

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

W.P. No.2983-2016

Pakistan Telecom Mobile Limited etc.

Vs.

Frequency Allocation Board etc.

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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25.04.2019

Mr. Muhammad Ali Raza, Advocate for petitioners.

Mr. Munawwar Iqbal Duggal, Mr. Babar Sattar, Mr. Ali Sibtain Fazli & Mr. Hasham Ahmad Khan, Advocates for respondents.

The petitioners, in the instant petition, have made the following prayers:-

*“Wherefore, it is respectfully prayed that the classification, allocation and assignment and consequent licensing of the 850MHz block by the respondent No.1 and No.2 and approvals granted thereof by the respondent No.3 be declared without authority and jurisdiction and hence illegal and void;*

*It is further prayed that the respondent No.1 may be directed to strictly act in accordance with law and promulgate the necessary regulations mandated under section 42 of the PTR 1996 prior to taking any further actions;*

*It is further prayed that the respondent No.3 may be directed to properly and lawfully establish the Board of the Respondent No.1 by virtue of appointment of its members in accordance with law and till such time the Board of the respondent No.1 may be declared to be without authority and hence void;*

*It is further prayed that F&P Regulations in so far as they transgress into the exclusive statutory domain of the Respondent No.1 may be declared as ultra vires the PTR 1996 and hence void;*

*Ad-interim relief in terms of restraining the Respondents from allowing commencement of services under the subject 850MHz spectrum block be also granted”.*

2. The relevant facts are that the petitioners acquired spectrum through auction/purchase from respondents No.1 & 2. They are aggrieved of subsequent allocation/sale of another spectrum to respondent No.4 on account of the fact that it caused disturbances, as a result whereof, filter had to be installed and cost was incurred.

3. Learned counsel for the petitioners, *inter alia*, contended that subsequent allocation of 850MHz Spectrum to respondent No.4 is without lawful authority inasmuch as it caused disturbances and the petitioners had to make remedial methods for smooth running of the operations. It was contended that petitioners since incurred cost for taking appropriate measures, hence respondents No.1 & 2 are obliged to compensate the petitioners.

4. At this juncture, learned counsel for respondent No.1 objected to the maintainability of the petition due to the fact that order for compensation cannot be passed in a petition under Article 199 of the Constitution without recording of evidence.

5. Learned counsel for the petitioners submitted that petitioners have no alternate remedy inasmuch as under Pakistan Telecommunication Re-Organization Act, 1996, and license granted to the petitioners, there is a bar for invoking jurisdiction of civil court. Learned counsel also read out the relevant provisions.

6. Be that as it may, after hearing learned counsels for the parties, it transpired that petitioners seek compensation for the cost incurred by them for taking remedial measures due to disturbances caused by allocation of 850MHz spectrum to respondent No.4.

7. Since the controversy cannot be resolved without recording evidence hence it is just and proper for the petitioners to approach the court of plenary jurisdiction for redressal of their grievances.

8. In view of above, instant petition is disposed off with the observation that petitioners may avail appropriate remedy before the court of competent jurisdiction against the respondents. It is pertinent to observe that the court, seized of the matter, shall decide the same without being influenced by any observation made hereinabove.

**(AAMER FAROOQ)  
JUDGE**

Zawar