

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Before:
Ahmed Ali M. Shaikh, CJ
Yousuf Ali Sayeed, J

CP No.D-6229 of 2020

Priority

1. For orders on office objection
2. For orders on CMA No.26924/2020 (exemption)
3. For hearing of CMA No.27175/2020 (Order 1 Rule 10 CPC)
4. For hearing of main case.

08.09.2021

Petitioner Malik Kifayat Akbar present in person.
Mr. Abdul Jaleel Zubedi, AAG
Mr. Khaleeq Ahmed, DAG

AHMED ALI M. SHAIKH, CJ.- Through instant petition, Petitioner, inter alia, seeks injunction against the use of 5-G Technology and directions to the Respondents to provide medical treatment to him and his family members suffering from multiple diseases for the use of said technology.

2. The case as set up in the memo of the petition is that after installation of 5-G Tower in his neighbourhood petitioner and his family members have been suffering from multiple diseases, physical and mental both. Accordingly, the Respondents, including the Secretary Health, Government of Sindh and the Agha Khan Hospital, Karachi be directed to provide medical treatment to him and his family and said 5-G Tower be relocated/removed.

3. After notice, on 20.4.2021 the Respondent PTA has filed comments in respect of use of 5-G technology, copy whereof was supplied to the Petitioner. Nonetheless, the petitioner has not filed any counter-affidavit/statement rebutting its contents.

4. Per Petitioner he and his family members have been suffering from multiples diseases due to the installation of 5-G Tower in his neighbourhood. He time and again raised voice against adverse effects of the 5-G Antenna on human health. Per memo of petition, 5-G Antenna installed in his neighbour is nothing but hidden design of foreign infidel forces, who are conducting experiments here. He prays that the said 5-G

Technology be declared injurious to health and necessary direction be issued to the Respondent to relocate or remove the said Antenna from its present position.

5. Conversely, the learned DAG opposed the petition on the premise that the apprehensions of the Petitioner are frivolous and vexatious and the Respondent PTA is following the Antenna installation and operation directions/procedure and, amongst other, properly regulating, inspecting such sites as highlighted in the Protection from Health Related Effects of Radio Base Station Antenna Regulations, 2008 ("**the Regulations**").

6. We have heard the petitioner, the learned DAG and perused the material available on record. The Respondent PTA in his comments maintains that recently no commercial 5-G service is being provided in Pakistan and the frequency used for mobile operators under national/international Electro Magnetic Frequency exposure guidelines covers all frequencies ranging from 100 KHz to 300 GHz, used for telecom services and that also includes frequency bands identified and under consideration for 5-G services across the globe. The Respondent PTA further pointed out in the comments that deployment of 5-G in Sub-6 GHz bands will be using the same frequency bands already being used for 4-G mobile and fixed wireless services in Pakistan.

7. In the comments the Respondent PTA maintained that under the Regulations the cellular companies are responsible for providing a certificate to the effect that the network deployed has been audited by the cellular company and is declared/confirmed that the power density values at public level in towers proximity are well within the safe limits.

8. The Petitioner till date has also not filed any reply/counter affidavit to the report/comments submitted by the Respondent PTA. Whilst claiming that he and his family members are suffering from the multiple diseases on account of use of the mobile communication technology or electromagnetic fields or the radioactive waves emitted from the mobile tower erected in his neighbourhood, the Petitioner has failed to produce any medical/scientific report to substantiate the same. However, from the perusal of the comments furnished by the Respondent PTA it appears that there is no scientific data available to show that installation of mobile phone towers and the emission of the waves by the said towers is in any way harmful for the health or

hazardous to the health of citizens. Besides, while exercising powers under Article 199 of the Constitution this Court cannot resolve a factual controversy warranting recording of evidence.

9. For the foregoing reasons, we do not find any merit in the instant petition, which is accordingly dismissed leaving the petitioner at liberty to avail remedy provided under the law, if so advised.

Chief Justice

Judge