

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
C.P. No. D-4610 of 2020

DATE

ORDER WITH SIGNATURE OF JUDGES

Present:

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Arshad Hussain Khan.

M/s. Daily Peoples Life.....Petitioner

Versus

Government of Pakistan & othersRespondents

Date of hearing: 12.11.2020

Mr. Arsalan Wahid, advocate for the petitioner

Mr. Hussain Bhora, Assistant Attorney General for Pakistan.

Mr. Shahryar Mehar, A.A.G.

Hassan Abbas, Assistant Information Officer, Press Information Department to represent respondent No.2.

Imran Ali Shaikh, Assistant Press and Publication from Deputy Commissioner, Karachi South office.

Muhammad Ali Mazhar, J: The petitioner has challenged the letter dated 20.07.2020 issued by respondent No.2 (Press Registrar) Ministry of Information and Broadcasting, Government of Pakistan whereby the Deputy Commissioner, Karachi South was advised to suspend the declaration of the petitioner's newspaper "Peoples Life" for six months. The representative of Deputy Commissioner, Karachi South is present and also filed comments. He has placed on record a copy of the letter dated 29.01.2020 communicated by the Head of Marketing NICVD, Karachi to Press Registrar with regard to

some libelous news items published in the petitioner's newspaper against the NICVD therefore a request was made to the Press Registrar for initiating proceedings for cancellation of declaration of the petitioner's newspaper so that in future they may not be able to defame their institution.

2. The procedure for cancellation of declaration is provided under Section 19 of Press, Newspapers, News Agencies and Books Registration Ordinance, 2002, which is reproduced as under:-

“19. Cancellation of declaration.- (1) On the application of the Press Registrar either suo moto or based on the information through any person, the District Co-ordination Officer empowered to authenticate a declaration under this Ordinance, is of opinion that any declaration made in respect of a newspaper should be cancelled, he may, after giving the person concerned an opportunity of showing cause against the action proposed to be taken, hold an enquiry into the matter and if, after considering the cause, if any, shown by such parties and after giving them reasonable opportunity of being heard, he is satisfied that:

- (a) the newspaper, in respect of which the declaration has been made is being published in contravention of the provisions of this Ordinance or rules made thereunder; or
- (b) the newspaper mentioned in the declaration bears a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the country; or
- (c) the printer and publisher has ceased to be the printer or publisher of the newspaper mentioned in such declaration; or
- (d) the declaration was made on knowingly false representation or on the concealment of any material fact or in respect of a periodical work which is not a newspaper; the District Co-ordination Officer may, by order, cancel the declaration and shall forward as soon as possible a copy of the order to the person making or subscribing the declaration and also to the Press Registrar.

(2) During the period of sixty days of the cancellation order no person shall be issued a declaration in the name of the same title to any other person.”

3. Consistent with aforesaid conditions, the declaration of newspaper can only be cancelled if it is being published in contravention of the provision of the above Ordinance or rules made thereunder or the newspaper bears a title which is the same as, or similar to, that of any other newspaper published or the printer and publisher has ceased to be the printer or publisher of the newspaper and or the declaration was made on knowingly false representation or on the concealment of any material fact or in respect of a periodical work which is not a newspaper. In order to provide right of fair trial and due process, it is clearly provided that no action shall be taken without providing an opportunity of showing cause against the action proposed to be taken, hold an enquiry into the matter and if, after considering the cause, if any, shown by such parties and after giving them reasonable opportunity of being heard, he is satisfied then further action of cancellation may be taken.

4. The proposed action or threat of suspension of newspaper declaration is alien and extraterrestrial to the aforementioned provision of law. The representative of DC South confessed that the provision is only connected to the cancellation and not suspension and for this reason, the Deputy Commissioner, Karachi South has not initiated any proceedings for suspension of declaration of the petitioner.

5. In case of any defamatory or libelous material published by any newspaper the proceedings under Defamation Ordinance, 2002 may be initiated for damages and injunction including criminal proceedings. Apparently the complaint against the petitioner is against some alleged defamatory news item for which the Press Registrar has been approached to initiate

cancellation proceedings of declaration. At this juncture learned counsel for the petitioner stated at bar that NICVD has already instituted suit for damages against the petitioner's newspaper which is pending in this court.

6. We would also like to address here that the Press Council of Pakistan Ordinance 2002 is also in field in which under Section 10 of the Ordinance, 2002, a procedure for conducting inquires and lodging complaints has been laid down. The functions of the Council are provided under Section 8 of the aforementioned Ordinance and under sub-section (1) (iv), the Council may revise update, enforce and implement the ethical code of practice for the newspapers, news agencies, editors and journalists. The Ethical Code is appended to this Ordinance in the Schedule. Any aggrieved person who claims the violation of Ethical Code may lodge his complaint to the Press Council of Pakistan under the aforesaid Ordinance. So far the suspension of the declaration is concerned it is alien to the provision of Ordinance, 2002.

7. As a result of our discussion, the respondent No. 3 is restrained from suspending the petitioner's newspaper declaration pursuant to impugned letter dated 20.7.2020 issued by respondent No.2. So far as the proceedings if any under Section 19 of Press, Newspapers, News Agencies and Books Registration Ordinance, 2002 are concerned, the law itself provides unequivocally that no action for cancellation of declaration shall be taken without holding an enquiry and proving opportunity of hearing to the declaration holder in case of any violation of the conditions mentioned in the above Section. The petition is disposed of in the above terms alongwith pending application.

Judge

Judge