ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.D-1275 of 2021 C.P. No.D-1289 of 2021 C.P No.D-1290 of 2021

Date

Order with Signature(s) of Judge(s)

Priority

- 1. For hearing of Misc. No.6343/2021
- 2. For hearing of Misc. No.5299/2021
- 3. For hg. of main case

30.03.2021

M/s. Haider Waheed and Rehan Kayani, advocate for petitioners

Mr. Amjad Iftikhar, advocate holding brief for Mr. Jafar Raza, advocate for respondents No.10 & 11

Mr. Muhammad Ahmed, Assistant Attorney General a/w I.O. Shaheryar Ahmed Khan, Assistant Director and Aijaz Kalwar, FIA, Cyber Crime Barrister Gazain Z. Magsi, advocate for respondent

Muhammad Iqbal Kalhoro, J. Petitioner, stated to be a market leading full-service brokerage company, filed this petition against the debit-block of its bank accounts in terms of a Notice dated 07.02.2021 issued u/s 31 of Prevention of Electronic Crimes Act 2016 (PECA) r/w section 94 Cr PC and section 5(5) of FIA Act, 1974 by FIA in an enquiry and was granted interim relief vide order dated 18.02.2021 in the terms as under:-

"Contentions raised require consideration. Let notice be issued to respondents, Additional Attorney General for 24.02.2021, meanwhile the respondents may continue with the subject enquiry strictly in accordance with law, avoiding taking any coercive action against the petitioner, during which if the petitioner or its shareholders wish to authorize payment to their customers from the debit block accounts, they may communicate with a given bank to authorize such payments and the given bank shall process the same only on such authorization."

Still unsatisfied, nevertheless in regard to issue of release of salaries to its employees, petitioner insisted on hearing of applications (Misc. No.6343/2021 & Misc. No.5299/2021) moved for de-freezing accounts of the company completely till pendency of the petition mainly in order to meet the said issue.

In response, sought to the said applications, FIA informed about non-cooperation of petitioner's relevant officials in the enquiry, which was duly recorded in the order dated 22.03.2021. But then, on an undertaking by learned defence counsel, Head of IT, Head of HR and Head of Finance were directed to appear before the I.O. on Wednesday i.e. 24.03.2021 at 02:00 p.m. for the purpose of enquiry and chalking out an scheme spelling out a process for release of salaries to the employees. On 25.03.2021 when this matter was taken up, I.O. informed that the compliance was not made and instead of required officials, one

lady claiming herself to be Head of HR accompanied by one person appeared but she did not assist him on the point, which was however, contested by learned defence counsel. Keeping in view such disputed rundowns on the issue, we adjourned the case for today for final hearing.

Mr. Haider Waheed, advocate, has however, limited his arguments to aforesaid two miscellaneous applications and has sought primarily release of salaries to the employees of the company (Abtach) for the time being till merits of the case are sorted out conclusively. Against which, I.O. and Assistant Director, who are present to assist the learned AAG, have again reiterated non-cooperation by the petitioner in the enquiry with a tinge of doubt to the list of employees furnished by learned defence counsel for the purpose as above.

On the one hand, learned defence counsel has insisted on authenticity of such list and quantum of salaries shown therein against each employee and on the other hand, officials of FIA and learned AAG have questioned it seriously. We do not have any means or material on record to tilt our opinion in favour of either and give a conclusive ruling in this regard. At the same time, we are equally concerned about house hold needs of employees of the company, who allegedly on account of impugned notice have not been able to receive their monthly salaries. We, therefore, while disposing of the aforesaid two applications direct the petitioner to appoint a Focal Person having senior position in the company to furnish a duly verified list of the employees to I.O., who shall cross check the same by looking at the relevant record of the company, etc. In such exercise, to be finalized in two weeks, petitioner's Focal Person and other relevant employees/officials as and when required by I.O. shall fully cooperate with him. After having been satisfied with the authenticity, etc. of the employees and their salaries, I.O. and Deputy Director, FIA concerned with their signature shall write a letter to the relevant bank(s) maintaining salary account of the employees to release their respective salaries.

The applications stands disposed of in above terms. This arrangement and the terms set out for the purpose as above are independent of enquiry, its merit and requirements being held by FIA against the petitioner(s).

3. Adjourned to **11.05.2021**. Office to place a copy of this order in connected aforesaid petitions.

JUDGE