

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-5329 of 2017

Date	Order with signature of Judge
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Hearing / Priority Case:

1. For hearing of CMA No.32211/2017.
 2. For hearing of CMA No.32212/2017.
 3. For hearing of CMA No.22206/2017.
 4. For hearing of Main Case.
- (Order dated 25.04.2018 forwarded)
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9th May, 2018

Mr. Shafaat Nabi Khan Sherwani, Advocate for Petitioner.

Ms. Amna Warsi, Advocate for Respondent No.1 alongwith
Ms.Ayasha Warsi, Advocate.

Mr. Asim Mansoor Khan, D.A.G.

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Through this Constitution Petition, the petitioner has prayed for suspension of the operation of letter bearing No.HQCAA/1086/317/ATNR/I, dated 12th July 2017, which is available at page 95 as Annexure “G” of the Court’s file. In fact, this is a notice for fulfilling the requirements to enhance paid-up capital, differential amount of security deposit and submission of bank guarantee as per Air Navigation Order No.ANO-001-ATNR-2.0. The petitioner has further prayed that the respondents No.1 and 2 may be directed to renew the RPT License of the petitioner as agreed in the minutes of the meeting dated 25.07.2015 convened between the respondent No.1 and the petitioner. Further, permission has been sought from this Court that the petitioner may be allowed to improve its loss free capital of Rs.500 Million and to enhance their security deposit by Rs.80 Million within two years’ time as agreed in the minutes of the meeting dated 25.07.2015.

Learned counsel for the petitioner has pointed out the minutes of the meeting dated 25.07.2015 available at page 45 of the Court’s file, whereby after detailed discussions on each point, certain recommendations were made in Paragraph No.4. In Clause (iii) of Paragraph No.4 of the said Minutes of the Meeting, it was highlighted that the petitioner confirmed

that two of their aircrafts were airworthy and that they are in the process of finalizing the arrival of 3rd aircraft in Pakistan. The petitioner also undertook that 3rd aircraft would reach Pakistan within a week. It was further highlighted in the minutes of the meeting that the request was made by the petitioner to resume the operations with two aircrafts for the time being.

These minutes of the meeting were forwarded to the Aviation Division, Cabinet Secretariat, Government of Pakistan, however, vide letter dated 30.07.2017 Deputy Secretary (CAA) communicated to the Director General, HQ CAA, Karachi that Aviation Division partially endorses the terms and conditions agreed between Pakistan CAA and M/s. Air Indus Pvt. Ltd. in its meeting held on 25.07.2015, but in Paragraph No.3 of the same letter, it was clearly mentioned that CAA is well aware that as per National Aviation Policy, minimum fleet size for domestic operators shall be three airworthy aircrafts. The Ministry will renew the RPT once Air Indus meets the mandatory requirement of minimum three airworthy aircrafts. The request was also made to the Director General, CAA, to inform the Airline accordingly.

Learned counsel for the petitioner submits that the petitioner have already made arrangements for aircrafts and finalized the deal on leasing basis. So far as the compliance of the letter dated 12.07.2017, the learned counsel submits that the petitioner has also enhanced paid-up capital and furnished differential amount of the security deposit including submission of bank guarantee as agreed in the minutes of the meeting held on 25.07.2015.

Since the responsibility and task to renew the license vests in the Aviation Division, Government of Pakistan, therefore, they would be in a better position to decide and adjudge the issue in accordance with law. However, it has been agreed by consent that the petitioner shall submit all relevant documents to the concerned office of the Civil Aviation Authority (CAA), where all the documents shall be examined and scrutinized with an ample opportunity of hearing to the petitioner's Chairman/C.E.O. In the meeting the chairman of petitioner's company shall point out compliance of all necessary requirements according to the checklist and after due

satisfaction, the matter will be referred to the Aviation Division, Government of Pakistan. If everything is found in order, license shall be renewed within a period of one month. Copy of this order may be transmitted to the learned D.A.G., who will ensure compliance after sending the matter by the Civil Aviation Authority to the Aviation Division, Government of Pakistan. When the matter will be forwarded to the Aviation Division, Government of Pakistan, the Director General, CAA, shall also transmit a copy of said letter to the learned D.A.G. for information.

With these observations, this petition is disposed of alongwith all pending applications.

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