

IN THE HIGH COURT OF SINDH AT KARACHI

M.A No. 58 of 2015

Date

Order with Signature(s) of Judge(s)

Hearing of priority case.

1. For orders on CMA No.720/2017.
2. For orders on CMA No.721/2017.
3. For orders on CMA No.722/2017.

27.01.2017

Mr. Abdul Karim Khan Fahim advocate for appellant.

M/s Kashif Hanif and Zahid Ibrahim advocates for PEMRA.

Mr. Abdul Rehman advocate for Interveners.

Mr. Saim Hashmi advocate for PBA.

ORDER

SHAHNAWAZ TARIQ, J:-

Urgent motion allowed.

Learned counsel for appellant, inter-alia, contended that respondents have been deliberately and repeatedly causing harassment to the appellant on one pretext or another without adopting any legal process; that neither appellant has violated any provisions of PEMRA Laws nor telecasted any material in violation of Articles of Constitution of Pakistan nor against injunctions of Islam nor any hate speech was telecasted; that subject program was telecasted to defend the honour of the founder of Pakistan and to maintain respect of forces of Pakistan. Learned counsel submitted that this Court has repeatedly restrained the respondents from acting in violation of PEMRA laws and despite clear directives issued by this Court, respondent without issuance of any notice and providing opportunity to the appellant to clear their position, has issued prohibition order dated 26.01.2017 with ulterior motives and on same day at



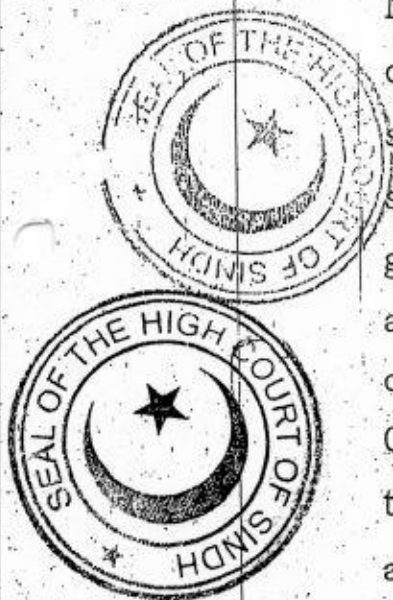
10:30 P.M closed the transmission of BOL TV Channel and also verbally directed to cable operators and PAKSAT to do not provide services to the appellant's channel; that subject prohibition order is not only deviation from the orders passed by this Court but also illegal, unlawful and arbitrarily against the fundamental rights guaranteed under Article 19 of the Constitution of Islamic Republic of Pakistan, 1973 as well as norms of natural justice. Learned counsel further emphasized that respondents No.2 Chairman PEMRA has been continuously disobeying the orders passed by this Court malafidely, hence contempt proceedings may be initiated against him and he may be called in person to face contempt proceedings; that unless operation of impugned order dated 26.01.2017 is suspended, appellant shall be seriously prejudiced.

2. M/s Zahid F.Ibrahim and Kashif Hanif advocates present in Court waive notice and filed vakalatnama and received copies of CMAs No.721/2017 and 722/2017. Learned counsel for respondent vehemently contended that program named "AISA NAHI CHALEY GA" hosted by Mr. Amir Liaquat has been monitored and in episodes broadcast on "BOL NEWS" from 2nd January to 24th January, 2017, has willfully and repeatedly made statements and allegations which tantamount to hate speech, derogatory remarks, incitement to violence against citizens and casting accusation of being Anti-State and Anti-Islam, on various individuals. Learned counsel further contended that sufficient material is available with the respondents and same will be produced before this Court; that if appellant undertakes not to telecast any program of Mr. Amir Liaquat, respondent is ready to restore BOL TV Channel.



3. Mr. Abdul Rehman, advocate files power on behalf of proposed interveners along with applications under Chapter III-B Volume V High Court Rules, which are taken on record and copies whereof have been supplied to learned counsel for appellant as well as respondents. Office is directed to assign numbers to instant applications. Parties are directed to file their counter affidavits/rejoinders if any, upon all applications referred supra in office and exchange their copies in advance.

