

IN THE HIGH COURT OF SINDH AT KARACHI

BEFORE:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Adnan-ul-Karim Memon

Constitution Petition No. D-3217 of 2019

Dr. Muhammad Osama Shafiq
 Versus
 Pakistan Electronic Media Regulatory Authority & others

Date of Hearing: 20.08.2019

Petitioner: Through Mr. Ayaz Ahmed Ansari Advocate.

Respondents No.1&2: Through Mr. Muhammad Nishat Warsi DAG.

Respondent No.3: Through Mr. Abdul Moiz Jafri Advocate.

Respondent No.4: Through Mr. Behzad Haider along with Mahmood Ali Advocates.

Respondent No.5: Through Mr. Ijaz Ahmed Advocate.

J U D G M E N T

Muhammad Shafi Siddiqui, J.- This petition is filed by Assistant Professor of the University of Karachi who claimed to have been attached with Department of Mass-communication for last six years, whereas respondent No.6 is one of his students of Department of Mass-Communication, Evening Program of University of Karachi.

Substantially petitioner has prayed for a decision to be made in pursuance of complaints of University of Karachi and that of petitioner pending before Pakistan Electronic Media Regulatory Authority (PEMRA) and the Council of Complaints of PEMRA. Petitioner, in addition to the above, further prayed that respondents No.3 to 5 who are independent electronic media houses be restrained from airing any news against the petitioner and that respondent No.6 be restrained from propagating against the petitioner.

We have heard learned counsels appearing for the parties and perused the material available on record.

At the time of hearing, learned counsel for respondent No.3 Mr. Abdul Moiz Jafri has placed before us copy of a decision of PEMRA that concerns the complaint of the petitioner and that of University of Karachi. The grievances and/or complaints of the petitioner and that of University of Karachi were dealt with and decided through such decision wherein it was unanimously recommended by the Council that news relayed by defending channels i.e. respondents No.3 to 5 had a well-founded cause and that the allegations of sexual harassment, as raised by the student, were under probe before a duly constituted committee of University and in the circumstances no case against the channel was made out.

Insofar as reporting of an alleged incident, before it could be probed to form a news, is concerned, the channels were required to provide a fair opportunity to persons against whom allegations have been levelled to enable him to defend such allegations, which in the instant case is petitioner. If it is a case of accusation by one set of affectees then accusation or response of other set of affectees or affectee is equally necessary. The counsels for the respondents particularly respondents No.4 and 5, have categorically stated during course of arguments that they would welcome the petitioner on their respective channels in case he so desires to appear to explain his point of view.

Be that as it may, this petition primarily concerns with the decision to be made by respondents No.1 and 2 which decision has already been delivered on 05.08.2019 therefore prayer (a) has virtually become infructuous. The petitioner may however avail his remedy to

approach the appellate forum as required under the law for which no permission is required from this Court.

Insofar as prayer clauses (b) and (c) are concerned, petitioner prayed that respondents No.3 to 5 be restrained from airing any news against the petitioner. This blanket restraining order cannot be passed, particularly when PEMRA had already made a decision that the news aired by respondent channels was on a well-founded cause. We do not enjoy appellate jurisdiction of a decision referred above. Furthermore, in terms of Article 19-A of the Constitution of Pakistan every citizen has a right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law. Petitioner here is an Assistant Professor and dealing with a number of students in Mass Communication Department of University.

Insofar as Section 27 of PEMRA Ordinance, 2002, as relied upon by learned counsel for petitioner is concerned, that the authority was under the obligation to prohibit such broadcasting, re-broadcasting, advertisement etc. if it is of the opinion that such program or advertisement is against the ideology of Pakistan or is likely to create hatred among the people, we may observe that no such restriction was imposed or opinion was formed by the authority. Further we do not conceive that airing or reporting of such an incident or airing point of view of both would constitute an element against the ideology of Pakistan. In fact reporting of an incident is in aid to support the concept.

However an attempt was made by learned counsel for petitioner that on airing such program or reporting such incident a sense of hatred would develop among the people hence his (petitioner's) life would be at stake. Such argument could hardly be a defence when subject news/ information appeared to be well-founded by PEMRA. Channels however

were only required to report an incident and should not be judgmental. Yes, a false news or incorrect reporting or an information having bad source in this regard does matter but here the media houses have provided an opportunity to petitioner to demonstrate his point of view. The subject issues, as raised in the instant petition, do not at all come within the frame of Section 27 to restrain respondent from airing such news or information which has now transformed into a decision of PEMRA. In general, alleged misdeeds which were well founded by PEMRA are of such nature which when aired may end up in developing a sense of hatred for an individual involved, but at the end the individual had to glean it. Petitioner still has a chance to give his point of view as the media houses/respondents have welcomed him on their respective channels however on the strength of Section 27 of PEMRA Ordinance, through which he claimed that he will be disliked, media houses cannot be restrained from airing a news or reporting an incident, which was well-founded.

Thus, we do not see any substance in the petition as primarily the only remedy left in terms of prayer clause (b) and (c) which otherwise also cannot be granted in these proceedings under Article 199 of the Constitution of Pakistan against private channels alone. Insofar as respondents No.1 and 2 are concerned since they have already discharged their responsibility by delivering a judgment/decision therefore to that extent this petition has become infructuous.

In view of the above petition was dismissed along with listed applications vide short order dated 20.08.2019 of which above are the reasons.

Dated:26.8.2019

Judge

Judge