

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
(JUDICIAL DEPARTMENT)

W.P. No.2847/2020

Aamir Aziz Ansari

Versus

Federation of Pakistan  
through Secretary Ministry of Information and Broadcasting & 3  
others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	05-10-2020	Mr Adnan Iqbal, Advocate for petitioner.

The petitioner has invoked the constitutional jurisdiction of this Court seeking the following prayers:-

*"To issue writ of prohibition against the Respondent No. 03 and others restraining and refraining them from maligning, scandalizing, ridiculing, defaming, and disrespecting the state institutions including the judiciary, members of the Judiciary and the judicial system in any manner whatsoever;*

*Issue writ of mandamus and prohibition against the Respondent No.01 and 02 directing them remove the hate-speeches, and in future not air/broadcast any such speech/statement made by Respondent No.03 or 04 through video-link or any other source;*

*Issue writ of prohibition against the Respondent No.01 and 02 directing them to refrain from airing/broadcasting in electronic media and Social Media any speech which is against the national integrity, security and sovereignty or against the institutions including judiciary, Honorable Judges of the superior judiciary and the judicial system.”*

2. The learned counsel for the petitioner has argued that respondent no.3 i.e. *Mian Muhammad Nawaz Sharif* has been convicted by a competent court and that he has also been declared as an absconder. Respondent no.4 i.e. *Mian Muhammad Shehbaz Sharif* is the leader of opposition in the lower house of the Majlis-e-Shoora (Parliament) and according to the learned counsel, he is facilitating respondent no.3 to malign the State institutions and to bring them into disrepute. The learned counsel during the course of arguments has candidly conceded that Pakistan Electronic Media Regulatory Authority (*hereinafter referred to as the 'Authority'*) has restrained the licensed broadcast media entities and broadcasters from giving airtime to those who have been declared as “absconder” by a competent court. The learned counsel could not give a plausible explanation for invoking the jurisdiction of this Court when an alternate remedy was available to the

petitioner under section 26 of the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (*hereinafter referred to as the "**Ordinance of 2002**"*).

3. The learned counsel was also not able to satisfy this Court that which of the fundamental rights of the petitioner guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973 (*hereinafter referred to as the '**Constitution**'*) had been violated requiring enforcement through issuance of a writ. The learned counsel stated that the petitioner was concerned because the security of Pakistan was being threatened. It is noted that the security of Pakistan is not frail nor can be threatened by mere political rhetoric. The people of Pakistan, through their chosen representatives, have the will and resolve to safeguard the security of Pakistan. The security of Pakistan is surely not dependent on the issuance of a writ by this Court. The petitioner's apprehensions regarding threats to security of Pakistan are definitely misconceived.

4. It is settled law that in order to seek a writ of mandamus certain pre-requisites are to be complied with before invoking the jurisdiction of a High Court under Article 199 of the Constitution. There must exist a right in the person seeking the writ to insist upon a clear duty to be performed by some public authority. The demand of the person asserting the right must have

been refused. In this case the petitioner has not fulfilled the pre-requisites nor could show that a legal right exists in his person to seek a writ of mandamus.

5. The tendency of invoking the constitutional jurisdiction of a High Court in matters involving political content is certainly not in public interest and that too when the law provides for alternate remedies. Courts ought to exercise restraint because of the consequences. It unnecessarily involves a Court in controversial matters which otherwise can be agitated before other appropriate forums. It also causes miscarriage of justice to the legitimate litigants because adjudication of their cases is delayed. Politically motivated petitions inevitably make the administration of justice including the Courts controversial because politics inherently is adversarial in nature. It is the duty of every enrolled Advocate as well as the respective Bars to ensure that the courts and the administration of justice are seen as impartial and neutral arbitrators of disputes. As a corollary it is their duty to discourage litigants from bringing to the Courts unnecessary litigation having political content, particularly when the law provides for remedies and appropriate forums.

6. For the above reasons, this petition is not maintainable and, therefore, accordingly ***dismissed***.

(CHIEF JUSTICE)

Luqman Khan/\*

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