

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

F.A.O. No.125 of 2016
NEO TV/Messrs Fun Information Network (Pvt.) Limited
Versus
PEMRA through its Chairman etc

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	30.11.2016	M/s Fawad Hussain Chaudhry and Faisal Fareed Hussain, learned ASCs for the appellants, Mr. Ali Shah Gillani, Advocate for the respondents.

F.A.Os No.125 and 126 of 2016 involve common questions of law and fact, hence they are being disposed of through this common order.

2. Through F.A.O. No.125/2016, the appellant, M/s. Fun Infotainment Network (Private) Limited (“NEO TV”), impugns the decision dated 26.11.2016, passed by respondent No.1/Pakistan Electronic Media Regulatory Authority (“PEMRA”), on the recommendations of respondent No.2 (Personal Hearing Committee of respondent No.1). The impugned decision dated 26.11.2016, is reproduced herein below:-

- i. On account of casting aspersions against Hon'ble Judges of Supreme Court of Pakistan, during the programme titled "@Q Ahmed Qureshi" aired on NEO TV on 19.11.2016 at 8:52 pm, in violation of Clause 3(1)(j) of Electronic Media (Programmes and Advertisements) Code of Conduct, 2015, which prohibits all PEMRA licensees from airing any content containing aspersions against the judiciary or armed forces of Pakistan, the License No.10-2(113)STV-2008, issued in favour of M/s Fun Infotainment (SMC-PVT) Ltd. (NEO TV) on 23.01.2009 is suspended for a period of seven (07) days starting from 1200 hours on December 1, 2016 till 1159 hours December 8, 2016. The licensee shall ensure that no transmission is broadcast through any means.*
- ii. During the suspension period of NEO TV, if Mr. Ahmed Qureshi (anchor) appears on any other TV Channel he shall tender apology, by referring to the background of the matter.*
- iii. A fine to the tune of Rs.1,000,000/- (rupees one million only) is also imposed on M/s Fun Infotainment (SMC-PVT) Ltd. (NEO TV) payable within 15 days from the date of issuance of this decision.*

- iv. NEO TV is also directed to air apology for airing aspersions against Hon'ble Judge of Supreme Court of Pakistan, in the same programme at same time in the same manner and magnitude, immediately after resumption of transmission, on December 8, 2016, besides tickers / scroll pertaining to apology shall also be aired during the regular transmission of NEO TV.*
- v. NEO TV is also directed to deploy and / or properly utilize time-delay mechanism and constitute an In-house Editorial Committee, under intimation to this office, to ensure compliance of the Code of Conduct. The Channel, at all reasonable times, shall facilitate inspection of time-delay mechanism.*
- vi. The Channel is also warned that in case non compliance to above decision in part thereof or as a whole, the license shall be suspended till such a time the compliance is made.*
- vii. The Channel is also warned that in case of repeated violation of the Code of Conduct the Authority shall proceed against the channel for revocation of its license under Section 30 of PEMRA Ordinance 2002 as amended by PEMRA (Amendment) Act 2007 and other enabling provisions of PEMRA laws."*

3. Through F.A.O.No.126/2016, the appellant Mr. Ahmed Qureshi ("Mr. Qureshi"), who is a well-known television anchor, has also impugned the above mentioned decision dated 26.11.2016 of respondent No.1.

4. Learned counsel for the appellant in F.A.O. No.125/2016 submitted that the appellant is one of the leading television channels in Pakistan and believes in the absolute rule of law and a strong judicial system; that the appellant has utmost respect for the Courts of law and cannot think of disrespecting the judiciary; that the appellant also believes in raising a voice for valid public concerns and to expose wrong doings of the ruling classes by spreading news and information with complete responsibility; that the sitting government is unwilling to bear criticism advanced by the appellant without any fear; that the appellant has been chosen by the present government as a soft target and is using respondent No.1 in order to subject the appellant to prejudicial treatment; that show cause notice dated 19.11.2016, was issued to the appellant, wherein it was alleged that the

appellant's anchor, Mr. Ahmed Qureshi cast baseless allegations on the superior judiciary during his show called "@Q Ahmed Qureshi" aired on 19.11.2016 while discussing a news item, which had been circulating on the social media; that in the said show cause notice, it was alleged that the appellant had contravened:

- i) Articles 19 and 204 of the Constitution;
- ii) the provisions of the Pakistan Electronic Media Regulatory Authority, Ordinance, 2002;
- iii) Section 20 (C) of the PEMRA (Amendment) Act, 2007;
- iv) Rule 15(1) of the Pakistan Electronic Media Regulatory Authority Rules, 2009;
- v) Regulation 18(c) of the Pakistan Electronic Media Regulatory Authority (Radio Broadcast Station Operations) Regulations, 2012; and
- vi) Clause 3(1)(j) of the Pakistan Electronic Media (Programmes and Advertisements) Code of Conduct, 2015.

