

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

Misc. Appeals No.31 to 40 and 45 of 2017

Independent Media Corporation (Pvt.) Ltd., Najam Sethi, Shahrukh Hassan, Talat Hussain, Imran Aslam, Shahzeb Khanzada, Shujauddin Qureshi, Afia Salam, Nazim Fida Hussain Haji, Fariha Aziz AND Muhammad Jibrán Nasir appellants in their respective appeals

Versus

Pakistan Electronic Media Regulatory Authority & another
respondents in all appeals

Date	Order with signature of Judge
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Date of hearing: 14.02.2018

Mr. Faisal Siddiqui for appellants
Mr. Furkan Ali for respondent No.1.
Mr. Shahab Sarki for respondent No.2.

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Muhammad Shafi Siddiqui, J.- These Misc. Appeals have arisen out of a decision of Pakistan Electronic Media Regulatory Authority (PEMRA) dated 24.03.2017 followed by press release dated 27.03.2017 in respect of a number of complaints against the host of program “Aisay Nahi Chalay Ga” which was aired on ‘Bol News Channel’ from 02.01.2017 to 24.01.2017 wherein the allegations of willful and repeated statements tantamounting hate speech, derogatory remarks, incitement to violence against citizens of being anti-State and Anti-Islam, were made. In pursuance of a number of proceedings before this Court as well as before Hon’ble Supreme Court the authority in exercise of its powers conferred under section 27 and 29 of PEMRA Ordinance 2002, as amended by PEMRA (Amendment) Act, 2007 read with applicable clauses of Electronic Media (Programs & Advertisements) Code of Conduct 2015 made the following decision:-

“i. On or before March 31, 2017, the Channel and Dr. Amir Liaquat, shall separately, during the same time slot

of the programme “Aisay Nahi Chalay Ga”, by specifically naming all individual complainants against whom hate speech was aired, apologize unconditionally to the viewers for airing the hate-speech.

ii. The Channel shall also ensure that text to the same effect is also scrolled/displayed on the screen during the entire programme wherein Dr. Amir Liaquat apologizes to the viewers.

iii. The Licensee shall submit an affidavit by March 31, 2017, 1600 Hrs. with PEMRA, assuring the Authority that no hate speech or any content in violation of Electronic Media (Programmes and Advertisements) Code of Conduct 2015, notified by the Federal Government on the Orders of the Hon’ble Supreme Court of Pakistan, shall be aired in future.

iv. In case of failure of the Channel and/or the host of the said programme, either in part thereof or as a whole of the above decision, broadcasting or re-broadcasting or disturbing of the programme “Aisay Nahi Chalay Ga” and appearance on BOL TV, in any manner, whatsoever, of its host, Dr. Amir Liaquat, shall stand prohibited with effect from April 1, 2017 till such a time compliance to the above decision is made.

v. A fine of Rs. One Million is imposed on the Channel to be deposited within fifteen days of issuance of this decision.

vi. The Licensee is warned that in case of failure to comply with para 17(iv and/or v) above, or in case of violation of the PEMRA laws and/or terms and conditions of the license in future, action under relevant provisions of PEMRA law shall be initiated.”

These Misc. appeals impugn the above decision of dated 24.03.2017 followed by press release dated 27.03.2017 Annexure ‘A’ to the memo of appeal to the extent that it does not immediately, unconditionally and on a long term basis prohibit the anchor and his subject program.

Mr. Faisal Siddiqui, learned counsel for appellants, on 25.01.2018 had informed the Court that this decision was also impugned in FAO No.56 of 2017 before Islamabad High Court at Islamabad and that certain interim measures were taken in respect of impugned order, which order of the Islamabad High Court is available on record as Annexure ‘A’ to the counter-affidavit filed on behalf of respondent No.1. In terms of

paragraph 6 of the interim order in the aforesaid FOA the Islamabad High Court suspended the impugned order to the extent of decisions on Item Nos.(i), (ii) and (iv); the Channel M/s Labbaik (Pvt.) Ltd. was directed to deposit amount of fine within three days which was subject to the final outcome of the appeal. The Channel i.e. Labbaik (Pvt.) Ltd. was further directed to swear fresh affidavit in terms of Item No.(iii) of the impugned decision and that the anchor who preferred the appeal was directed to be careful while conducting the programs by remaining within the limits of Code of Conduct. Learned counsel further submitted on the previous date that the compliance of the aforesaid order of Islamabad High Court may determine the fate of these appeals and be disposed of accordingly.