4. Indeed, appellant being aggrieved with the illegal acts of respondents filed instant Misc. Appeal No.58 of 2015 annexed with application under Order 39 Rule 1 and 2 CPC, whereby operation of impugned order dated 23rd September 2015 was suspended by this Court. Thereafter respondent again issued letter dated 04.10.2016 to appellant regarding security clearance, which was also agitated before this Court through CMA No.7168/2016 and vide order dated 10.10.2016 operation of letter dated 04.10.2016 was also suspended. Subsequently, respondent again issued show cause notice dated 23.12.2016 on the alleged ground of security clearance which otherwise had already been resolved and this Court suspended operation of said show cause notice vide order dated 02.01.2017. Similarly, vide order dated 16.01.2016, this Court again directed the respondent not to create any hindrance in smooth functioning of transmission of the channel and act strictly in accordance with the order of this Court dated 28.09.2016. Admittedly, respondent neither issued any notice nor explanation to appellant nor afforded any opportunity to defend and clarify the set allegations narrated in prohibition order dated

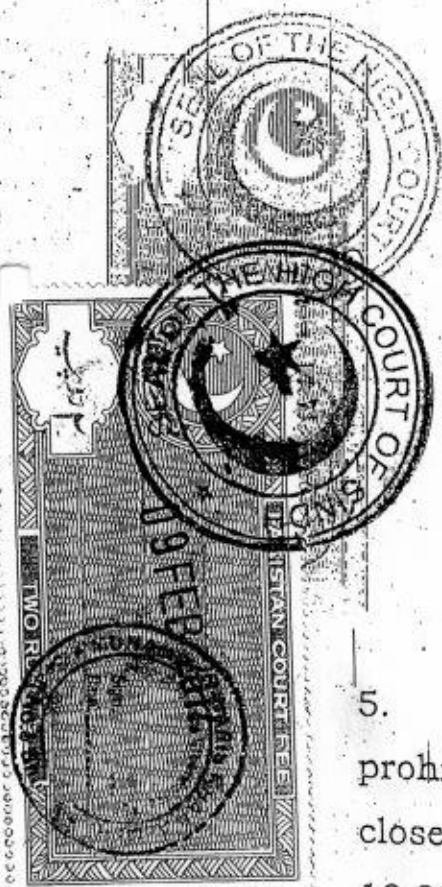


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26.01.2017 under Section 27 of PEMRA Ordinance, 2002, whereby appellants was directed as follows:-

- a. M/s Labbail (Pvt) Ltd is prohibited from the broadcasting and re-broadcasting, fresh, old or repeat program named "Aisa Nahi Chaley Ga" with immediate effect.
- b. Mr. Amir Liaquat, the host of the program named "Aisa Nahi Chaley Ga" shall not host any program or appear in any manner, including but not limited to, as a guest, analyst, reporter, actor, in audio, video beeper, promo/advertisement on BOL NEWS.
- c. In case of non-compliance of the above orders, the licence for the channel "BOL NEWS" shall be suspended with immediate effect.
- d. Mr. Aamir Liaquat is also prohibited from delivering any hate, speech, declaring anyone, Kafir or Ghaddar on any other TV Channel. In case of violation, action shall be initiated against such channel(s) under Section 27 of the PEMRA Ord.2002 as amended by the PEMRA (Amendment) Act-2007.
- e. This prohibition order shall remain in effect till the time respective Councils of Complaints made recommendations on the complaints received by PEMRA and the subsequent decision of the Authority on these recommendations by Council of Complaints."

5. It is significant to mention that despite issuance of prohibition order dated 26.01.2017, respondent has closed the transmission of BOL TV on same date at 10.30 p.m. without any justification which is utter violation of fundamental rights guaranteed under Article



19 of Islamic Republic of Pakistan, 1973 as well as principle of natural justice that no person should be condemned unheard. Undeniably, there are certain restraining orders passed by this Court in instant matter, thus it was incumbent upon the respondents to pay respect to the directives of this Court and should remain more conscious and vigilant and act strictly in accordance with law. Moreover, contention raised by learned counsel for appellant that impugned prohibition order was not served upon the appellant through courier service or e-mail and they have downloaded its copy from the website of PEMRA also requires consideration. Consequently, I am of the considered view that any punitive order without service upon the concerned party, could not be considered as a valid order and in case of any violation or non-compliance of said order no further punitive action can be initiated against the concerned party.

To come up on 01.02.2017 at 10.00 A.M. In the meanwhile, operation of the impugned prohibition order dated 26.01.2017 is suspended till next date. Respondents are further directed to restore BOL TV Channel immediately. Copy of this order may be transmitted to the respondents for information and compliance. At the first instance call comments from the alleged contemnor in CMA No.722/2017.



S.Soomro/P.A



JUDGE