

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

Suit No.1294 of 2022

M/s Karachi Cable Services (Pvt.) Ltd. & others
Versus
Federation of Pakistan & others

Date	Order with signature of Judge
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1. For order as to maintainability of suit
(In view of Court order dated 2.9.22.
2. For hearing of CMA 12805/22

Dated: 09.09.2022

Mr. Umair Bachani for plaintiffs.

Mr. Qazi Ayazuddin, Assistant Attorney General.

Mr. Sarmad Ali files Vakalatnama of Mr. Kashif Hanif on behalf of defendants No.2 and 3.

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Muhammad Shafi Siddiqui, J.- Plaintiffs are cable operators and providing cable services across Karachi through analogue and digital services having been licenced in this regard to operate accordingly. Plaintiffs in this suit have impugned show-cause notices with charges therein that the orders of this Court were violated by them. Plaintiffs were thus directed to explain as to why the operation of cable network should not be suspended and further they were directed to appear for personal hearing on 02.09.2022 for explaining the violation of regulatory framework of the Ordinance.

I have heard the learned counsel and perused material available on record.

These cable operators were licenced to provide cable services across Karachi through analogue and digital cable services and have been airing/broadcasting/transmitting/distributing electronic channels including one of plaintiff of Suit No.-1457 of 2022 (unregistered suit). In

the said suit learned Judge of this Court vide order dated 10.08.2022 was pleased to restore the channel with immediate effect on the number/position as existed on 07.08.2022 at 4:00 p.m. without any further loss of time. On its violation, contempt proceedings were initiated and the order was passed on 25.08.2022 where directions were given for compliance and PEMRA was further directed to use all force and legal strength available to it to ensure that channel's transmissions is restored in accordance with regulation and to take action under PEMRA Ordinance, 2002 against cable operators and all those involved.

While those independent contempt proceedings were initiated and pending, on 26.08.2022 impugned show-cause notices were issued to plaintiffs as the order was not complied with and to enforce certain regulations of PEMRA (Distribution Service Operations) Regulations, 2011. The contention of learned counsel that this is a double jeopardy as the contempt proceedings are also initiated whereas PEMRA authority has also issued show-cause notices for appropriate action in this regard is misconceived as the contempt proceedings are in violation of order passed by learned Single Judge whereas the show-cause notices are for violation of the regulation meant for distribution service operation and hence both the proceedings cannot be equated at par. The jurisdiction while issuing show-cause notices was exercised as available to PEMRA authority under the law.

Learned counsel for plaintiffs in fact conceded to such an extent that the PEMRA authority has jurisdiction in this regard but only referred and relied upon parallel proceedings initiated by learned Single Judge as contempt proceedings. As far as subject show-cause notices are concerned I do not see any reason to interfere in it since these were issued within the frame of PEMRA Ordinance 2002 and rules/regulation

framed thereunder. PEMRA saw violation of ibid regulation and issued notices to which there is no cavil.

Recently in the case of Commissioner Inland Revenue etc. v. Jahangir Khan Tareen & others in Civil Petition No.349-L of 2017 the Hon'ble Supreme Court while dealing with the issue of show-cause held as under:-

“15. As a result of above discussion we reached to the finale that the respondent No.1 should raise all grounds of challenge to the show cause notice including the alleged jurisdictional error in the reply before the Additional Commissioner who shall after providing ample opportunity of hearing first establish the conditions laid down in Section 210 of the Income Tax Ordinance, 2001 with regard to the delegation of authority before he can proceed on the merits of the case. This petition was converted into appeal and allowed vide short order dated 15.09.2022. Above are the reasons.”

Thus, even if there was a jurisdictional error with regard to action initiated by PEMRA authority it had to be objected and/or resisted before the concerned authority whereas to my grasp, it is not a jurisdictional error.

Plaintiffs was put on notice earlier vide order dated 29.02.2022 regarding maintainability of this suit on the aforesaid count and today learned counsel has attempted to argue this case on the strength of a judgment passed by Division Bench of this Court in the case of Ghulam Mustafa Khan v. Federation of Pakistan in CP No.D-1761 of 2006. In the presence of an authoritative pronouncement of Hon'ble Supreme Court with regard to show-cause notices, referred above, and with regard to a fact that there is no jurisdictional error, I am not inclined to interfere in it i.e. issuance of show-cause notices and consequently the suit being not maintainable on the aforesaid count is dismissed with no orders as to costs along with pending applications.

Judge