5. It was further submitted that said show cause notice was issued after the Hon'ble Supreme Court of Pakistan had issued contempt notices to "DIN TV"; that the Hon'ble Supreme Court of Pakistan through a press release dated 19.11.2016 had refuted and contradicted the news item aired by DIN TV; that the appellant had not been issued any notice by the Hon'ble Supreme Court of Pakistan; that the penalty imposed on the appellant was unduly harsh and disproportionate to the allegations against the appellant contained in the said show cause notice; that in imposing a penalty on the appellant, the requirements of due process had not been complied with; that the complaint against the appellant, if any should have been referred to the Council of Complaints under PEMRA (Council of Complaints) Rules, 2010; that respondent No.1 prior to imposing a penalty on the appellant should have obtained an opinion from the Council of Complaints in terms of the

proviso to Section 30(1)(b) of the PEMRA Ordinance, 2002; that respondent No.1 violated Section 30(3) of the PEMRA Ordinance, 2002, by not giving an adequate hearing to the appellant.

6. Learned counsel further submitted that to suspend a television licence is not a joke, because it entails a grave financial burden; that on account of a disclaimer made by the television anchor, he is to be held responsible for the content in the show; that the purpose of such a disclaimer is to avoid television anchors expressing their views as per the wishes of the owners of the television channels; and that the penalty imposed on the appellant violates the appellant's fundamental right of freedom of speech enshrined in Article 19 of the Constitution. Learned counsel prayed for the appeal to be allowed and the impugned decision dated 26.11.2016, to be set aside.

7. Learned counsel for the appellant in F.A.O. No.126/2016 submitted that vide the impugned decision, the appellant, Mr. Ahmed Qureshi, was required to tender an apology by referring to the background of the matter; that at no material stage was any show cause notice issued to Mr. Qureshi; that Mr. Qureshi had been penalized without affording him an opportunity of hearing; that Mr. Qureshi had been humiliated by requiring him to tender an apology; that Mr. Qureshi had no intention to cast any aspersion on the superior judiciary. Learned counsel prayed for the same relief as the appellant in F.A.O. No.125/2016.

8. On the other hand, learned counsel for the respondents submitted that the requirements of due process and natural justice were observed by the respondents in the process which culminated in the imposition of a penalty on the appellant/NEO TV. He drew the attention of the Court to the transcript of the portion of the show where Mr. Qureshi is said to have cast aspersions on the superior judiciary. He further

submitted that Mr. Qureshi' enunciations in question violate Clause 3(1)(i)&(j) of the Electronic Media (Programmes and Advertisements) Code of Conduct, 2015, because the content aired by the said appellant contains aspersions against the superior judiciary; that it was NEO TV's obligation to ensure that any political or analytical programme is conducted in an objective manner in which the concerned parties are treated with due respect; that it was the sole responsibility of NEO TV to ensure that the content aired by it is in conformity with the said Code of Conduct; that Clause 24(2) of the said Code of Conduct requires the employees of NEO TV to observe, in letter and spirit, the said Code of Conduct; that Clause 22 of the said Code of Conduct prohibits the appellant from airing any allegation against any person unless there is credible information justifying such an allegation, and a fair opportunity to defend such an allegation has been provided to a person or the organization against whom such an allegation is leveled.

9. The learned counsel for the respondents further submitted that the content in question aired by NEO TV has not been disputed; that there is no allegation of *malafides* against the respondents; that freedom of expression envisaged by Article 19 of the Constitution is subject to reasonable restrictions; that public confidence in the judiciary is of utmost importance; that respondent No.1 is the regulator of free speech, and in this regard the Code of Conduct, 2015, has been issued; that the appellants have shown no remorse as regards the aspersions cast on the superior judiciary.

