

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CONST. PETITION NO.D-2646 OF 2024
[Shahide Hussain & 4 Others Vs. PEMRA & 3 Others]

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present:
Mr. Justice Muhammad Shafi Siddiqui C.J.
Mr. Justice Jawad Akbar Sarwana

1. For orders on CMA 27422/2024.
2. For orders on CMA 27423/2024.

10.12.2024.

Mr. Abdul Moiz Jafferri & M. Tariq Mansoor, Advocates for petitioners in both petitions a/w Petitioner Nos.1,3 and 5 in CP D2646/2024.
Mr. Zia-ul-Haq Makhdoom, Additional Attorney-General
Mr. Khaleeq Ahmed, DAG

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Jawad Akbar Sarwana,J.: Mr Tariq Mansoor, Advocate, learned Co-Counsel for the Petitioner(s) (although he disputes under oath that his co-counsel, Abdul Moiz Jafferri, Advocate, was ever a pleader in his petition), has filed (i) an Urgent Application (CMA No.27422/2024), which urgency is granted, and (ii) he seeks Orders on CMA No.27423/2024 for review of this Bench's Judgment dated 22.11.2024 to the extent that certain observations made about him in paragraph 30 of the Judgment may be expunged and the costs imposed on him on account of his conduct during hearing based on case law and principles of imposing costs on Advocates articulated in the Judgments of the Superior Courts should be withdrawn.¹

At the outset, Counsel apologised, as an Officer of the Court, for not identifying the correct law to this bench and keeping silent/quiet when Mr. Jafferri, Advocate relied on PLD 2023 SC 387 and did not cite the Supreme Court's Dissenting Note dated 30.03.2023 (as reported in PLD 2023 SC 387) and also Supreme Court's Recalling Order dated 04.04.2023 passed by a six (6) member bench (available on the Supreme Court's website) holding that the Order passed by the two Hon'ble member Bench reported in PLD 2023 SC 387, had been held to be inoperative and ineffective when made and was such at all times after that and continues to remain so. This onus of assisting the Court was on Mr M Tariq Mansoor, Advocate, at all times, under Al-Qur'an: Surah AI-Baqr II, Ayaat 282, 283; Sura Al-Nisa IV, Ayat 135: Islam has forbidden Muslims from withholding or concealing evidence (of fact and law) relating to the issue to be decided by an arbiter (read: Judge). Nevertheless, on sympathetic grounds and the rule of

¹ *Zakir Mehmood v. Secretary, Ministry of Defence (D.P.), Pakistan Secretariat, Rawalpindi, etc.*, 2023 SCMR 960 (CP No.2712/2020) and *Muhammad Siddiq and another v. Mst. Ruqaya Khanum and others*, PLD 2001 Karachi 60 (Division Bench). Also, see Suit No. Nil of 2020, Order dated 18.05.2020 in *Damen Shipyards Gorinchem B.V. v. The Ministry of Maritime Affairs & Others* (unreported)(Muhammad Junaid Ghaffar, J.) and Suit No.765 of 2024 in Order dated 31.07.2024 in *Vista Apparel (Pvt.) Ltd. v. S.M. Traders (Pvt.) Ltd. & Others* (unreported)(Muhammad Abdur Rahman, J.)

consistency (we have earlier expunged certain remarks from our Judgment concerning Mr Jafferri after he moved a similar application for review as the one filed by Mr M Tariq Mansoor), the following phrases in paragraph 30 of the Judgment dated 22.11.2024 are also hereby expunged for Mr M Tariq Mansoor:

- (i) “. . .The entire conduct of the Petitioner’s counsel is regrettable.”
- (ii) “. . .he miserably failed to fulfil his duty as an Advocate and attempted to mislead the Court. . . .”

Counsel argued that this was a pro bono petition and that Rs. 25,000 in costs was too high. He also argued that he could not be held responsible for the accuracy of Mr. Jafferri Advocate’s submissions. We respectfully disagree. Both Counsels made submissions for petitioners in support of the same relief. We have recorded submissions from both counsels in the judgment. There are extensive holdings and discussions in the *Ruqaya Khanam* case (ibid.) about the duties and responsibilities of an Advocate under the Quran and the Sunnah, whether pleading singly or in concert. Be that as it may, as an exception, the costs imposed on Mr Tariq Mansoor and Mr Jafferri in C.P. No.D-2646/2024 are reduced from Rs.25,000 to Rs.12,500 each. In case Mr Jafferri has already paid costs in CP No.D-2646/2024, Mr Tariq Masood may set off, with the permission of Mr Jafferri, the portion of his costs with Mr Jafferri’s paid costs and obtain receipt for the same from the High Court Bar Law Library in order to evidence compliance of the Court’s Order(s).²

Applications are disposed of in the above terms.

Office to ensure that this Order dated 10.12.2024 is reported along with the Judgment dated 22.11.2024 passed in CP Nos.D-2646/2024 and D-2802/2024.

JUDGE

CHIEF JUSTICE

² Counsels remain at liberty to settle matters inter-se.