



NCOP

National Council of Provinces



TABLE OF CONTENTS	PAGE
1. <i>Matters before Courts</i>	3
2. <i>Casting aspersions on the Presiding Officer</i>	3
3. <i>Unparliamentary language</i>	5
4. <i>Unparliamentary language</i>	6
5. <i>Participation of special delegates in the Council</i>	7
6. <i>Unparliamentary language</i>	8

1. MATTERS BEFORE COURTS

FACTS:

The Honourable Member objected to the notice of motion made by another member on grounds that it contravenes rule 48 of the Council, which reads as follows “*[no] member, while addressing the Council may reflect on the merits of any matter on which a judicial decision is pending*”.

QUESTION TO BE CONSIDERED:

Whether or not the notice of motion was inconsistent with Rule 48 of the Council? Owing to the fact that the House Chairperson was not certain about truthfulness of the objection, he undertook to investigate the matter and come back to the Council with the proper ruling.

RULING:

The House Chairperson ruled that at the time the motion was moved the matter was still under investigation and as such no formal charges had been laid yet. Therefore, the notice of motion does not contravene rule 48. However, paragraph 4 of the motion calls on the committee of the Council to investigate the matter, this aspect falls outside the constitutional mandate of the Council as the motion relates to a personal and private matter. He ruled that in accordance with rule 80 paragraph 4 of the motion be expunged from the next order paper.

2. CASTING ASPERSIONS ON THE PRESIDING OFFICER

FACTS:

During a debate on Parliament Budget Vote, Honourable Member rose on a point of order and requested the Presiding Officer to make a ruling as to whether “*it was parliamentary for a member to cast aspersions on the presiding officer by saying that we have to have judges presiding?*”

QUESTION TO BE CONSIDERED:

Whether or not it was parliamentary for a member to cast aspersions on the Presiding Officer by saying that the Council has to have judges presiding?" The Presiding Officer reserved his ruling in order to peruse the unrevised Hansard to ascertain the context within which the statement was made.

RULING:

The Deputy Chairperson ruled that the statement made by Honourable Member was a mere suggestion to the House of the possibility of having retired judges appointed as Presiding Officers. He cautioned members that they should be mindful of the fact that as honourable members they are supposed to conduct themselves in a manner befitting the decorum of this August House. He indicated that points of order are now being raised as a response to what the speaker is saying or when members hold a different view with the speaker.

Practice of this House and parliaments in general is that if a member holds a different view or differs with the speaker either on party policy matters, they should use the opportunity allocated to them when debating to raise those matters, instead of rising on a point of order. This is what debates are all about. He advised members that in the event that a member feels aggrieved by a statement made by another that aggrieved member should respond to the statement as part of his or her debate.

He urged members not to rise on frivolous points of order and as such interrupt speakers on the floor, instead members should raise genuine points of orders and rules guide members on what is a point of order. Members were advised to familiarise themselves with the rules of the House.

3. UNPARLIAMENTARY LANGUAGE

FACTS:

During the Policy debate on Budget Vote No 14: Arts and Culture, Honourable Member rose on a point of order on whether it was parliamentary to “imply that the *Democratic Alliance was behind the third force*”.

QUESTION TO BE CONSIDERED:

Whether or not it was parliamentary to imply that the Democratic Alliance was behind the third force. Owing to the fact that the Chairperson was not certain about the contents of the statement, she undertook to check unrevised hansrard and come back to the Council with a ruling.

RULING:

The Chairperson pointed out that unparliamentary language means different things in different jurisdictions and to different persons and members. In some jurisdictions the list runs to several pages but it would not be helpful for us to adopt such an approach here. She indicated that sometimes it strikes members as odd that some words and phrases are deemed unparliamentary while others are permitted as being part of the cut and thrust of the debates. The context in which particular words are used can affect their meaning, making them more or less acceptable to whom they are referred.

She acknowledged that at times members will wish to express their views forcefully and to engage in robust debate. That is acceptable. However, that is not acceptable where the tone or the nature of the remarks becomes so ill-tempered and bad-mannered that they are close to discourtesy and disorder rather than to civil debate representing your constituencies.