10. As regards F.A.O.No.126/2016, learned counsel for the respondents submitted that Clause 4(10) of the said Code of Conduct, required NEO TV to ensure that its host / Mr. Qureshi discussed and reviewed the

contents of the programme prior to the programme going on air so as to ensure that its contents conformed to the Code of Conduct. Learned counsel prayed for the appeals to be dismissed.

11. I have heard the learned counsel for the contesting parties and have perused the record with their able assistance.

12. These appeals were first taken-up for hearing on 29.11.2016, whereon the learned counsel for the appellants, Messrs Chaudhry Fawad Hussain, Advocate and Chaudhry Faisal Hussain, Advocate, addressed their arguments at length. Mr. Ali Shah Gillani, Advocate, who was on watching brief tendered appearance on behalf of the respondents and waived notice. He was asked to make his submissions in rebuttal on 30.11.2016. This is because one of the penalties imposed on the appellant in F.A.O.No.125/2016, was the suspension of its licence for a period of seven days starting from 1200 hours on 01.12.2016.

13. The transcript of the content in question has been annexed to the appeal. The same is reproduced herein below:-

- i) Section 20(c) of the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 as amended by the Pakistan Electronic Media Regulatory Authority (Amendment) Act, 2007;
- ii) Rule 15(1) of the Pakistan Electronic Media Regulatory Authority Rules, 2009; and
- iii) Clause 3(1)(j) of the Electronic Media (Programmes and Advertisements) Code of Conduct, 2015.

15. The appellant/NEO TV was required to appear before respondent No.2/ Personal Hearing Committee on 26.11.2016 at 1100 hours, and explain its position. The learned counsel for the respondents has placed on record the attendance sheet, which shows that Mr. Qureshi and Muhammad Kamran Khan (Bureau Chief of NEO TV) appeared before respondent No.2 on 26.11.2016. The learned counsel for the respondents has also brought on record the minutes of the personal hearing in connection with the show cause notice dated 19.11.2016. These minutes show that the above named representatives of the appellant/NEO TV

denied any intention of slandering or attempting to commit contempt of the judiciary directly or indirectly. They also took the position that the Hon'ble Supreme Court had not issued any notice to the appellant/NEO TV; and that Mr. Qureshi, in his programme had just referred to a story which had been shared on social and electronic media in which reference had been made to an photograph/picture of the meeting in issue. After affording an opportunity of personal hearing to the above named representatives of the appellant/NEO TV, the Personal Hearing Committee made unanimous recommendations which are the same as the decision dated 22.11.2016, taken by respondent No.1.

16. Now, it is not disputed that the appellant/NEO TV was granted a licence for the establishment and operation of broadcast media and distribution services by respondent No.1 on 23.01.2009, in terms of Section 19(1) of the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 ("PEMRA Ordinance, 2002"). In terms of Section 19(3) of the PEMRA Ordinance, 2002, every licence is to be subject to such terms and conditions as may be prescribed. Clause 6.1 (b) of the Licence dated 23.01.2009 issued by respondent No.1 to the appellant/NEO TV *inter-alia* obligates the said appellant to ensure that the provisions of the Code of Conduct as drawn up and from time to time revised by respondent No.1 are observed by the licensee in the provision of the licensed services. Furthermore, Clause 26 of the said licence recognizes that respondent No.1 is empowered by law to commence an investigation concerning the licensee's performance when there is a violation of the Code of Conduct for programmes and advertisements. The Code of Conduct annexed to the NEO TV's licence

provides that no programme shall be aired which contains aspersions against the judiciary.

17. Section 19(5) of the PEMRA Ordinance, 2002, provides that PEMRA shall devise a Code of Conduct for programmes and advertisements for compliance by the licensees. Section 20(f) of the PEMRA Ordinance, 2002, requires every licensee to *inter-alia* comply with the code of programmes and advertisements approved by PEMRA.

