sabha and give names of Members of the Group for any discussion/ debate in the House. Individual request from Members directly will not be entertained; and (iii) the Leader or any other office bearers of the Group will not be entitled for any facilities under the provisions of the Leaders and Chief Whips of recognized parties and Groups in Parliament (Facilities) Act, 1998 as the said 'Group' is not a recognized Group in terms of the provisions of the said Act. However, over the years it was observed that Members belonging to parties with strength of 4 and 3, as they are clubbed with parties having strength of 2 and less in 'Others' category, were getting less time in debates than Members of the UG, who actually belonged to parties with similar or lesser strength. Moreover, Members in the UG, at times, got more time to speak than what they would otherwise have been entitled to in their individual capacity and even more than what had been allotted to the smallest major parties with a strength of five, which are allotted time separately, on account of appropriating unused time from what had been allotted to UG due to less number of speakers taking part in the discussion from that Group.

It was also observed that in some cases, some of the Members of a Party were part of United Group and other Members of the same Party, who did not join the UG continued in 'Others' category. Thus, one Party got more time in debates, their Members being in UG and also in 'Others' category. Moreover, the Group was not a Parliamentary Group and was formed only for the limited purpose

of floor functioning, *i.e.*, for participating in the debates of the House and attending the meetings of BAC. The Group did not have a common ideology or common programme and the constituents of it were separate entities having different ideologies etc.

In view of the above facts, the Chairman withdrew the recognition to the Group accorded in pursuance of the residuary powers vested in him under Rule 266 of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha). On 17 September 2020, the Chairman observed:

I have to make an observation about the United Group. I have gone through the Rules and precedents. A Member should belong to either a political party or a group. He cannot be both. This applies to all the people hereafter.

(R.S. deb. dt. 17.9.2020, p. 384)

54. Members: Members to refrain from coming to the Table of the House and speaking to the officers when the House has commenced its business

On 18 September 2020, the Chairman reiterated his advice to the Members to maintain COVID-19 appropriate behaviour during the course of the Session. The Chairman observed:

Hon'ble Members, as I have already advised, no Member is expected to come to the Table of the House and then speak to the officers when the House is in session. You can get your doubts clarified, if any, before the House commences. While doing the Business, if you have something urgent please send a slip, so that they can take a note.

(R.S. deb. dt. 18.9.2020, p. 10)

55. Members: Members not to go to the Chamber of the Chairman or to the seats of other Members due to the COVID-19 protocol

On 18 September, 2020, the Chairman also advised Members

to refrain from entering the Chairman's Chamber due to the prevailing COVID-19 pandemic. The Chairman observed:

Hon'ble Members are advised not to come to the Chamber of the Chairman also because everybody is coming and saying, 'Sir, what about my Zero Hour mention'? I do not have much problem, I enjoy meeting the Members. But, the officials from the Department of Health and our own people are telling, 'Sir, please, do not allow this' because those are closed rooms, even this much air circulation is not there. So, please keep this advice in mind and avoid. If you have any problem, please send a slip addressed to the Chair. Informally, you can write to me and I will go through it and try to address it to the extent possible.

While advising Members to also refrain from going to the seats of other Members, the Chairman observed:

Members are requested not to go to other Members' seat(s), bend and try to talk to them. You know that I do not like louder voices in the House...Please avoid going to Members. If you have something to communicate also among yourselves, please send slips. Slips in an examination hall are not allowed, but here slips are allowed.

(R.S. deb. dt. 18. 9.2020, pp.10-11)

56. Members: Members should avoid wearing party symbols in the House

On 8 March 2021, the Chairman made an observation regarding the attire of the Members and wearing party symbols in the House. The Chairman observed:

Hon'ble Members, I have an advice. Members coming to the House can wear their traditional headgear or *angavastra* or whatever it is, but it is better to avoid party symbols. Once you enter into the House, we have to maintain tradition. This applies to all parties, not to one party or one symbol.

(R.S. deb. dt. 8.3.2021, p. 1)

SUSPENSION

57. Members: Suspension: No division on the Motion for suspension of Members

On 22 September 2020, several Members including the Leader of the Opposition had opposed the manner in which a few Bills were passed in the House the previous day, and the subsequent suspension of Members of the House under Rule 256 (2) of the Rules of Procedure and Conduct of Business in Rajya Sabha. Some Members requested the Chair to reconsider/ revoke the decision of ‘suspension of Members’. Dr. K. Keshava Rao, a Member raised the point that Hon’ble Chairman should have allowed division on the Motion for suspension under Rule 252(4)(c). The Chairman observed:

... talking about suspension, this is not the first time. I am not happy about the suspensions. After all, they are my Members, they are our countrymen. The action is on their conduct, not the person. Try to understand that. We don’t have anything against any Member as far as I am concerned. I have a long list of how people have been suspended in this House and in the other House. I am not using that example to justify things. I was convinced about the Minister’s Motion and that is why I allowed it. And then, at no time, so far, has there been a division on the decision of suspension. If there are any shortcomings in the observations, you can write to me or meet me later. I am always ready to be corrected. Then, coming to the suspension of a Member who has been named by the Chair, the Rule says, “If a Member is so named by the Chairman he shall forthwith put the question on a motion being made, no amendment, adjournment or debate being allowed, that the Member (naming him) be suspended from the service of the Council for a period not exceeding the remainder of the Session.” So, this was done as per the rules. That is my observation and my ruling also.

(R.S. deb. dt. 22.9.2020, pp. 382-384)

58. Members: Suspension: Disapproval of undemocratic conduct in the House cannot be decried as undemocratic

On 2 December 2021, after the Papers were laid on the Table of the House, Hon'ble Chairman made an observation regarding the suspension of the Members from the House on 29 November 2021. He observed:

Hon'ble Members, this is the fourth sitting of the first session of this august House in the 75th year of our hard-fought Independence. The House could not transact any business during the last three days. The people of India gave themselves the Constitution of India that stipulated democracy as the instrument of nation building as per the dreams of freedom fighters and the vision of makers of the sacred Constitution. The Constitution cast a huge responsibility on the legislatures and elected representatives of the people... Since I can't go public with my anguish in any other way, the only platform to share my anguish and thoughts is to speak in the House. Some of the respected leaders and members of this august House, in their wisdom, chose to describe the suspension of 12 members as undemocratic. I have struggled to understand if there was any justification for that kind of a narrative being propagated but could not. The latest suspension is not the first time to have happened. Such suspension of members, starting in 1962 happened on 11 occasions till 2010, further to a Motion moved by the Government of the day. Were all of them undemocratic? If so, why it was resorted to so many times? The Rules of Procedure and Conduct of Business in the Council of States clearly provide for suspension of members for disrupting the proceedings of the House and for misconduct lowering the dignity of the House, under Rules 255 and 256. The reasons for the latest suspensions were in the public domain and the Minister of Parliamentary Affairs gave the reasons while moving the Motion for suspension on the first day of this Session. I don't want again to recall those forgettable acts of misconduct during the last monsoon session that laid the ground for the latest suspensions.