The fine of Rs.1 Million was deposited in terms of letter dated 03.04.2017 and an affidavit on behalf of the licensee M/s Labbaik (Pvt.) Ltd. on the directions of the Islamabad High Court in compliance of paragraph 3 of the decision was also filed. The affidavit and the letter were filed by learned counsel for respondent No.1 through a statement on the date when the matter was heard and reserved. Paragraph 4 and 5 of the affidavit are relevant, which are reproduced as under:-

“4. That as per para iii of the above decision, M/s Labbaik (Pvt.) Ltd was directed to submit an affidavit assuring the Authority that no hate speech or any content in violation of Electronic Media (Programmes and Advertisements) Codes Conducts 2015, notified by the Federal Government on the orders of the Honorable Supreme Court of Pakistan shall be aired in future.

5. That the Licensee (M/s Labbaik (Pvt.) Ltd (BOL News) and its TV host/anchorperson, Dr. Amir Liaquat Hussain, of the program “Aisay Nahi Chalay Ga” have never been involved in any hate speech or broadcasting any content in violation of Electronic Media (Programmes and Advertisements) Codes Conducts 2015. However on the direction of Honorable Islamabad High Court, in compliance to para iii of the decision dated 27.03.2017, the Licensee has filed this affidavit in amenability to para iii of the decision in good faith, that no hate speech or any content in violation of Electronic Media (Programmes and Advertisements) Codes Conducts 2015 by BOL News or its TV Host/Anchorperson Dr. Amir Liaquat Hussain, notified

by the Federal Government on the orders of the Honorable Supreme Court of Pakistan shall be aired.”

The decisions in respect of Items No.(i), (ii) and (iv) are pending before Islamabad High Court, as challenged by the anchor, as it was claimed in the said paragraph that no hate speech or any contents in violation of the Electronic Media (Programs & Advertisements) Code of Conduct 2015 shall be aired in future and that the licensee and the anchor of the program were never involved in any hate speech or broadcasting any contents in violation of Electronic Media (Programs & Advertisements) Code of Conduct 2015 and in compliance of paragraph (iii) of the decision the licensee has filed affidavit in amenability to the decision in good faith that no hate speech or any contents in violation of Electronic Media (Programs & Advertisements) Code of Conduct 2015 by Bol News or its TV host/anchor notified by the Federal Government or orders of the Hon’ble Supreme Court shall be aired.

Mr. Faisal Siddiqui submitted that on the assurance of respondent No.1 and on directions of this Court to respondent No.1 these appeals could be disposed of to the effect that respondents shall adhere to the Electronic Media (Programs & Advertisements) Code of Conduct 2015, as notified in exercise of powers conferred under subsection (1) of Section 39 of PEMRA (Amendment) Act, 2007 and in pursuance of the Electronic Media Code of Conduct 2015. Paragraph 23 of the Code of Conduct provides as under:-

“23. Hate Speech:- (1) *Licensee shall ensure that hate speech by any of its employees or any guest in a programme is not aired.*

(2) *The Licensee shall not relay allegations that fall within the spectrum of hate speech, including calling someone anti-Pakistan, traitor or anti-Islam.*

(3) *Where hate speech is resorted to by any guest, the channel and its representative must stop the participant and remind him and the audience that no one has the authority to declare any other citizen as a Kafir or enemy of Pakistan, Islam or any other religion.”*

Learned counsel appearing for respondent No.1 has no objection to the disposal of these appeals as respondents No.1 and 2 have ensured that they would adhere to the terms of Electronic Media (Programs & Advertisements) Code of Conduct 2015.

Mr. Shahab Sarki, learned counsel for respondent No.2, though was not present when these appeals were argued however he subsequently filed a statement in each appeal that the company shall adhere to the terms of the Code of Conduct. Thus, and any violation may lead to the consequences, as determined by the PEMRA.

Accordingly, the contents of the affidavit, as filed along with statement on behalf of respondent No.1, are considered as part of the undertaking of the counsel as well that in case of any violation they shall act promptly and shall take decision, as required under the law. This is however without prejudice to the right of appellants in appeal pending before Islamabad High Court at Islamabad.

Dated:

Judge