18. The Pakistan Electronic Media Regulatory Authority Rules, 2009 ("PEMRA Rules, 2009") were framed by PEMRA, with the approval of the Federal Government, in exercise of the powers conferred by Section 39 (1) of the PEMRA Ordinance, 2002. Rule 15 of the said Rules provides that the contents of programmes and advertisements which are broadcast and distributed by the broadcast media or distribution service operator, shall conform to the provisions of Section 20 of the PEMRA Ordinance, 2002, the said Rules, the Code of Conduct and the terms and conditions of the licence. The Code of Conduct for Media Broadcasters or Cable TV Operators is contained in Schedule-A to the PEMRA Rules, 2009. Clause (1)(g) of the said Code of Conduct provides that no programme shall be aired which contains aspersions against the judiciary and integrity of the Armed Forces of Pakistan. This requirement is again contained in Clause 3(1)(j) of the Electronic Media (Programmes and Advertisements) Code of Conduct, 2015, notified by the Government of Pakistan vide S.R.O.No.1(2)/2012-PEMRA-COC., dated 19.08.2015 ("Code of Conduct, 2015"). "Fair comment" does not come within the meaning of the term "aspersion" as defined in Clause 2(1)(a) of the Code of Conduct, 2015. In order to ensure that a licensee and its representatives and producers of programmes conform, in letter and spirit, to the said Code of

Conduct, Clause 4(10) provides for an editorial oversight, and requires the licensees' representatives, hosts and producers of programmes to discuss and review the contents of the programmes prior to the programmes going on air. Additionally, Clause 22 of the said Code of Conduct prohibits a licensee from airing any allegation against any person or organization unless the licensee has credible information justifying such allegation, and a fair opportunity to defend such allegation has been provided to the person or organization against whom the allegation has been leveled.

19. A conjoint reading of Section 19(3) and (5), and Section 20(f) of the PEMRA Ordinance, 2002; Rule 15(1) of the PEMRA Rules, 2009; Clauses 2(1)(a), 3(1)(j), 4(2)&(10), and 22(1) of the Code of Conduct, 2015, as well as Clauses 6.1(b), 6.2, 26(o) of the appellant/NEO TV's licence dated 23.01.2009, show that the appellant/NEO TV was under an absolute obligation to strictly observe the requirements of the said Code of Conduct. Violation of the Code of Conduct entails the revocation or suspension of the licence. In this regard, Section 30 of the PEMRA Ordinance, 2002, empowers respondent No.1 to revoke or suspend the licence of a Broadcast Media or Distribution Service by an order in writing if the licensee contravenes any provision of the PEMRA Ordinance, 2002, or the Rules or Regulations made thereunder. As explained above, the provisions of the PEMRA Ordinance, 2002, as well as the PEMRA Rules, 2009, mandate strict observance of the Code of Conduct. However, respondent No.1 cannot revoke a licence of a broadcast media unless an opinion is obtained from the Council of Complaints in terms of the proviso to Section 30(1) of the PEMRA Ordinance, 2002. There is no requirement in the PEMRA Ordinance, 2002, to obtain an opinion from the

Council of Complaints if respondent No.1 is to suspend a licence of a broadcast media. However, before a licence is suspended, a licensee is to be given a reasonable notice to show cause and a personal hearing by respondent No.1 in terms of Section 30(3) of the PEMRA Ordinance, 2002.

20. In the case of Dr. Shahid Masood Vs. Federation of Pakistan (2010 SCMR 1849), it has been *inter-alia* held as follows:-

"10...Section 30 empowered the PEMRA to suspend or even to revoke any license granted by it if the licensee contravened any of the provisions of the said Ordinance of 2002; any rules or regulations or the conditions of the license. The violation or the abetment of any violation of the provisions of the said Ordinance of 2002 was made punishable under Section 33 of the said Ordinance which punishment could extend to imprisonment upto three years or a fine extending upto 10 million rupees or with both. Sections 34 and 34-A of the said Ordinance, declare the said offences to be cognizable."

21. Mr. Ahmed Qureshi has over the years emerged as a television anchor of repute. His views and opinions are taken seriously by viewers. For personages such as Mr. Qureshi, it is imperative to show extreme caution in their enunciations, especially those pertaining to the superior judiciary. Since they belong to the arena of journalism, they are expected to be well versed with the media laws in Pakistan especially the Code of Conduct, 2015. Had Mr. Qureshi's statement in question not been aired, on 19.11.2016, the unsavory consequences that the appellant/NEO TV finds itself in, would have been averted. The disclaimers of the television anchors prior to their shows cannot come to the appellant/NEO TV's rescue. Clause 20(1) read with Clause 24(1) of the Code of Conduct, 2015 make it the licensees' sole responsibility to ensure that the content aired by it complies with the Code of Conduct, 2015. Furthermore, Clause 20(2) of the Code of Conduct, 2015 obligates the licensees to arrange for regular

training of its employees that may be helpful in the better performance of their duties. Additionally, Clause 24(2) of the said Code of Conduct reads as follows:-

(2) This Code represents an affirmative declaration of understanding and compliance with basic values and objectives that licensees, including its employees and officials shall adhere to, and these shall be observed in letter and spirit.

