

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

I.C.A No. 234 of 2018

ARY Media Communications

VS

Government of Pakistan through Secretary Cabinet Division,
Islamabad and 04 others.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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17.05.2018.	Syed Ali Zafar, Advocate for the appellant in ICA No. 235 of 2018. Mr. Faisal Fareed Hussain & Ehtasham Alam, Advocates for the appellants in ICA No. 234 of 2018. CH. Abdul Khaliq Thind, learned Assistant Attorney General.
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**CM No.1 of 2018 in I.C.A No. 234/2018 &
CM No.1 of 2018 in I.C.A No. 235/2018.**

AAMER FAROOQ, J. - This order shall
decide the above-mentioned applications moved
by the appellants seeking suspension of short
order dated 09.05.2018, whereby petitions under
Article 199 of the Constitution (W.P No.
1764/2014, 1113/2017 and 2211/2017) were
disposed off.

2. Learned counsel for the appellant,
inter alia, contended that the Writ Petition filed by
respondent No. 1 was not maintainable inasmuch
as he had no locus standi in the matter; that no
fundamental right of the petitioner had been
abridged; under Article 19 of the Constitution it is
provided that the Islamic way of life shall be
preserved; that the certain directions have been

made by the Judge in Chambers while disposing off the petition which could not have been done in light of the fact that there are extensive rules and regulations framed by PEMRA governing the subject; that through the impugned order a Committee has been constituted to supervise the directions/observations made which again is not tenable inasmuch as it has no place under the law; that the appellant was never impleaded as a respondent despite the fact that there was specific application to the effect.

2. Learned counsel took the Court through various directions made by the Judge in Chambers and specifically pointed out that the directions made in Paragraph 2 (i), (ii) are totally without any law or basis. It was further contended that with respect to directions made in Paragraph 2 (iii), (iv), (v) the same are superfluous for the reason that there exists the law on the subject. It was further contended that similarly observations/directions made in Para No. 3, 4 & 5 also from part of guidelines/PEMRA laws. It was further contended that Committee has been constituted to ensure the compliance of the directions, which has no place under the law inasmuch as Ministry of Interior and Information do not surface under the law in monitoring/supervising the licencees/electronic

media. In this behalf, it was contended that sole functionary is PEMRA, which is a regulatory body and is independent. In support of his contention learned counsel placed reliance on cases reported as "2018 SCMR 211, PLD 2016 Islamabad 53, 2017 YLR 1195 and 2003 YLR 1234.

3. It was further contended that the practice of passing short orders which is without reasons is deprecated as was observed by the Hon'ble Supreme Court of Pakistan in case "**Guoranga Mohan Sikdar vs. Controller of Import & Export** " (PLD 1970 SC 158). It was further contended that Judge in Chambers could not substitute his own view but examine the view of the executive. Reliance was placed on case reported as "**Shabnam Irshad Ahmed Vs. Muhammad Munir**" (2017 PLS (C.S) 1263).

4. Learned counsel for the appellant in ICA 235 CM No. 1 of 2018 also addressed arguments on the above lines and submitted that the directions made have no basis inasmuch as there is a complete code of conduct as well as rules and regulations to govern the affairs of the licensed TV Channels and they are regulated by PEMRA which is an autonomous body and has detailed mechanism to ensure that if any channel violates the terms of license, PEMRA Ordinance, Code of

Conduct and/or rules and regulations framed there under then either it can take action itself or through council of complaints constituted under the PEMRA Ordinance.

5. Learned counsel for the respondents, inter alia, contended that their TV Channels flouted the provisions of TV Channels rules and regulations by airing obscene programs and advertisements and as a result whereof, petitions were filed in which the directions have been made. It was further contended that the directions made are in accordance with provisions and constitution as well as the law with respect to meaning of the word obscenity, decency or vulgarity. Reliance was placed on case reported as **"Independence Media Corporation Pvt. Ltd Vs. PEMRA"** (PLD 2017 Sindh 2009). It was further contended that under Pakistan Electronic Media Regularity Authority Rules 2009 there is vast mechanism for ensuring strict adherence to the terms of license, rules and regulations and the law, which was not being followed by the Media Broadcasters.

6. Arguments advanced by the learned Counsels for the parties, have been heard, and record perused with their able assistance.

7. The cases were fixed for arguments on the appeals, however, during the course of

arguments it was observed that petitions under Article 199 of the Constitution were disposed off through a short order and the detailed reasons are still awaited. In view of the said matter since the arguments on the main appeal could not be addressed because of non availability of reasons which led to the passing of the short order the arguments on the applications for interim relief were heard.

