



PROVINCIAL ASSEMBLY OF THE PUNJAB

RULING OF THE CHAIR

IN RESPECT OF POINT OF ORDER RAISED REGARDING PRESENTATION OF VOTE ON ACCOUNT UNDER ARTICLE 125 OF THE CONSTITUTION

This ruling shall dispose of the point of order raised by hon'ble Mr Aftab Ahmed Khan, MPA (PP-108) during the sitting held on February 28, 2024.

Brief background of this ruling is that the following motion was on the List of Business for February 28, 2024.

"A MEMBER to move that a sum not exceeding Rs.358,941,781,000 be granted to Governor of the Punjab to meet expenditure other than that charged on the Provincial Consolidated Fund for a period of one month (1st March 2024-31st March 2024) during the Financial Year 2023-24 under Article 125 of the Constitution and Rule 146 of Rules of Procedure of Provincial Assembly of the Punjab, 1997 as Vote on Account in respect of all Departments of Government of the Punjab mentioned in the Schedule of Authorized Expenditure for the period from 1st March 2024 to 31st March 2024."

Since the cabinet was not formed by then, the motion was moved by hon'ble Ms Mariam Aurang Zeeb, MPA (W-300), on which hon'ble Mr Aftab Ahmad Khan objected raising the point or order that whether a member other than a Minister may move this motion or not?

Hon'ble Mr Aftab Ahmad Khan asked the Chair to give the ruling on these points. Responding to his points, I held that I would substantiate my ruling with the pronouncements of the Supreme Court and the Article's actual reading of the Constitution. The subject pertaining to the financial matters, budget etc. of the Provincial Assembly has been provided in the Constitution starting from Article 119 to 126 of the Constitution. Articles 119 to 124 are applicable when Provincial Assembly and Provincial Government/Cabinet is available and had time to prepare its budget for laying and approval thereof from the House.

I, **Malik Muhammad Ahmad Khan**, Speaker, announced the following instantaneous ruling:

- (i) Whereas Article 125 has specifically been incorporated in the Constitution for catering eventualities, the one which is prevailing i.e. the Provincial Assembly is available. However, neither the Government/Cabinet has been formed nor it had the time to prepare, lay and get the budgetary approvals by the House.
- (ii) On the other hand Article 126 of the Constitution deals with the situation where Provincial Assembly does not exist for having been dissolved or as the case may be. This provision (Article 126) was invoked

four (4) months ago, when the then Provincial Government/Caretaker Cabinet sanctioned the expenditure of four (4) months while relying upon Article 126 by seeking guidance from an authoritative judgment of the Supreme Court of Pakistan in **Haji Saifullah's Case (PLD 1989 SC 1996)**, which judgment catered for identical situation earlier in the year 1988-89. The said authorized expenditures of four (4) months will lapse on 29th February 2024. The detailed opinion rendered in that respect by the office of the Advocate General Punjab is available and may be resorted to, if need be.

- (iii) The prevailing situation is that the newly elected Provincial Assembly convened its first session on 23rd February, 2024, whereas the Cabinet has not yet been formed, hence neither the Provincial Government exists nor the budget could be prepared and presented due to paucity of time. Therefore, in order to avoid financial shutdown and disruption of essential services in the Province of Punjab e.g. provision of necessary health services, ensuring law & order, the administration of justice, provision of salaries to the civil servants and Judges, unavoidable and uninterrupted payments of energy/fuel/ electricity etc. we have to resort to Article 125 of the Constitution, which caters for such eventualities. It cannot be contemplated that a Provincial Assembly which has sworn in only two-three days ago, is expected to prepare, lay, debate and get the budget approved from the House by or before 29th February, 2024. It is for such like eventualities that the framers of the Constitution had incorporated Article 125 in the Constitution.
- (iv) It may be noted that Article 125 starts with non-obstante clause "notwithstanding anything contained in the foregoing provisions relating to the financial matters", unequivocally settling that the provisions contained in Articles 119 onwards will not be applicable for invoking Article 125 of the Constitution, if circumstances so permit. In my opinion, one cannot contemplate any other possible situation than the one we are in for which Article 126 has to be resorted to. Needless to add that this provision of Constitution not only enables and rather empowers the Provincial Assembly to make any grant in advance in respect of the expenditure for a part of any financial year up to a maximum period of three months, pending procedure prescribed in Article 122 of the Constitution for voting of such grant and the authentication of the schedule of expenditure in accordance with the provision of Article 123 of the Constitution. It is, however, preferred that instead of availing the maximum period of three months expenditure, as provided in Article 125 of the Constitution, one month's estimated expenditure be approved by the House, as proposed by the Finance Department and has been accorded with the opinion of the Advocate General, Punjab, as the Provincial Assembly has come into

existence and the formation of the Provincial Government/Cabinet is in the offing. So in these circumstances and with this reading of Article 125 of the Constitution, it will prevail as mandatory. It is a situation where Government is not available and the previous passed budget will expire on 29th of February 2024, it is mandatory that this Assembly, by voting with the majority, can pass the motion moved by a Member. So I rule out the point of order raised by hon'ble Mr Aftab Ahmad Khan and rule that a Member can move such motion.

(Malik Muhammad Ahmad Khan)

Speaker

Announced: February 28, 2024