While calling this suspension as undemocratic both in and outside the House, not even a word is being said about the reasons given for the suspension, the disdainful conduct of some members during the last session, which I have categorically called as acts of sacrilege on the last day of last session. Unfortunately, a message is sought to be sent that this sacrilege of the House is democratic and the action against this sacrilege is undemocratic. I am sure people of the country would not buy this new norm of democracy. Hon'ble Members, there were suspensions in the past and some of them were revoked prematurely because the errant members regretted their acts of misconduct in the House.

I am deeply pained to know from media reports of categorical refusals to express any regret for the acts of misconduct during the last session that led to this round of suspensions. Then what is the way forward? You don't want to regret your misconduct but insist on revoking the decision of this august House taken as per due process stipulated under the Rules of the House. Does this amount to upholding the principles of democracy? Leader of the House has stated in this House that revocation of suspension could be considered if the concerned Members express regret for what was done in the House during the last session. Deputy Chairman has urged both the sides to talk it out and do the needful to move forward to enable normal functioning of the House. It is human to err and it is also human to make amends. One cannot refuse to amend and insist on glossing over the wrong doings. Suspensions, either in the past or now, are only the expression of disapproval of the acts of misconduct of some members by the House. Disapproval of undemocratic conduct in the House can't be decried as undemocratic, for sure. I urge both the sides of this august House to talk it out and find a way to do the mandated job of this House.

(R.S. deb.* dt. 2.12.2021, pp. 5-7)

* Uncorrected

59. Members: Suspension: Notice for termination of suspension of Members should be accompanied by a Motion to be moved in the House with the permission of the Chairman

On 15 December 2021, during the Question Hour, Shri Anand Sharma raised the point relating to the suspension of the Members. He quoted Rule 256 dealing with the ‘Suspension of Members’ which contains a *proviso* that ‘the Council may, at any time, on a motion being made, resolve that such suspension be terminated’; and page 316 of ‘Rajya Sabha at Work’, wherein on 14th December, 1967 when Shri Jaisukhlal Hathi was the Leader of House, Shri Raj Narain was suspended. Referring to details of the issue, Shri Anand Sharma said that the suspension of the Member could be terminated upon a Motion moved and adopted by the House. The Member also stated that a notice for the termination of the suspension of the Members had been given by him and Shri P. Chidambaram. After listening to the point raised by Shri Sharma, Hon’ble Deputy Chairman made the following observation:

Hon’ble Members, when the House met this morning, Shri Anand Sharma, Deputy Leader of the Indian National Congress, gave notice to the Hon’ble Chairman, Rajya Sabha, of his intention to move a motion under proviso to Rule 256 (2) for termination of the suspension of 12 Members of the Rajya Sabha, who were earlier suspended by the House on 29 November, 2021. He raised this matter in the House also immediately after laying of Papers. On his persistent demand, Hon’ble Chairman observed that he would examine the notice given by Shri Anand Sharma. I have now been informed by the Hon’ble Chairman that the notice given by Shri Anand Sharma is not accompanied by the motion which he intends to move in the House and, as such, the notice given by Shri Anand Sharma is inadmissible. I may also add here that a motion can be moved in the House by any member with the consent of the Hon’ble Chairman only.

(R.S. deb.* dt. 15.12.2021, p. 34)

* Uncorrected

MINISTERS

ABSENCE

60. Ministers: Absence: Ministers, who are supposed to lay Papers on the Table of the House, having given notice to the Chair, should not be absent in the House

On 17 December 2021, Hon'ble Chairman made an observation regarding the absence of Ministers when their names have been listed for laying of papers on the Table by the Ministers:

The Ministers, who are supposed to lay Papers on the Table of the House, having given notice to the Chair, should not be absent in the House. This is number one. In extreme circumstances there would be some occasions, I have experience of twenty years here if there is any problem, they must approach the Chair in advance and then seek permission. Some of them are doing it while others think it is casual. It cannot be casual, it cannot be usual. I will not allow such things in future. The Leader of the House is here and also the Parliamentary Affairs Minister; I hope they take notice. I am not objecting to others laying it on their behalf with prior notice and prior permission. So, this has to be kept in mind.

(R.S. deb.* dt. 17.12.2021, pp. 20-21)

GENERAL

61. Ministers: Clarification by a Minister on a matter of urgent public importance raised by a Member is not mandatory. The Minister may, however, give clarification if he/she wishes to do so

On 19 March 2021, the Chairman referred to a matter of urgent public importance on the 'Need for Financial and Medical Aid for Children Suffering from Spinal Muscular Atrophy' on 17 March 2021 raised by Shri Vivek K. Tankha. The Member had mentioned in the House that the drug for the treatment of the 'spinal muscular atrophy' is manufactured in USA, and if procured from there, a tax amount of Rs. 6 crore is also levied. The Chairman informed the House that

* Uncorrected

the Finance Minister had written a letter to him stating that she would like to respond to the issue raised by the Member. In this regard, the Chairman observed:

If a Member makes a submission and if the Minister wants to respond and the Minister indicates to me, only then can I permit. If the Member wants clarification and the Minister is not responding, I cannot permit it. As per the rule, clarification is not mandatory. If the Minister wants to clarify and if there is time, the Chair will be more than happy to allow the Minister to give clarification and allow the Member to get the clarification. This has to be kept in mind. The other day, Shri Vivek Tankha raised an issue about an amount of Rs. 6 crore as tax. Even I was surprised. It is a very serious issue. So, yesterday, the Minister sent a letter to me saying that she would like to respond to this issue. Then, I went through the reply. It was explanatory which would also be useful. I allowed the Minister to give clarification.

(R.S. deb. dt. 19.3.2021, p. 61)

MOVING OF A MOTION

62. Minister: Moving a Motion: Presence of the concerned Minister is desirable if he has got any Business listed against his name

On 23 September 2020, when the Chairman, called Shri Ravi Shankar Prasad, Minister of Law and Justice to move the Motion for Election to Joint Committee on Offices of Profit, he was not present. Then the Chairman called Shri Piyush Goyal, Minister of Railways to move the motion. Then, Shri Piyush Goyal moved the Motion for Election to Joint Committee on Offices of Profit. The Motion was adopted. However, the Chairman observed:

It is as per the rules that if one Minister has to move a motion, other Ministers can also move that motion. But, generally, it is better if the concerned Minister is always present in the House if he has got any Business listed. That is the general rule.

(R.S. deb. dt. 23.9.2020, p. 30)

MOTIONS

NOTICES

63. Motions: Notices: Notice which reflects upon the conduct of persons in high authority without a substantive motion not to be admitted

On 25 November, 2019, during the Zero Hour the Chairman referred to a notice under Rule 267 submitted by some Members with regard to revocation of the President's Rule in Maharashtra without following the due procedure and alleged misuse of office of Governor, etc. While not admitting the notice, the Chairman observed:

Hon'ble Members, I have received a notice under Rule 267 from Shri Binoy Viswam, Shri Elamaram Kareem, Shri K.K. Ragesh, Shri Tiruchi Siva and Shri Anand Sharma with regard to revocation of the President's Rule in Maharashtra without following the due procedure and alleged misuse of office of Governor, etc. After going through the Rules and earlier precedents, I have decided not to allow it on two counts...

