

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

**Suit No.-1457 of 2022**

Date	Order with Signature(s) of Judge(s)
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1. For orders on CMA No.11504/2022 (U/A).
2. For orders on office objection at flag "A".
3. For orders on CMA No.11505/2022 (stay).

**10.08.2022**

Mr. Abid S. Zuberi, Ayan Mustafa Memon and Amna Khalili, Advocates for the Plaintiff.

Mr. Kashif Hanif Advocate for PEMRA along with Faqir Liaquat, DGM Legal for PEMEA.

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1. Urgency granted.
2. Deferred.
3. Learned Counsel for the plaintiff submits that the plaintiff is a satellite television licensee and operating under the PEMRA Ordinance 2002 and having appropriate licence which has been renewed time to time as well as having a builtin control and content-audit mechanism ensuring that no violation of the PEMRA law and regulations takes place at its premises and studios. The grievance of the counsel for the plaintiff is that on Sunday 8<sup>th</sup> Moharam (7<sup>th</sup> August) when it was a public holiday, without any notice to the plaintiff, all of a sudden transmission of the plaintiff's channel ARY News was removed from the air as well as from cable allegedly on verbal instructions of defendant No.2, of which the plaintiff had no clue, however, the plaintiff was confronted through the impugned show cause notice dated 08.08.2022 (page 133) issued to the Chief Executive Officer of the plaintiff wherein reference to a breaking news that was aired at about 04:18 PM is given where newscaster Sadaf Abdul Jabbar referred to an old story aired on ARY News on 27<sup>th</sup> June, 2022 and included Mr. Shahbaz Gill in the conversation. The transcript of the

conversation is reproduced in the show cause notice. Learned Counsel states that on the basis of those contents, the impugned notice has been issued giving only two days' time to the plaintiff to respond to the factual controversy as well legal aspects associated herewith. He also states that the said notice threatened the plaintiff that proceedings under section 29 and 30 of the PEMRA Ordinance would be instituted against the plaintiff. Learned Counsel further stated that the impugned show cause notice has not been issued by the competent authority prescribed under section 6 and 8 of the PEMRA Ordinance and the same is not maintainable ipso facto. Per learned Counsel the plaintiff usually runs a number of programs but it is not necessarily that the Channel itself agrees to the statements or views expressed by any of its participants or guests, therefore, the action taken by the defendants against the Channel itself is unwarranted, particularly when the PEMRA Ordinance itself does not envisage "banning" of a Channel completely or taking it off the air. Learned Counsel placed reliance on the Judgments of Hon'ble Supreme Court reported as PLD 2013 SC 244 and PLD 2016 SC 637 in support of these contentions. He also refers to various cases and states that the Hon'ble Supreme Court in such cases where certain TV Anchors were taken off the air, and where certain programmes were banned, set aside proceedings instituted by PEMRA. Learned Counsel further states that no Chairman of PEMRA has been appointed as yet, nor the twelve members committee is in existence, therefore, the authority under section 6 and 8 of the PEMRA Ordinance, 2002 is not available and no hearing could take place even if the show cause Notice is considered as a gospel truth, therefore, the plaintiff per learned counsel is at loss to

understand where to appear and who is the competent authority before whom its CEO is directed to appear.

Mr. Kashif Hanif, learned Counsel present in Court in some other matters appears for PEMRA and has assisted this Court by stating that PEMRA has not passed any orders for banning the Channel nor has issued any direction to any Cable Operator to remove the channel from the cable or off air it, or to place it at a number where it is not usually accessible by the viewers. He further states that the show cause notice has been issued to the plaintiff under Rule 16(2) of the PEMRA Television Broadcasting Rules, 2012. He further states that the appropriate remedy available in the given circumstances to the plaintiff is to file a suitable reply to the show cause notice where, as per learned Counsel, the plaintiff would be at liberty to challenge even maintainability or raise any other grounds that he would like to take, while appearing before the competent authority.

In the given circumstances issue notice to the defendants as well as DAG for **17.08.2022**. In the meanwhile, as requested by the counsel for the plaintiff the time to respond to the impugned show cause notice is extended upto 15.08.2022. Till the next date of hearing in the instant suit, the defendant No.2 to 5 not to suspend or revoke the license of the plaintiff, however, the plaintiff undertakes not to permit Mr. Shahbaz Gill to appear on ARY News subject to further orders passed by this Court or to post his views thereon.

With regard to the unavailability of the competent forum, this may be amongst all other grounds which the learned Counsel for the plaintiff may like to raise against the subject show cause notice provided, however, the plaintiff undertakes that plaintiff

would use extreme caution in respect of the individuals who as seen from the show cause notice, have tendency of uttering certain words or express a stand point which may create basis of issuance of a similar show cause notice in the future.

Upon submission of a suitable response to the show cause notice, the defendant would be at liberty to consider the submissions of the plaintiff and after giving fair opportunity of hearing to the plaintiff, ensuring that all legal requirements for passing a just, proper and competent order as envisaged under the PEMRA Ordinance and applicable Rules are put in place, may be at liberty to proceed with the matter, however, no final order be passed till the next date of hearing in the subject matter.

Since the counsel for PEMRA has stated that no direction for banning or suspending the transmission of ARY News has been issued by PEMRA to any cable operators, the Defendants are therefore directed that the ARY News Channel be immediately restored as soon as possible and be placed on the same number/position as it existed on 07.08.2022 at 4:00 p.m. without any further loss of time.

JUDGE

Ayaz Gul