The guiding principles as to whether the words used in a debate are out of order is the motive attributed to the member accused of using the words and whether something dishonourable is being attributed to another

member. Words or phrases used in a debate, which do not impugn on the honour of the member, will not be ruled out of order.

She ruled that expressions by the Honourable Member were directed at the party. As we have ruled before, that expressions directed at a party are not unparliamentary as they do not reflect on the integrity of another member. However, I should emphasis the point that if such reference where meant to refer to the members of this House who are associated with a particular political party, such reference would be unparliamentary.

She cautioned members to be very circumspect because in the true sense of whether is parliamentary or not, it would not be unparliamentary but the fact that there are members sitting in this House, who are members associated to this party which is accused of being third force it should not be allowed, that is unparliamentary. Therefore, Honourable Member should desist.

4. UNPARLIAMENTARY LANGUAGE

FACTS:

The Honourable Member rose on a point of order on Honourable Member's speech, wherein the Honourable Member said "*yiva ke lawundini ndikubalisele*". A Xhosa proverb which could be loosely translated as saying 'Behold and let me tell you'.

QUESTION TO BE CONSIDERED:

Whether or not it was parliamentary for Honourable Member to refer to another member as "lawundini". Owing to the fact the Chairperson of the NCOP did not understand the term "lawundini," she undertook to conduct a research and study unrevised hansard to ascertain the meaning of the term and also to determine the context within which the term was used.

RULING:

The Chairperson of the NCOP acknowledged that members have a right to freedom of speech in the house, however, this right is circumscribed by the constitutional provisions but also that the Rules of Procedure are also very clear on this matter.

Through the research that was conducted, it was discovered that the Honourable Member was not misleading the House in saying this, in rural Eastern Cape you can use it interchangeably. When one looked at the writings of Ndungana and Majamba, one of them said: “He he, ndiyeva lawundini.” In both instances writers are interpreted as, “I say so” or “if you say so, mfondini.” She ruled that the word used by the Honourable Member was not meant to offend and therefore would not be unparliamentary. However, she indicated that members should be cautious that, for instance, if you use the same word in the North West Province that people of the coloured origin would fight very hard because they would feel that they are denigrated. Members were cautioned to again be cautious on how they use words or phrases which might mean something else in their own constituencies but mean something very different to other members.

5. PARTICIPATION OF SPECIAL DELEGATES IN THE COUNCIL

FACTS:

Two Honourable Members raised points of orders and objected to the input which was made by the MEC of the Western Cape province on the grounds that the Honourable MEC should have tabled the budget of her department and should have been debating the Minister’s speech rather than bringing on all the other issues which were about almost all of South Africa.

QUESTION TO BE CONSIDERED:

Whether or not special delegates can engage with the Ministers on the budget allocations and interrogate plans of the Minister for the financial year?

RULING:

The Chairperson of the NCOP pointed out that the participation of the special delegates in the National Council of Provinces is critical and important as it ensures that the mandate of the NCOP is realised. That is to make sure that provincial interest is taken into account at the national sphere of government.

Provinces have the prerogative to delegate any member to attend the plenaries of the NCOP as special delegates. Such members may range from members of the executive to members of the provincial legislatures. Therefore, their inputs into Council debates will always be determined by what they want to bring to the House and to that debate. It would be very difficult for the NCOP to prescribe to these members what to say and what not to say.

In view of this, the Chairperson ruled that the MEC from the Western Cape province was within her prerogative to debate in the House.

6. UNPARLIAMENTARY LANGUAGE

FACTS:

During the Policy debate on Budget Vote No 14: Arts and Culture, the Honourable Member rose on a point of order on whether it was parliamentary for Honourable Member to refer to another Member as a “*waste*”.

QUESTION TO BE CONSIDERED:

Whether or not a member was permitted to refer to another member as a waste? The Chairperson undertook to study the unrevised hansard as she did not hear the words at the time they were articulated by the Honourable Member.

RULING:

The Chairperson reminded members of what she pointed out in the previous sitting that it would be unparliamentary to refer to a member as a waste, but it would not be unparliamentary to refer to wasted talent.

The Chairperson indicated that having looked at the unrevised hansard, no reference was made to the Honourable Member as a waste. In the light of this, she ruled that the statement made by the Honourable Member was not unparliamentary and therefore this point of order cannot be upheld.