One, as per Rule 238, "(i) refer to any matter of fact on which a judicial decision is pending." Judiciary is hearing it just now. Secondly, "(v) reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms." There is no substantive motion that is given. So, on both these counts, I have disallowed it...

As per Article 356 of the Constitution, every Proclamation issued under it either for imposition or revocation of the President's Rule in a State is required to be laid before each House of Parliament. As per the Ruling given by the Chairman on 24th April 1989, the role of Governor in relation to Proclamation issued by the President under Article 356 can be discussed only when such a Proclamation is laid before the House and becomes its property. No Proclamation with regard to revocation has been laid on the

Table of the House. In the instant case of Maharashtra, the Proclamation in question is still to be laid on the Table of the House. Moreover, as per the media reports, the issuance of the Proclamation has been challenged in the Supreme Court and the matter is also *sub judice*.

(R.S. deb. dt. 25.11.2019, p. 9)

ORDINANCE

64. Ordinance: Government's power to issue Ordinances

On 9 February 2021, when the National Capital Territory of Delhi Laws (Special Provisions) Second Amendment Bill, 2021 was taken up for discussion, Shri Shakthisinh Gohil raised a point of order under Rule 266, Article 123 of the Constitution of India and based on the 'Rulings and Observations from the Chair (1952-2008)' and the 'Rajya Sabha at Work'. He quoted an observation of a former Chairman with regard to Ordinance making powers exercised by the Government, which is as follows:

I hope these views and the propriety of the Constitution will be kept in view by the Government, and in future, recourse to issuing Ordinances will be minimal and will be as sparing as possible, especially, in the case of Finance Ordinances and they will be issued only when absolutely essential and urgent.

In response to the point of order raised by the Member, the Chairman observed:

The point he is making is that the power of ordinance should be used with caution and in extraordinary situation. This has been the general view, even my view also. But what is happening, you are all aware of. In the recent years, when the Parliament is not in Session, successive Governments have been issuing ordinances and then later, these are coming to the House. We are then discussing it and we approve it or disapprove it, in whatever manner it is. Here also, you all know the reasons for issuing the Ordinance. One, because the Parliament was not in Session and, secondly, the Cabinet can decide anything and then it is referred back to the Parliament. So this has come before the Parliament, you can discuss it and then we can decide about it.

PAPERS LAID ON THE TABLE

GENERAL

65. Papers laid on the Table: In view of special seating arrangements, Minister of Parliamentary Affairs to lay all papers listed under the heading ‘Papers to be Laid’ and Statement by Ministers regarding implementation of observations/ recommendations contained in Reports of the Department-related Standing Committees

Keeping in view the limited functional time available and special seating arrangements made for the Session on account of COVID-19 protocols, the Chairman made an announcement regarding the ‘Papers to be Laid on the Table’ on 15 September 2020. The Chairman observed:

I have to inform Members that in view of the limited functional time available and the special seating arrangements made for the current Session, I have acceded to the request made by the Minister of Parliamentary Affairs for allowing him to lay all the papers listed under the heading ‘Papers to be Laid on the Table’ and Statements by Ministers related to Department-related Parliamentary Standing Committees in the List of Business for the day in the name of other Ministers, on their behalf. I have further advised that the Minister of Parliamentary Affairs may make himself available in the Rajya Sabha or ensure the presence of either of the Ministers of State in the Ministry of Parliamentary Affairs for laying of papers, if he is pre-occupied otherwise.

(R.S. deb. dt. 15.09.2020, p. 1)

On 2 February 2022, a similar observation was made by the Chairman in view of the limited functional time available and special seating arrangements made for the Session on account of COVID-19 protocols. The Chairman announced:

Hon’ble Members, I have to inform Members that in view of the limited functional time available and the special seating

arrangements made for the current Session, I have acceded to the request made by the Minister of Parliamentary Affairs for permitting the Minister of State in the Ministry of Parliamentary Affairs to lay all the Papers listed under the heading ‘Papers to be Laid on the Table’ in the List of Business for the day in the name of other Ministers, on their behalf, till this Session because of the Covid situation.

(R.S. deb. * dt. 2.2.2022, pp. 4-5)

66. Papers Laid on the Table: In view of special seating arrangements, Minister of State in the Ministry of Parliamentary Affairs can lay the papers listed against the names of other Ministers on their behalf

On 19 July 2021, the Chairman announced that in view of the special seating arrangements made on account of standard operating procedure to contain the spread of COVID-19, he had acceded to the request made by the Minister of Parliamentary Affairs to allow the Minister of State in the Ministry of Parliamentary Affairs, to lay all the Papers mentioned in the List of Business against the names of other Ministers on their behalf. The Chairman announced:

I have to inform the hon. Members that in view of the special seating arrangements made for the current Session, I have acceded to the request made by the Minister of Parliamentary Affairs to allow his junior colleague, the Minister of State in the Ministry of Parliamentary Affairs, to lay all the Papers, listed under the heading ‘Papers to be Laid on the Table’ and ‘Supplementary Statements of the Ministers’ mentioned in the List of Business on their behalf.

On 4 August 2021, Shri Anand Sharma raised a point of order stating that the Minister of State for Parliamentary Affairs was laying the papers on the Table of the House on behalf of other Ministers, while those Ministers were present in the House. He alleged that the Ministers did not respect the House. Responding to the point raised by the Member, the Chairman further observed:

* Uncorrected

The Chair has allowed the Parliamentary Affairs Minister to lay the Papers mentioned against the names of other Ministers because of the COVID situation.

Further on 5 August 2021, Shri P.Chidambaram raised a point of order on the same issue, to which the Deputy Chairman clarified that such an arrangement has been allowed by the Hon'ble Chairman keeping in view the COVID-19 situation.

(R.S. deb. dt. 19.7.2021, p. 23; 4.8.2021, p. 5; and 5.8.2021, p. 10)

SUB JUDICE MATTERS

67. Papers Laid on the Table : *Sub judice* matters: Authenticated documents or material in electronic form referred to by the Member in his speech can be laid on the Table of the House even if the matter is *sub judice*

On 7 February 2018, during the Zero Hour, Shri Sukhdev Singh Dhindsa raised an issue regarding the issue of involvement of a former Union Minister in the 1984 anti-Sikh riots in Delhi as revealed in a recent sting by a news channel. While raising the issue, the Member took names of some persons belonging to a party and wanted to submit a CD in this regard. Shri Anand Sharma then raised a point of order stating that the matter was *sub judice* and evidence could be submitted only before a trial court. He also added that Members who were not present in the House cannot be referred to. After hearing the point of order raised by Shri Sharma, the Chairman observed:

I do agree that we should not name the Member that is why I suggested that it will not go on record...Any person who is not a Member of the House and not present in the House, his name will not go on record. That is one stand taken by them. See it in the future also. But the point is that the hon'ble Member and two other Members came to me, met me in my Chamber and showed me the CD—it is not my duty to see the CD—I told them to authenticate it. He said it on the floor of the House, now that he is submitting the same CD with authentication to the House. So, I don't find any objection to that.

