

IN THE HIGH COURT OF SINDH, KARACHI

PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI
JUSTICE MRS. KAUSAR SULTANA HUSSAIN

High Court Appeal No. 262 of 2022

Hearing / Priority

1. For orders on office objection.
2. For hearing of Main Case.
3. For hearing of CMA No. 2405/2022.

23.08.2022:

Khawaja Shams ul Islam, advocate for the appellants
a/w. Mr. Kashif Hanif, advocate.

Mr. Ayan Mustafa Memon, advocate for respondent No. 1

Mr. Khaleeq Ahmed, Deputy Attorney General.

O R D E R

1. Matter has been taken up for hearing at the request of learned counsel for the appellants, when the Court time is almost over, as the learned counsel for the appellants has expressed his anxiety and apprehension that during pendency of instant High Court Appeal, inspite of no fault or violation of the Court's order on the part of the appellants, notices has been issued by the learned Single Judge on another contempt application filed by the respondents in the suit, wherein, it has been alleged that ARY News Channel has not been restored by the PEMRA and the appellants and Chairman PEMRA have been arrayed as alleged contemnors and the matter is fixed before the learned Single Judge tomorrow. It has been contended by learned

counsel for the appellants that though the appellants through instant High Court Appeal have expressed their grievance with regard to restraining order passed by the learned Single Judge, whereby, the appellants have been restrained from passing any final order pursuant to Show Cause Notices issued to the respondents strictly in accordance with law, however, submits that this ground will be agitated before the learned Single Judge, provided learned Single Judge may be directed to pass appropriate orders as to maintainability of the suit, whereas, further directions may be issued to the learned Single Judge not to draw any adverse inference against the appellants pursuant to fresh contempt application filed by the respondents as according to learned counsel, the appellants have already issued instructions to the cable operators for restoring the transmission of ARY News Channel pursuant to Court's order vide letters dated 15.08.2022 and 19.08.2022 in this regard.

2. Conversely, the learned counsel for respondent No.1 submits that order passed by the learned Single Judge in the suit has not been complied with in letter and spirit, whereas, the so-called instructions issued by the PEMRA are not in consonance with the Court's order and the authority as vested in the Chairman PEMRA as defined by the Hon'ble Supreme Court of Pakistan in the case of *Dr. Shahid Masood & others v. Federation of Pakistan & others* [2010 SCMR 1849]. It has been further contended that in spite of specific orders passed by the learned Single Judge, the ARY News Channel has not been restored, therefore, requests that Chairman PEMRA may be directed to comply with the Court's order and to issue specific directions to all cable operators to restore the transmission of the ARY News Channel immediately and in case of any failure, to

take appropriate action against defaulting cable operators in terms of Pakistan Electronic Media Regulatory Authority (Distribution Service Operations) Regulations, 2011, which may include the suspension of the license of the cable operators. According to learned counsel, the respondents have already given assurance that they will comply with the law and terms of license, and will not permit Shahbaz Gill to appear on ARY News Channel, therefore, appellants may be directed to adopt due process and provide fair opportunity to the respondents to submit response to Show Cause Notice.

3. Learned counsel for the appellants submits that though instructions have already been issued twice to the cable operators, however, further instructions will be issued today, keeping in view the orders passed by the learned Single Judge and the judgment of the Hon'ble Supreme Court as referred to hereinabove and the relevant provisions relating to authority of the Chairman PEMRA as per Pakistan Electronic Media Regulatory Authority Ordinance, 2002 and Pakistan Electronic Media Regulatory Authority (Distribution Service Operations) Regulations, 2011, and the compliance will be furnished before the learned Single Judge.

4. Accordingly, instant High Court Appeal is disposed of, while directing the appellants, including Chairman PEMRA to ensure that the order passed by the learned Single Judge in the subject suit is complied with in letter and spirit and the ARY News Channel is restored immediately and placed on the same position as per Court's order dated 10.08.2022, however, if it is found that needful has not been done, the learned Single Judge will be at liberty to pass appropriate orders in accordance with law.

5. At this stage, learned counsel for the appellants submits that personal appearance of the Chairman PEMRA before the learned Single Judge may be exempted. This request may be made before the learned Single Judge, who may pass appropriate orders in this regard, provided the Chairman PEMRA may issue specific directions, and shall ensure that the cable operators will restore the ARY News Channel and in case of non-compliance or default, appropriate action shall be taken in accordance with law.

Instant High Court Appeal stands disposed of in the above terms alongwith listed application.

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