(Emphasis added)

22. The appellant/NEO TV and or Mr. Qureshi cannot claim to be ignorant or oblivious of the requirements of the Code of Conduct, 2015. Since the content in question was aired by the appellant/NEO TV, it is wholly responsible for Mr. Qureshi's enunciations as contemplated by Clauses 20 & 24 of the Code of Conduct, 2015.

23. Respondent No.1 in the impugned decision has simply required Mr. Qureshi to tender an apology by referring to the background of the matter. The learned counsel the appellant/Mr. Qureshi submitted that no opportunity of hearing was given to Mr. Qureshi before a penalty was imposed on him. The challenge made by the appellant/Mr. Qureshi to the said decision of respondent No.1 implies that he does not think that an apology is warranted in the circumstances. This bespeaks of a lack of remorse on the part of Mr. Qureshi. The submission of the learned counsel for the appellant/Mr. Qureshi that Mr. Qureshi holds the judiciary of Pakistan in high esteem is not in consonance with his grouse against respondent No.1's decision requiring him to tender an apology. There is no denying the fact that Mr. Qureshi attended the personal hearing before respondent No.1.

24. As regards the submission of the learned counsel for the appellants that the impugned decision of respondent No.1 is a violation of the appellants' fundamental rights enshrined in Article 19 of the Constitution, suffice it to say that the fundamental

right of freedom of speech under Article 19 *ibid* is subject to reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court commission of or incitement to an offence. The restriction on the licensees regarding the airing of content which contains aspersions against the judiciary of Pakistan has the protection of law i.e. Section 19(3) and (5), Section 20(f) of the PEMRA Ordinance, 2002, as well as Rule 15(1) of the PEMRA Rules, 2009. Therefore, the appellants' exercise of freedom of speech is subject to the reasonable restrictions contained in the said Code of Conduct, which has statutory recognition and protection. The violation of the said Code of Conduct puts the process under the said statutory provisions entailing penal consequences for the violators into motion. Even otherwise, the appellant/NEO TV, as per the terms and conditions of its licence, is bound to strictly adhere to the requirements of the Code of Conduct.

25. In the case of Pakistan Broadcasters Association Vs. Pakistan Electronic Media Regulatory Authority (PLD 2016 SC 692), it has been held as follows:-

"18...The State is not supposed to remain oblivious of such violation/invasions and cannot detract from its obligation to regulate the right of speech when it comes in conflict with the right of the viewers or listeners. It was perhaps keeping in view, inter alia, the foregoing that the framers of our Constitution, though secured the right to free speech, but have not left the same unchecked, and have provided for reasonable restriction as postulated under Article 19 of the Constitution. Indeed the State has a compelling interest in regulating the right to speech when it comes in conflict with the rights of other individuals, or other societal interests.

19. It is indeed true that freedom of expression being a natural fundamental right cannot be suppressed unless the same is being exploited and/or is causing danger to, or in its lies the imminent potential of hurting public interest, or putting it at stake directly, and also that the anticipated danger should not be remote,

conjectural or far fetched. It should rather have proximate and direct nexus with the expression.

20. However it may be kept in mind that in a civilized and democratic society, restrictions and duties co-exist in order to protect and preserve the right to speech, it is inevitable to maintain equilibrium, and for that to place reasonable restriction on this freedom in the maintenance of "public order" and unless the restriction strikes a proper balance between the freedom guaranteed by Article 19 of the Constitution and the social control permitted thereby, it must be held to lack the attributes of reasonableness. Government should therefore strike a just and reasonable balance between the need for ensuring the right of people of freedom of speech and expression on the one hand and the need to impose social control on the business of publication and broadcasting."