(R.S. deb. dt. 7.2.2018, pp. 11-12)

PARLIAMENTARY PROPERTY

68. Parliamentary Propriety: Propriety demands that a Cabinet Minister along with the Mover and the Seconder of Motion of Thanks on the President's Address should be present in the House during the discussion on the Motion

On 7 February 2018, during the discussion on the Motion of Thanks on the President's Address, Shri Jairam Ramesh pointed out that there was no Cabinet Minister in the House. Thereafter, Shri Anand Sharma also pointed out that neither the mover nor seconder of the Motion, nor a Cabinet Minister was present in the House which was disrespectful to the House and the President. Responding to the points raised by the Members, the Deputy Chairman then asked the Minister of State in the Ministry of Parliamentary Affairs to ensure the presence of all concerned. He said:

Goelji, a Cabinet Minister should be here. So, you arrange it. He should be here. Propriety demands that the Mover and the Seconder should also be here.

(R.S. deb. dt. 7.2.2018, p. 290)

POINTS OF ORDER

69. Points of order: A Minister or a Member can offer a suggestion to end a stalemate in the House

On 8 February 2018, some Members representing the State of Andhra Pradesh wanted to raise certain issues such as Special Category Status, bridging up the resource gap, capital development, etc. concerning their State. The Chairman then expressed that such issues could be raised during the discussion on the Union Budget. Thereafter, the Chairman asked Shri Y.S. Chowdhary, Minister of State in the Ministry of Science and Technology, who was also a Member of the House representing the State of Andhra Pradesh to provide a suggestion to resolve the stalemate. The Minister said that certain commitments made during the enactment of the Andhra Pradesh Reorganisation Act could not be fulfilled by the Government and suggested that if the Government is willing they can commit that the Finance Minister, while replying to the Budget discussion will assure to resolve the issues within fifteen days. He felt that this was how the issue could be resolved. Thereafter, Shri Vijay Goel, Minister of State in the Ministry of Parliamentary Affairs assured that the Finance Minister in her reply to the discussion on the Union Budget would sort out the issues raised by the Members. Shri Vijayasai Reddy raised a point of order under Rules 238(1), 238(2), 238A, 255 and articles 74 and 75 of the Constitution of India. He said that a Minister belonging to a party which is part of the Government has expressed views against the Presidential Address approved by the Cabinet. If the Minister or his party wanted to differ with the Government, the Minister should first resign. Then the Chairman observed:

I have gone through the point of order. Even a Minister can give a suggestion. There is nothing wrong in that. It is a collective responsibility. The Minister has given the suggestion to end the stalemate... A Minister or a Member can always give a suggestion and the Chair after considering... No constitutional misuse has taken place. Don't worry on that account. I want a solution.

I want the House to run smoothly and peacefully so that everybody will get an opportunity to discuss. That is my purpose. In my discretion, I allowed him. He wanted to give a suggestion. That is a suggestion. It has nothing to differ with the Government.

(R.S. deb. dt. 8.2.2018, p. 540)

70. Points of order: Member cannot raise a point of order on a matter that is not before the House

On 18 July 2019, Shri Anand Sharma raised a point of order quoting Articles 102 and 191 (2) of the Constitution of India and the Tenth Schedule, in connection with a judgement of Supreme Court in a matter of some MLAs of Karnataka Vidhan Sabha. When the Chairman disallowed his point of order, the Member insisted on a ruling from the Chair. A detailed ruling in this regard was given by the Chairman on 25 July 2019, which is as follows:

Hon'ble Members, on 18th July, 2019 during Zero Hour Shri Anand Sharma, Deputy Leader of the Congress party in Rajya Sabha raised a point of order. Quoting Articles 102 and 191 (2) of the Constitution of India and the Tenth Schedule commonly known as Anti-Defection law, Shri Anand Sharma submitted that under paragraph 2(1)(b) of the Tenth Schedule, a Member who votes or abstains from voting in a House contrary to the direction issued by his political party without obtaining the prior permission of, or condonation of such voting or abstention by that political party within 15 days from the date of such voting or abstention, incurs disqualification for being a Member of that House. Further, stating that the judgement of the Supreme Court of 17th July, 2019, in the matter of some MLAs of Karnataka Vidhan Sabha, Shri Anand Sharma described it as a clear violation of the Constitution and transgression of power and demanded a ruling from the Chair in the matter. I am not going into the merits of voting or abstention; that is left to the respective State Assembly. Responding to his submission, I made it clear in the House that I cannot allow his point of order as the matter raised by him was not for consideration before the House. However, on his insistence for a ruling, I said that I would give a detailed order.

Hon'ble Members as you are aware, the point of order is a procedural device under Rule 258 of the Rules of Procedure and Conduct of Business in Rajya Sabha to bring to the notice of the Chair any procedural irregularity being done or observed in the House in relation to the Business of the House at that moment. A Member cannot raise a point of order on a Business that is not before the House. There have been a number of instances in Rajya Sabha when the Presiding Officers have consistently ruled that the point of order can be raised only on a matter which is before the House. In the instant matter, Shri Anand Sharma wanted my ruling on the judgment given by the Supreme Court on a matter which is between the Speaker of the Karnataka Vidhan Sabha and some of its MLAs. This is obviously outside the ambit of Rule 258 of the Rules of Procedure and Conduct of Business in Rajya Sabha. I, therefore, reiterate, what I had said in the House, that this matter not being before this House, cannot be allowed as a point of order. But I am not commenting on the merits of the issue which he has raised; that is left to the other forum.

(R.S. deb. dt. 25.7.2019, pp. 59-60)

71. Points of order: Point of order can be raised only on matters connected with the House and not on the matters raised in the other House

On 2 December 2019, Shri Bhupender Yadav raised a point of order under Rule 258 that a leader of the other House had made certain remarks against the Prime Minister. When the Chair did not allow his point of order, the Member insisted that there have been past precedents wherein the House had condemned the Members who have violated the established Parliamentary norms and decorum. Thereafter, on 5 December 2019 after examination of past precedents, the Deputy Chairman observed:

Shri Yadav, while raising his point of order, mentioned that a leader of the other House had called the Prime Minister an infiltrator. Shri Yadav further said that use of such words against

the Prime Minister was an insult to democracy. I gave my ruling on the issue that day itself stating that the point of order raised by any Member should be connected with the matters before the House, and since the raised issue by Shri Yadav was not pertaining to the Business of the House, I disallowed his point of order. However, on his insistence that this House on many occasions has condemned the Members who have violated the established Parliamentary norms and decorum and there are precedents of this nature, I had stated that I would get the precedent examined. I have got the record examined. There is no such precedent in which the House took a *suo motu* cognisance of any violation of parliamentary decorum in a public statement by a leader or a Member of the other House. There are precedents of the nature when a Member of our House has said something against the persons in high authority in the House or when someone from outside has made certain derogatory remarks, which had reflections on the Presiding Officer or Members of our House. In the instant case, the person who has made the impugned statement is from other House. Besides, the matter was raised in the other House also. The issue squarely falls within the jurisdiction of the other House. It has been a well-established parliamentary practice that one House does not deliberate upon the proceedings of the other House.

