

PROCEDURE FOR MAKING ALLEGATIONS

Scope

Members have freedom of speech in the House and as a necessary corollary to this privilege, they are immune from proceedings in any court, civil or criminal, for anything said on the floor of the House. The Constitutional privilege of freedom of speech is, however, subject to other provisions of the Constitution and to the Rules of the House.

A member while speaking is not to make personal reference by way of making allegation, imputing a motive to or questioning the *bona fides* of any other member of the House unless it be imperatively necessary for the purpose of the debate being itself a matter in issue or relevant thereto.

As a rule, a member while speaking is not permitted to reflect upon the conduct of persons in high authority unless the discussion is on a substantive motion drawn in proper terms. No allegation of defamatory or incriminatory nature can be made by a member against a Minister or a member or any person unless the member has given adequate advance notice to the Speaker and also to the Minister concerned so that the Minister may

be able to make an investigation into the matter for the purpose of a reply. Nevertheless, the Speaker may at any time prohibit any member from making any such allegation if the Speaker is of the opinion that such allegation is derogatory to the dignity of the House or that no public interest is served by making such allegation.

A member is also not allowed to make allegations:—

- (i) against outsiders as they are not in a position to defend themselves;
- (ii) against officials by name as the constitutional responsibility lies with the Minister; and
- (iii) based on mere press reports unless the member is satisfied about the correctness of the matter and is prepared to take full responsibility for them.

2. When allegations are made by a member against another member or a Minister and the latter denies those allegations, the denial should be accepted by the member who made the allegations unless member is sure about the correctness of the charges made and is prepared to take full responsibility for the same.

Procedure to be followed

3. Where, a member is convinced after making enquiries that there is basis for the allegations and is

prepared to accept responsibility for the same, she/he should give the details of the allegations in writing sufficiently in advance to the Speaker and the Minister concerned and in no case later than 10 a.m. on the date on which these are sought to be made. The member should also specify in the notice, the date and the item of business on which she/he proposes to make allegations during her/his speech. Names of members or persons against whom allegations are proposed to be made should also be mentioned in the notice.

4. It is not enough for a member merely to give notice to the Speaker in general terms before making allegations in the House. For this purpose, it is necessary that before making allegations in the House, the member concerned should ensure the following:

- (i) The details of the charges sought to be levelled should be spelt out in precise terms and should be duly supported by the requisite documents which should be authenticated by the member;
- (ii) The member should before making the allegations in the House satisfy herself/himself after making enquiries that there is a basis for the allegations;
- (iii) The member should be prepared to accept responsibility for the allegations; and

(iv) The member should be prepared to substantiate the allegations.

In case of allegations in regard to the conduct of a Minister, the member is required to give notice of a motion of substantive nature which will be dealt with under the rules applicable to such motions.

5. A member shall not make any allegation unless permitted by the Speaker to do so and in case she/he persists and makes serious allegations in the House without permission of the Chair or without complying with the well established procedure in that behalf, those may not form part of the proceedings of the House. In appropriate case, the member may be required to withdraw them or the Chair may expunge the allegations from the records.

6. In case of allegations made in the House against a Minister or a member without any advance notice thereof and if those find place in the records and go unchallenged, the Minister or member affected is allowed, if she/he so requests to make a statement in the House clarifying the position either on the same day or later on and that brings the matter to an end.

[Procedure for making allegations is governed by Rules 352(ii), 352(v) and 353 of the Rules of Procedure and Conduct of Business in Lok Sabha and decisions taken at meetings of the Speaker with leaders of parties and groups held on the 18th July, 1980 and the 1st December, 1988]

32

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PREFACE

This Abstract is part of the Parliamentary Procedure Abstracts Series and describes the procedure for making allegations. It is based on the Rules of Procedure and Conduct of Business in Lok Sabha, the decision/rulings given by the Chair from time to time and decisions arrived at, in consultation with Leaders of Parties and Groups. It is intended to serve as a handy guide for ready reference.

The information contained in this Abstract is, however, not exhaustive. It will, therefore, be prudent to refer to and rely on the original sources for full information.

NEW DELHI

Secretary General