26. In the judgment dated 07.09.2016, passed by this Court in F.A.O. No.81/2016 titled "ARY Media Communications Private Limited Vs. Pakistan Media Regulatory Authority and another" it has been *inter-alia* held as follows:-

"12. The Ordinance including Rules and Code of Conduct as well as terms of license provided comprehensive Code to be followed by any media broadcasting company failing which action could be taken against it under the law. Undoubtedly, Article 19 of the Constitution of the Islamic Republic of Pakistan, 1973, provides freedom of expression as a fundamental right, however, the said right is not absolute. In this behalf reliance is placed on the case titled Pakistan Broadcasters Association and 10 others Vs. Pakistan Electronic Media Regulatory Authority and another (PLD 2014 Sindh 630) wherein the Hon'ble Division Bench of Sindh High Court observed as follows:

"Article 18 of the Constitution enshrines that every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful business, however, subject to such qualification, if any, as may be prescribed by law. The provisions added to Article 18 of the Constitution further qualify the aforesaid right of a citizen to enter upon any lawful profession or occupation, and to conduct any lawful business, however, in the following terms:

- (a) the regulation of any trade or profession by a licensing system; or*
- (b) the regulation of trade, commerce or industry in the interest of free competition therein; or*
- (c) the carrying on, by the Federal Government or a Provincial Government, or by a corporation controlled by any*

such Government, of any trade, business, industry or service, to the exclusion complete or partial, of any persons.

11. From careful reading of hereinabove provisions of Article 18 of the Constitution of Islamic Republic of Pakistan, 1973, it can be gathered that the right of a citizen and freedom of trade, business or profession has been recognized as fundamental right of every citizen of Pakistan, which can be enforced by process of law, however, it will not be out of place to observe that such right is not absolute and is subject to such qualifications as may be prescribed by law.

12. Similarly, Article 19 of the Constitution of Pakistan recognizes and guarantees the right of a citizen of freedom of speech and expression as well as freedom of press, however, subject to reasonable restrictions which may be imposed by law in the interest of glory of Islam or the integrity, security or defence of Pakistan or any part, thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence.

13. From careful reading of Article 19, it can be gathered that the right of a citizen of Pakistan relating to freedom of speech and expression as well as freedom of the press has been recognized as a fundamental right, whose enforcement can be sought through law, however, that right is also not absolute, but it is subject to reasonable restrictions which may be imposed by any law. It can be safely concluded that the rights of a citizen as guaranteed under Articles 18 and 19 of the Constitution of Pakistan are not absolute or unfettered, but the same are subject to law and reasonable restrictions which may be imposed by law. Reference in this regard can be made in the case of Pakcom Limited and others Vs. Federation of Pakistan and others PLD 2011 SC 44, wherein the Hon'ble Supreme Court, while examining the scope of various provisions of Constitution including Articles 18, 23,24, and 25 of the Constitution of Islamic Republic of Pakistan has held as under:

"52. The interpretation of Article 18 has been made variously and the judicial consensus seems to be that the "right of freedom of trade, business or professions guaranteed by Art. 18 of the Constitution is not absolute, as it can be subjected to reasonable restrictions and regulations as may be prescribed by law. Such right is therefore not unfettered. The regulation of any trade or profession by a system of licensing

empowers the Legislature as well as the authorities concerned to impose restrictions on the exercise of the right. They must, however, be reasonable and bear true relation to 'trade' or profession and for purposes of promoting general welfare. Even in thus countries where the right to enter upon a trade or profession is not expressly subjected to conditions similar to this Article, it was eventually found that the State has, in exercise of its police power, the authority to subject the right to a system of licensing, i.e. to permit a citizen to carry on the trade or profession only if he satisfied the terms and conditions imposed by the prescribed authority for the purposes of protecting and promoting general 'welfare' (PLD 1989 Kar. 219, Govt. of Pakistan Vs. Akhlaque Hussain PLD 1965 SC 527).

27. It is not disputed that show cause notice dated 19.11.2016, was issued by respondent No.1 to the appellant/NEO TV. On 26.11.2016, the appellant submitted a detailed reply to the said show cause notice. It is also not disputed that the personal hearing on 26.11.2016 was attended by two representatives (including the appellant in F.A.O. No.126/2016) of the appellant/NEO TV. The said appellant has not denied the content of the show which led to the issuance of the show cause notice. The learned counsel for the appellant could not point out towards any *"credible information justifying the allegation against the superior judiciary"*. Simply because another television channel had aired a news item is not a valid excuse to airing the same without ensuring that the information is credible and based on facts. Had the appellant exercised caution and shown restraint it would certainly have come to know about the press release dated 19.11.2016, issued by the Hon'ble Supreme Court of Pakistan, wherein the news item aired on DIN News TV Channel had been denied. This press release is reproduced herein below:-