(R.S. deb. dt. 5.12.2019, pp. 402-403)

72. Points of order: Point of order can be raised only at the time when a Member is speaking

On 8 February 2021, during the Zero Hour, Shri V.Vijayasai Reddy raised a point of order under Rule 238. He mentioned that on the previous occasion, another Member belonging to the Telugu Desam Party had referred to certain issues which were objectionable and should not have been raised in the House. He further stated that the Chair had allowed the Member to speak then and made a request to the Chairman to expunge the remarks made by the concerned Member. The Chairman observed:

That cannot be a point of order. You can write to me, definitely, if there is something which is not allowed as per the rules and objectionable that will be taken care of. But, you cannot just mention it using a point of order. Point of order can be raised at the time of speaking.

(R.S. deb. dt. 8.2.2021, p. 11)

73. Points of order: The Chairman and the House can take a decision to suspend the Members for their disorderly conduct during the previous Session

On 30 November 2021, Shri Mallikarjun Kharge, Leader of the Opposition raised a point of order under Rules 256 (1), 256 (2) and 258. He stated that as per the well-established conventions of the House, every Member who sought to raise a point of order had to be permitted by the Chair, especially when it was the Leader of the Opposition. He mentioned that on the previous day he was not allowed to raise his point of order, which was a gross violation of the well-settled and time-honoured parliamentary conventions. He also stated that under Rule 256 (1), before a Motion for the suspension of any Member is moved, the Chair has to first name a Member, if he is of the view that the Member has disregarded the authority of the Chair or abused the Rules of the Council. He further stated that under Rule 256 (2), only a Member thus named by the Chair can be suspended for persistent and wilful obstruction of the business of the House. He said that there are two parameters to be adhered to by the Chair for the suspension of a Member, (i) the naming of the Member by the Chairman; and (ii) moving a Motion for the suspension of a Member so named. He maintained that this procedure is relevant only on the date of occurrence of the alleged disregard or disorderly conduct of a Member. He pointed out that on the previous day, the Motion for suspension of Members was moved by the Minister of Parliamentary Affairs for their alleged disorderly conduct which had taken place during the previous Session and on that particular day (*i.e.* 29th November, 2021) none of the

twelve Members was named by the Chair. The Leader of the Opposition was of the opinion that bringing forward the Motion to suspend the Members months after the day of occurrence of their alleged disorderly conduct was not in order. He requested Hon'ble Chairman to revoke the suspension of the Members. After listening to the point of order raised by the Leader of Opposition, Hon'ble Chairman gave the following ruling:

I heard the Leader of the Opposition. Let me clearly clarify for the sake of understanding of the House as well as the nation. The Rajya Sabha is a continuing institution. The Chairman of the House of Rajya Sabha is empowered under Rules 255, 256, 259 and even under other residuary powers, the Chairman can take action, and the House can take action. What happened yesterday is not the Chairman taking action. It is the House, after the Motion was moved, which took this action.... Even about these Members, on 10th August, please go through the records; if you want, I will ask it to be released again, we named the Members. We requested them also to go to their respective seats... The Deputy Chairman made the appeal a number of times. Sometimes, he took the names also. Later also, in the Bulletin too, it was published about the Members who indulged in this act... The Members who have committed this sacrilege against the House, they have not expressed any remorse. On the other hand, they are justifying it. So, I don't think the appeal of the Leader of the Opposition is worth considering.

(R.S. deb. * dt. 30.11.2021, pp. 21-22)

74. Points of order: A point of order can be raised only on the subject under discussion and not on any other issue

On 2 December 2021, when the Dam Safety Bill, 2021 was being taken up for consideration and passage, Shri John Brittas raised a point of order under Rule 256 (2) with respect to the suspension of Members on 29 November, 2021. The Deputy

Chairman then observed:

We have already started the discussion on the Dam Safety Bill, 2019. You can raise any point of order on this Bill only....As per rules, I am telling you that you can make a point of order only regarding this Dam Safety Bill, not on any other issue.

Thereafter, when another Member, Shri Anand Sharma also supported the point of order raised by Shri John Brittas stating that it can be raised on any subject, the Hon'ble Deputy Chairman while quoting an earlier ruling given by the Chair on 14 March 1985, observed:

I am quoting, “A point of order should concern a matter which is immediately before the House and not a matter discussed earlier.”

(R.S. deb. * dt. 2.12.2021, pp. 13-17)

PRESIDENT

75. President: Chair is not mandated to decide whether the prorogation of the House by the President is in order or not

On 2 December 2021, Shri Anand Sharma raised a point of order by quoting Articles 83 and 85 of the Constitution of India. He stated that the Council of States under Article 83 is a permanent House which is not subject to dissolution. Elaborating upon his point of order, he quoted Article 85(1) and (2) which pertain to the summoning and prorogation of each House of Parliament by the President of India. He further mentioned that the ongoing Session was the Winter Session (255th Session) which was summoned by the President of India and commenced from 29 November, 2021. He stated that the previous Session was the Monsoon Session (254th Session) which had been adjourned *sine die* on 11 August 2021, and thereafter, the House was prorogued by the President on 31 August, 2021. He sought a ruling from the Chair as to whether the prorogation was in order and if so, was the ongoing Session a separate Session or a continuation of the previous Session. After hearing the point of order, Hon'ble Deputy Chairman said that he would give the ruling later on in this regard.

On 8 December 2021, the Hon'ble Deputy Chairman gave the following ruling on the aforementioned point of order raised by Shri Anand Sharma on 2 December 2021:

Hon'ble Members, on 2 December 2021, Shri Anand Sharma, Deputy Leader of Indian National Congress in Rajya Sabha raised a point of order referring to Article 85 of the Constitution. He *inter alia* stated that the previous (254th) Session which was adjourned *sine die* on the 11 August, 2021 was prorogued by the Hon'ble President on the 31 August, 2021. Further, the current Session was summoned by the Hon'ble President with first sitting on 29 November, 2021. He sought clarification whether the prorogation of the previous Session was in order and if so, whether

the current (255th) Session of Rajya Sabha is a separate Session or a continuation of the previous (254th) Session.

As we all are aware, the term “Session” is not defined in either the Constitution or in the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha). However, in parliamentary parlance, a Session of the Rajya Sabha commences on the date and time mentioned in the Summoning Order of the Hon’ble President and ends with the day on which he prorogues the House. Therefore, there is no question of any doubt on the point raised by Shri Anand Sharma whether this Session is a separate one or a continuation of the previous Session of Rajya Sabha. I may also add that the Chair is not mandated to decide whether the prorogation of a Session by the Hon’ble President is in order or not. All I can say is that due procedure was followed in obtaining prorogation orders of the Hon’ble President. Be that as it may, as per Article 83 of the constitution regarding the duration of the Houses of Parliament, Rajya Sabha is not subject to dissolution unlike the Lok Sabha which may be dissolved or which may continue for five years from the date appointed, whichever is earlier.

