

88

In the supreme court of pakistan
(Appellate Jurisdiction)

BENCH

Mr. Justice Amir Hani Muslim

Mr. Justice Mushir Alam

Mr. Justice Mazhar Alam Khan Miankhel

CIVIL PETITION NO.173 OF 2017

And C.M.A.No.670 of 2017.

(On appeal against the Order dated 27.01.2017
passed by High Court of Sindh, Karachi in CMA
721/2017 in Misc. A.58/2015).

Pakistan Electronic Media Regulator Authority

... .. Petitioner

Versus

Labbaik (Private) Limited and another

... .. Respondents

For Petitioner : Mr. Zahid F. Ebrahim, ASC
Mr. Tariq Aziz, AOR
Mr. Kashif Hanif, ASC

For the Applicant : In-person.

For Respondent No.1 : Mr Shahab Sarki, ASC.
Mr. Ahmed Nawaz Ch. AOR

Date of hearing : 08-02-2017

ORDER

AMIR HANI MUSLIM, J.- We have heard the learned Counsel for the parties. We have noticed that the Miscellaneous Appeal No.58 of 2015 was filed against the order dated 16.09.2015, of the Pakistan Electronic Media Regulatory Authority (hereinafter referred to as the Authority) passed under Section 30 of the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (hereinafter referred to as the Ordinance), which order was

communicated to the Respondent No.1 on 23.09.2015. This order pertained to suspension of licences of the Respondent No.1. On 28.09.2016, the learned High Court suspended the order of the Authority. On 19.10.2016, the learned High Court was informed that the order dated 16.09.2015 impugned in the Appeal was withdrawn by the Authority. The learned High Court in its order dated 19.10.2016 has noticed this fact, but adjourned the matter to 08.11.2016, though it ought to have disposed of the Miscellaneous Appeal of the Respondent No.1.

2. On 23.12.2016, a show cause notice was issued by the Authority to the Respondent No.1 on the ground that the Ministry of Interior have regretted the security clearance of the Directors of Respondent No.1. This show cause notice was challenged by the Respondent No.1, by filing an Application in the Appeal No.58 of 2015 instead of filing reply to the Authority. The learned High Court suspended the show cause notice and also issued contempt notice on the Application of the Respondent No.1, which was filed alongwith the aforesaid application for interim relief.

3. On 26.01.2017, the authority issued another prohibitory order in exercise of powers under Section 27 of the Ordinance in relation to a programme titled as "*Aisay Nahi Chalay GA*". This prohibitory order, according to the Counsel for the Authority, was issued on the basis of complaints received to the Authority from different quarters that through the said programme Dr Aamir Liaquat Hussain delivers "hate speeches". The order was passed on 26.01.2017, and the show cause was issued to Respondent No.1 on 27.01.2017. The Respondent No.1 challenged both the orders of the Authority. The learned High Court while suspending the

89

prohibitory order of the Authority, issued a contempt notice on the application to the Chairman of the Authority.

4. The learned Counsel for the Respondent No.1 concedes that orders dated 23.09.2016, 26.01.2017 and 27.01.2017 ought to have been challenged by the Respondent No.1, by filing separate Appeals and could not have been challenged through C.M.As in a disposed of Appeal, which had become infructuous after 19.10.2016, when the Authority had withdrawn its orders dated 16.09.2015, the subject-matter of the Appeal.

5. We, in view of the fair stance taken by the learned Counsel for the Respondent No.1, hold as under:-

- I. Miscellaneous Appeal No.58 of 2015 on withdrawal of the order dated 16.09.2015 has become infructuous. All the contempt applications made in the Miscellaneous Appeal by the Respondent No.1 will not be pressed by the Respondent No.1 and would stand disposed of.
- II. So far as the show cause notice issued on 23.12.2016 by the Authority is concerned, the Respondent No.1 is at liberty to submit reply to the Authority which on receipt of the reply will pass appropriate orders, after hearing the Respondent No.1 or his representative.
- III. The order dated 26.01.2017 shall hold the field and the Respondent No.1 may file its reply before the Authority. Likewise, show cause notice dated 27.01.2017, issued by the Authority shall also be replied to by the Respondent No.1 and after hearing, the Authority shall pass appropriate orders.

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iv. However, if either of the parties feels aggrieved by any of the orders passed by the Authority, it may, if so advised, prefer Appeal in terms of the Ordinance.

6. This Petition is converted into Appeal and is disposed of in the above terms.

C.M.A.No.670 of 2017.

This Application is disposed of in terms of the above order.

Judge

Judge

Judge

Islamabad the,
8th February 2017.
Not approved for reporting.
Sohail/**