"PRESS RELEASE

SC CONTRADICTS AND CONDEMNS THE CONTENTS OF NEWS PACKAGE AIRED BY DIN TV ON 18.11.2016 AND ISSUES NOTICE TO DIN TV MANAGEMENT & OTHERS AND FIXES THE MATTER IN COURT ON 28.11.2016

*Reference a news package and footage aired by Din News TV Channel on 18.11.2016 alleging that a private meeting between Hon'ble Mr. Justice Amir Hani Muslim and Senator Nehal Hashmi held regarding panama leaks case pending before the Court. **It is clarified that the news item is totally false, baseless, concocted, stage managed and figment of the mind of the Reporter.** Such misleading stories based on character assassination campaigns and casting aspersion on character and conduct of any dignitary through media trial are condemnable that sensationalize a non issue. Therefore, the news package is condemned in the strongest possible words.*

*Moreover, the Hon'ble Chief Justice of Pakistan Mr. Justice Anwar Zaheer Jamali has taken strong notice of the issue. The notice was taken on the notice of Registrar that based on transcript and CD of news package aired by the Din TV Channel on 18.11.2016. The note stated that the news Channel has maliciously tried to malign the Hon'ble Judge and brought on media **something which has never happened.** This amounts to a dirty attempt to tarnish the image of the august Court which is extremely damaging for the judiciary as a whole. The News Channel has deliberately tried to create sensationalism by claiming that it has succeeded in getting this news exclusively and by doing so the channel has created suspicion in general public about an issue of national importance which is subjudice before this Court. This is a clear case of contempt within the meaning of Article 204 (2)(b) of the Constitution, read with Section 3, 4 and 17 of the Contempt of Court Ordinance, 2003 (V of 2003). Further, it is a deliberate attempt to damage the reputation of this august Court, as the news package has been uploaded on the social media which has elicited unwarranted comments from the public. The contents of the news package are totally baseless, ill-intended and stage managed. The airing of such news on TV channel about a subjudice matter is nothing but to malign the institution of judiciary and to bring the Hon'ble Court and Hon'ble Judges into hatred, ridicule or contempt. It further tends to prejudice the determination of a high profile case. Therefore, the said news Channel has tried to obstruct the judicial proceedings being conducted by larger bench of this august Court. Showing deep concern over the issue the Hon'ble Chief Justice of Pakistan has directed the office to issue contempt notices to all concerned (i.e. Reporters, Anchor person, Producer, Director News, Management of Din TV News Channel and any other person(s) behind this mischief) immediately for their*

reply/concise statements and appearance before the Court on 28.11.2016 at Islamabad."
(Emphasis added)

28. Even though, no notice for Contempt of Court had been issued by the Hon'ble Supreme Court of Pakistan to the appellant or Mr. Qureshi, this fact by itself would not insulate the appellant from the imposition of the penal measure by respondent No.1 on account of violation of the Code of Conduct.

29. The appellants must realize that Judges or their representatives or Court Officials cannot come to talk shows to defend themselves. This must not be taken undue advantage of by the broadcast media or television anchors. For the appellant/Mr. Qureshi to question, on air, the appropriateness from a moral and political perspective, the alleged meeting between a sitting Judge of the superior judiciary and a leader of the political party, is tantamount to casting an aspersion on a member of the superior judiciary of Pakistan, and is a clear violation of Clause 3(1)(j) of the Code of Conduct, 2015. Under Section 29(6) of the PEMRA Ordinance, 2002, respondent No.1 has been empowered to impose a fine upto Rupees One Million on a licensee who contravenes any of the provisions of the PEMRA Ordinance, 2002, or the Rules or Regulations made thereunder, after reasonable opportunity to show cause is given to the licensee. As mentioned above, Section 30(1)(b), and (3) empower respondent No.1 to suspend the licence of a broadcast media or distribution service where the licensee has contravened any provision of the PEMRA Ordinance, 2002 or the rules and regulations made thereunder. As the penalty imposed by the respondents on the appellant/NEO TV is within the parameters of the said statutory provisions, I do not find any reason to interfere in the impugned decision

dated 26.11.2016. Resultantly, these appeals are dismissed with no order as to costs.

**(MIANGUL HASSAN AURANGZEB)
JUDGE**

Qamar Khan*

APPROVED FOR REPORTING

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