(R.S. deb. * dt. 8.12.2021, pp. 146-148)

PRESS

76. Press: Media should focus on the discussion or debate in the House rather than making headlines of other things

On 5 March 2020, the then Minister of Health and Family Welfare made *suo moto* Statement in the House regarding the steps taken by the Government to curb the spread of the novel Coronavirus (COVID-19). Following the statement by the Minister, some Members made valuable suggestions to the Minister. On 6 March 2020, referring to the lack of coverage by the media (both print and electronic) of the Statement by the Minister and the suggestions given by Members in the House, the Chairman observed:

The other day, on my suggestion, after consultation with the Leader of the Opposition and other friends, the Minister of Health made a detailed statement about steps that have been taken or which will be taken with regard to the spread of Coronavirus, and, after that, the hon. Members also gave their valuable suggestions. But, unfortunately, a section of the media did not focus on the important issue and showed greater interest in making other things as their headlines, ignoring this. Making other things as headlines is their line, we can't help it. But, ignoring such a vital, important aspect concerning the people of the country, that is not fair. I hope that they will take care, in future, whenever such important things come up. Moreover, I would like to say, please focus on the discussion or debate that is held in the House as and when it takes place rather than other things.

(R.S. deb. dt. 6.3.2020, pp. 10-11)

PRIVATE MEMBERS' BUSINESS

BILLS

77. Private Members' Business: Bills: Raising objection to the introduction of a Bill before a formal motion is moved to introduce the Bill, is premature and infructuous

On 22 November 2019, Shri K. K. Ragesh during the Private Members' Legislative Business raised a point of order regarding a Constitution (Amendment) Bill, 2019 (Insertion of a new Article 14A and omission of Article 44) which was listed for introduction in the name of Shri Narayan Lal Panchariya. Shri Ragesh objected to the introduction of the Bill stating that it was against the basic structure of Constitution. On 6 December 2019, the Deputy Chairman made the following observation regarding the point of order raised by the Member:

On 22 November, 2019, the first day allotted for transaction of Private Members' Legislative Business, a Constitution (Amendment) Bill 2019 (Insertion of a new Article 14A and omission of Article 44) was listed for introduction in the name of Shri Narayan Lal Panchariya. Before I could call the name of Shri Panchariya to move for leave to introduce the Bill, Shri K.K. Ragesh raised a point of order stating that the Bill was against the basic structure of the Constitution and secularism and, therefore, could not be introduced in the House. My observation to his point of order was that 'your point is taken and I would come to this'. Subsequently, when I called Shri Panchariya to move his motion for introduction of the Bill, it was observed that he was not present in the House. Therefore, there was no motion before the House for introduction of the Bill.

Rule 67 of the Rules of Procedure and Conduct of Business in Rajya Sabha provides that if a motion for leave to introduce a Bill is opposed, the Chairman after permitting, if he thinks fit, a brief explanatory statement from the Member who moves the motion and from the Member who opposes the motion, without further

debate, put the question before the House for a decision. As per well established convention of the House, which has been reiterated time and again by various Presiding Officers through their rulings, the Chair has never taken upon himself the responsibility of deciding whether a Bill is Constitutional or *ultra vires*. It is for the House to take a decision in the matter by voting either in favour of or rejecting the introduction of the Bill. In the instant case, Shri Ragesh objected to the introduction of the Bill before a formal motion to introduce the Bill was moved in the House. As there was no formal motion before the House, the objection of Shri K.K. Ragesh was found to be premature and, therefore, infructuous. There does not seem to be any necessity, therefore, for going into the merits of his objection. However, I have been informed that Shri Panchariya has now withdrawn his Bill.

(R.S. deb. dt. 6.12.2019, p. 383)

78. Private Members' Business: Bills: House to decide on its legislative competence and not the Chair

On 3 December 2021, during the Private Members' Business, several Private Members' Bills were introduced. One Private Members' Bill, namely, the Constitution (Amendment) Bill, 2021 (amendment of the Preamble) was being introduced by Shri K.J. Alphons, when Prof. Manoj Kumar Jha raised a point of order referring to Rule 62. The Member mentioned that the Bill being introduced by Shri K.J. Alphons sought to amend the Preamble and therefore under Rule 62, it could be introduced only with the prior sanction or recommendation of the President. The Deputy Chairman clarified to the Member that if introduction of a Bill is opposed on general grounds, then explanatory statements are made by both sides and it was for the Courts to take the final decision on whether the Preamble could be amended or not. When Prof. Jha insisted on opposing the introduction of the Bill under Rule 62, the Deputy Chairman clarified that the consent of the President was not required for introducing the Bill. He added that as the Bill was the property

of the House it was for the House to take the decision in this regard. Thereafter, upon a suggestion made by Shri V. Muraleedharan, Minister of State in the Ministry of Parliamentary Affairs and Ministry of External Affairs, to reserve the ruling on the admissibility of the Bill for a later date, the Hon'ble Deputy Chairman after taking the sense of the House deferred the introduction of the Bill.

Thereafter, in the following Session on 4 February 2022, which was a Private Members' Business day, the Deputy Chairman gave a ruling on the point of order raised by Prof. Manoj Kumar Jha on 3 December 2021:

Hon'ble Members during the Private Members' Legislative Business Day of the last Session on the 3rd December, 2021, hon'ble Member Prof. Manoj Kumar Jha, had opposed, without giving any prior notice, the motion moved by Hon'ble Member Shri K. J. Alphons, for leave to introduce his Private Members' Bill namely, "The Constitution (Amendment) Bill, 2021 (Amendment of Preamble)". He had argued *inter alia* that Preamble is part of the basic structure of the Constitution and the Bill may not be allowed for introduction. He had also referred to Rule 62 (2) of the Rules of Procedure and contended that such Bill which did not have the previous sanction or recommendation of the President cannot be introduced in the House. It was clarified on that day by me that Rule 67 of the Rules of Procedure states that "If a motion for leave to introduce a Bill is opposed, the Chairman, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question for the decision of the House". It was also informed that a decision on the motion for leave to introduce a Bill had to be taken by the House and not by the Chair. However, on a request made by the Minister of State for Parliamentary Affairs and after taking the sense of the House, the introduction of the Bill was deferred.

Preamble is part of the Constitution and as per article 368 of the Constitution, Parliament may in the exercise of its constituent

power, amend by way of addition, variation or repeal any provision of the Constitution and a Bill for the purpose can be introduced in either House of the Parliament. There are number of instances in past when Private Members' Constitution (Amendment) Bills to amend the Preamble have been introduced in both the Houses of Parliament and they are on record.

As already clarified by me on that day *i.e.* 3rd December, 2021, if the introduction of a Bill is opposed on the ground of legislative competence of the Council, the Council decides the same and not the Chair. There are number of rulings given by the Chair in this House on this issue taking the same stand in the past. I would like to quote a couple of them, on 4th September, 1959, the then Deputy Chairman, Rajya Sabha gave the following ruling and I quote:-

“Shri Bhupesh Gupta has introduced a Bill for amending the Representation of the People Act, 1951. The Law Minister raised a point of order that the Bill is *ultra vires* of the Constitution as it indirectly seeks to amend the Constitution by introducing a provision for recall under the guise of disqualification under the Representation of the People Act. This objection was not taken at the introduction stage. But I still feel that there is a strong force in the objection raised by the Law Minister and it may amount to an amendment to the Constitution. But the Chair has never taken the responsibility of deciding the *ultra vires* or otherwise of a Bill. There have been several decisions of the Chair in this connection. In fact, on 23rd April, 1951, when an objection was taken in the Provisional Parliament to the Forward Contracts (Regulation) Bill, that it was *ultra vires* of the Constitution, the Speaker observed:

The position which I had made clear was that the question of *ultra vires* will not be decided by the Chair, but that it may be left to the House. If it comes to the conclusion that it is *ultra vires*, the House may reject the Bill. If the House accepts the Bill for consideration, then the party aggrieved has his remedy in the Supreme Court or other courts. Therefore, I said it was no use going in detail into questions of constitutional niceties, because

after all these are things which can best be argued by lawyers, and it is not proper to take the time of the House over these long discussion of niceties. Again in 1953, when the constitutionality of the Legislative Assembly (Prevention of Disqualification) Bill, was raised, it has been observed: In all these matters, the Speaker has never taken upon himself the responsibility of deciding the point of order whether it is constitutional or otherwise. It is for the House to take this also into consideration in voting down the Bill or accepting it. Under the circumstances, I leave it to the House to accept or not to accept the Bill.”

“The Chair not to take upon itself the responsibility of deciding whether the House has the legislative competence to entertain a Bill or whether a Bill is *ultra vires*. When any such question is raised, the usual practice has been to leave the matter for the decision of the House. The main reason for the adoption of this course is that a question relating to the legislative competence of the House or the constitutionality of the proposed legislation often involves much difficulty and complexity and it is the function of the courts and ultimately of the Supreme Court to decide such a question. The Presiding Officer should not arrogate to himself the functions of the court, specially as he has not the facilities or the material on which to come to a satisfactory decision. It is the sole privilege and duty of the House to decide every question that arises on a motion moved by a member. So, if the matter is left to the House to decide, the House may reject the Bill, if it is of the view that the Bill is *ultra vires*. If, however, the House accepts the Bill, the party aggrieved will still have the remedy in the courts and ultimately in the Supreme Court. This question came before the Central Legislature on various occasions and the accepted practice has been as stated by me.”

As regards the objection raised by Prof. Manoj Kumar Jha under Rule 62 (2) that Bill does not have the previous sanction or recommendation of the President, I may clarify here that there is no such requirement for introduction of the Bill under reference. Therefore, there is no question of any doubt on the admissibility of the Bill for introduction seeking to amend the Preamble to the Constitution. Be that as it may, the Bill has been listed in today's

agenda for introduction. The House may decide about the manner of disposal of the motion when the motion for introduction of the proposed Constitution (Amendment) Bill, 2021 (Amendment of the Preamble) is moved by Shri K. J. Alphons.

(R.S. deb. * dt. 4.2.2022, pp. 84-89)

QUORUM

79. Quorum: Quorum is more important than the actual presence of the Members on either side of the Benches

On 6 February 2018, Dr. K. Keshava Rao pointed out to the Chair that the Opposition Benches were empty. The Deputy Chairman then observed:

...Since you have raised the matter, I want to tell you that the Chair is not bothered whether this side or that side is present. The Chair is bothered only if there is a quorum or not...To me, continuing the House is important because the Chair is totally neutral...The Chair is only bothered about whether there is quorum or not and since there is quorum, I can continue.

(R.S. deb. dt. 6.2.2018, p. 384)

SPECIAL MENTIONS

GENERAL

80. Special Mentions: Concerned Ministers have to reply to Members on Special Mentions within thirty days

On 24 June 2019, the Chairman made an observation that the concerned Ministers should reply to the Members on matters of urgent public importance raised through Special Mentions within thirty days. The Chairman observed:

The Leader of the House, the Minister of Parliamentary Affairs, and I have been watching and also receiving feedbacks from the Members that the Members subsequently are not getting replies of...Special Mentions made in the House. This has been the practice of the House. You need not give instant replies on the same day. But, sometimes when the Minister is there and if the matter is so important and the Minister is familiar with the matter, I give the permission and the Minister responds to that. Otherwise, the practice is that the Minister should respond in writing to the hon. Members. So, I have raised this issue. You have to inform them that this is the response. So, I suggest to the Minister of Parliamentary Affairs as well as to the Leader of the House to discuss with the concerned Ministers and see to it that hereafter the replies reach Members within a period of thirty days. Otherwise, it will be taken note of and then we have to think about the alternatives, etc.

(R.S. deb. dt. 24.6.2019, p. 25)

81. Special Mentions: Members should read the approved text of their Special Mentions

On 1 August 2019, the Chairman reminded the Members not to read out their Zero Hour Submissions. The Chairman informed the House that Zero Hour Submissions and Special Mentions were distinctive in nature, and in the case of the latter it was required to be read. The Chairman observed:

Members, I would just like to remind you again, and, because we are in the middle of the Session, I am not stopping now but

next Session onwards, no Member will be allowed to read the Zero Hour Submission. While speaking, they can refer to points but they cannot read whereas in the Special Mentions, they cannot speak, they have to read. This distinction has to be understood and it has to be maintained by one and all.

(R.S. deb. dt. 1.8.2019, p. 26)

82. Special Mentions: Members who have given notice and remain absent are not to be given opportunity for another week

On 18 March 2020 when the Special Mentions were being taken up, the Chairman called upon a Member to make a Special Mention. However, the Member was not present in the House. The Chairman then directed:

The Members who have given notice and remain absent will not get an opportunity for one week. This has to be understood by all. Already, we are implementing another direction, that is the Members who give notice, present in the House and do not speak when asked, are not given opportunity for 15 days...In addition to that, this is the latest guideline. Please understand because you are taking the time of the House, time of the Chairman and you are depriving opportunity to other Members because we will be only taking some ten or twelve Special Mentions and maximum 20 Zero Hour Submissions. The others are losing an opportunity. You are giving notice; and these notices are not old... These notices are fresh, and then you choose to be absent from the House. That means, you are not doing your duty.

(R.S. deb. dt. 18.3.2020, p. 28)

83. Special Mentions: Change in time for submission of notices for Special Mentions due to change in the sitting time of the House

On 14 September 2020, the Chairman made an observation

regarding the change in time for submission of notices for Special Mentions on account of COVID- 19. The Chairman observed:

... Rule 180(C) provides that the time for submitting notices for Special Mentions shall be up to 5.00 p.m. on the day for raising the matter next day of the sitting. Again, in view of the change in timing, it has been decided that the time for submitting notices for Special Mentions shall be up to 12 noon on a day because we are meeting on the next day of the sitting at 9.00 a.m. Further, as the time of sitting is restricted to four hours, the Members whose notices of Special Mentions have been admitted should lay the approved text as called by the Chair.

(R.S. deb. dt. 14.9.2020, p. 24)

84. Special Mentions: Permission to make more than one Special Mention in a week in special circumstances

On 19 March 2021, the Chairman made an observation regarding the admissibility of notices for Matters raised with the Permission of the Chair (Zero Hour Submissions) and Special Mentions:

Hon'ble Members, as I could go through the notices to raise issues for which permission is given liberally, it seems that Members have run out of the issues. So they are trying to invent or search for some issues. I can only caution them and tell them that they have got every liberty to raise issues. I am here to facilitate bringing of important issues to the notice of the Government through this House. But the point is this. One, you may also get a doubt why certain Members are getting opportunity the second time. Some got permission yesterday and they have got permission today also. The reason is that as I run out of the issues, which are eligible for admission, and then there is an issue, which is really worth raising, though it is the second chance to the concerned Member, I am giving it to them without compromising on my basic rule. If there are many Members, then definitely it will go according to the priority on the basis of the eligibility of the issue and on the merit of the issue. If fewer Members have asked for Zero Hour Submissions or Special Mentions, you might have seen that we have combined Zero Hour Submissions and Special

Mentions and we are giving permission even to raise Special Mentions instead of placing them on the Table of the House. I am allowing Members to raise it in the House, so that it gets the attention of the Government. That is the practical problem. I only suggest this to the Members. Please see to it that your Zero Hour issues are issues of larger public interest and current in nature and also on a specific issue.

(R.S. deb. dt. 19.3.2021, pp. 60-61)

VOTING

85. Voting: Newly elected Members who have not been given a Division number can vote by slip

On 4 April 2018, the Minister of State in the Ministry of Personnel, Public Grievances and Pensions, Dr. Jitendra Singh moved for the consideration of the Prevention of Corruption (Amendment) Bill, 2013. After the motion was moved, several Members wanted a division on the Motion. Shri Anand Sharma raised a point of order stating that the new Members who had taken oath on the previous day had not been given any Division Number. He wanted to know as to how the Division could be held in such a scenario. Shri Ananthkumar, Minister of Chemicals and Fertilizers and Minister of Parliamentary Affairs clarified that if new Members have not been allotted seats, they can give the slips by indicating their choice during the division. After listening to the views expressed, the Deputy Chairman observed:

With regard to the point of order of Shri Anand Sharma, there is no problem. The new Members can vote by slip.

(R.S. deb. dt. 4.4.2018, p. 660)

ZERO HOUR

86. Zero Hour: Members should avoid allegations/counter allegations, controversies and political issues while submitting notices for Zero Hour Submissions

On 24 June 2019, the Chairman made some observations regarding notices for Zero Hour Submissions and their admissibility by the Chair. The Chairman observed:

Allegations, counter allegations will not serve the purpose. That is not the purpose of the Zero Hour. You are all aware of it. If you have any doubt, you can go through the precedents and rules also. It should be followed strictly. I am trying to be liberal with regard to admitting Zero Hour notices because most of the issues are current issues agitating some section or some region of the country and its people. That being the case, we are liberal. But if we convert it into controversies or political issues, the end result will be that nothing will be achieved and, unnecessarily, the issue will be ignored or forgotten. Please keep this thing in mind and follow the procedure and precedents.

(R.S. deb. dt. 24.6.2019, pp. 26-27)

87. Zero Hour: Ministers need not reply to Zero Hour Submissions

On 24 June 2019, 28 June 2019 and 1 July 2019, the Chairman had made certain observations that concerned Ministers should reply to the Zero Hour Submissions raised by the Members. On 8 July 2019, referring to his earlier observations, the Chairman clarified and observed:

In my enthusiasm, I said that Zero Hour Submissions also should get response. Then I went through the Rules and also practical difficulties. As of now, it is not possible. So, I am holding back that one. But, at the same time, as far as the Special Mentions is concerned, the Rule position is clear and I reiterate that the Ministers have to send replies at the earliest.

(R.S. deb. dt. 8.7.2019, p. 16)

88. Zero Hour: Members should not read their Zero Hour Submission

On 1 August 2019, the Chairman reminded the Members not to read out their Zero Hour Submissions. The Chairman informed the House that Zero Hour Submissions and Special Mentions were distinctive in nature, and in the case of the latter it was required to be read. The Chairman observed:

Members, I would just like to remind you again, and, because we are in the middle of the Session, I am not stopping now but next Session onwards, no Member will be allowed to read the Zero Hour Submission. While speaking, they can refer to points but they cannot read whereas in the Special Mentions, they cannot speak, they have to read. This distinction has to be understood and it has to be maintained by one and all.

(R.S. deb. dt. 1.8.2019, p. 26)

89. Zero Hour: Ten Members to be allowed to raise Zero Hour Submissions with the prescribed time limit of three minutes due to restricted sitting time of the House

On 14 September 2020, the Chairman made an observation regarding matters to be raised with the permission of the Chair during Zero Hour on account of change in sitting time of the House adhering to the COVID-19 protocols:

With regard to Zero Hour Submissions also, I have gone through the possibilities. Around ten persons (Members) will get the opportunity and they should also confine themselves to submitting the Zero Hour (Submissions) within the prescribed time of three minutes because there is no system of monitoring, but the Chair will be monitoring. Members are also requested to see to it that they follow time so that no need arises for the Chair to intervene in between.

(R.S. deb. dt. 14.9.2020, p. 24)

90. Zero Hour: Permission to raise more than one Zero Hour Submission in a week in special circumstances

On 19 March 2021, the Chairman made an observation regarding the admissibility of notices for Matters raised with the Permission of the Chair (Zero Hour Submissions) and Special Mentions:

Hon'ble Members, as I could go through the notices to raise issues for which permission is given liberally, it seems that Members have run out of the issues. So they are trying to invent or search for some issues. I can only caution them and tell them that they have got every liberty to raise issues. I am here to facilitate bringing of important issues to the notice of the Government through this House. But the point is this. One, you may also get a doubt why certain Members are getting opportunity the second time. Some got permission yesterday and they have got permission today also. The reason is that as I run out of the issues, which are eligible for admission, and then there is an issue, which is really worth raising, though it is the second chance to the concerned Member, I am giving it to them without compromising on my basic rule. If there are many Members, then definitely it will go according to the priority on the basis of the eligibility of the issue and on the merit of the issue. If fewer Members have asked for Zero Hour Submissions or Special Mentions, you might have seen that we have combined Zero Hour Submissions and Special Mentions and we are giving permission even to raise Special Mentions instead of placing them on the Table of the House. I am allowing Members to raise it in the House, so that it gets the attention of the Government. That is the practical problem. I only suggest this to the Members. Please see to it that your Zero Hour issues are issues of larger public interest and current in nature and also on a specific issue.

(R.S. deb. * dt. 19.3.2021, pp. 96-97)

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