8. In 1985 Article 2 A was inserted in the constitution for Islamic Republic of Pakistan 1973 by virtue of which the objectives resolution framed by the original framers of the Constitution way back in 1950's was made substantive part of the constitution. The objectives resolution reads as follows:-

Whereas sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan, through its people for being exercised within the limits prescribed by Him is a sacred trust;

This Constituent Assembly representing the people of Pakistan resolves to frame a Constitution for the sovereign independent State of Pakistan;

Wherein the State shall exercise its powers and authority

through the chosen representatives of the people;

Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed;

Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah;

Wherein adequate provision shall be made for the minorities to profess and practice their religions and develop their cultures;

Wherein the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed;

Wherein shall be guaranteed fundamental rights including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality;

Wherein adequate provisions shall be made to safeguard the

legitimate interests of minorities and backward and depressed classes;

Wherein the independence of the Judiciary shall be fully secured;

Wherein the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air shall be safeguarded;

So that the people of Pakistan may prosper and attain their rightful and honored place amongst the nations of the World and make their full contribution towards international peace and progress and happiness of humanity.

9. The salient features of the objectives resolution are that sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan is to be exercised by people as a sacred trust; the State shall exercise its powers and authority through the chosen representatives of the people who shall govern themselves in accordance with principles of democracy and social justice as enunciated by Islam; Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam; The fundamental rights shall be guaranteed and the independence of the Judiciary shall be fully

secured; Article 19 of the Constitution ensures the fundamental right to freedom of speech, however, the same is subject to any 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, Public order, decency or morality.

10. Keeping in view the above two substantive provisions of the Constitution the legislature enacted Pakistan Electronic Media Regularity Authority Ordinance, 2002(the Ordinance). Section 3 of the Ordinance provides for establishment of Pakistan Electronic Media Regularity Authority (PEMRA) for carrying out purposes of the Ordinance. Section 4 enshrines the functions of PEMRA and, inter alia, include regulating the establishment and operations of all broadcast media and distribution services in Pakistan. PEMRA is also responsible to regulate the distribution and regulate TV and Radio Channels in Pakistan. Section 6 provides that Constitution of the PEMRA and under sub section 4 of section 6 Secretary Ministry of Information and Broadcasting, Secretary Interior Division, Chairman Pakistan Telecommunication Authority and Chairman Central Board of Revenue are Ex-Officio Members. Under Section 4(3) of the Ordinance PEMRA can make regulations and issue

determinations for carrying out purposes of the Ordinance. Under section 19 of the Ordinance PEMRA has the exclusive right to issue licenses for the establishment and operation of all broadcast media and distribution services, which right it exercises in accordance with the law. Section 20 of the Ordinance, contains salient features regarding terms of license and, inter alia, provides that a person who is issued license under the Ordinance shall ensure security and integrity of Islamic Republic of Pakistan; ensure preservation of the national territory, social and religious values and the principles of public policy enshrined in the Constitution of the Islamic Republic of Pakistan and also shall ensure that the programs and advertisements do not encourage or contain, inter alia, indecent, vulgar or other material offensive to commonly accepted standards of decency. Section 26 of the Ordinance provides for Constitution of Council of Complaints to receive and review complaints made by persons and organizations from the general public against any aspect of programs by a person established through a license. The Council of Complaints renders opinion on such complaints and have powers to conduct inquiry. On the basis of inquiry it makes recommendations to PEMRA for appropriate action against the

licensees. Section 27 empowers PEMRA that it can by order in writing, after giving reasons, prohibit any broadcast Media or distribution services from broadcasting any program which, inter alia, is pornographic, obscene, vulgar or offensive to commonly accepted standard of decency.

11. Under Section 4 (3), as mentioned above, PEMRA can make regulations and issue determinations and under section 39 can make rules for furtherance of the purposes of the Ordinance. Moreover, under section 19(5) of the Ordinance PEMRA is required to devise Code of Conduct for programs and advertisements to be complied by the licensees which was accordingly done and Code of Conduct has been framed and issued by PEMRA.

12. Pursuant to the above provision vide SRO No. 1(2)/2012 the Code of Conduct for Electronic Media was duly framed and notified by the Government of Pakistan. Under Clause 3 the licensee is to ensure as follows:-

3. Fundamental principles:-

The licensee shall ensure that:

1. No content is aired which-

a) is against the Islamic values, ideology of Pakistan or founding fathers of

- the nation including Quaid-e-Azam and Dr. Allama Muhammad Iqbal;*
- b) incites or condones dislodgment of democratic setup against the command of the Constitution of Pakistan, provided that discussions on improvement of democracy shall constitute a fair comment.*
- c) includes a call to arms against the Federation of Pakistan or anything against the integrity, security and defense of Pakistan;*
- d) passes derogatory remarks about any religion, sect, community or uses visuals or words contemptuous of religious sects and ethnic groups or which promote communal and sectarian attitude or disharmony;*
- e) contains anything indecent, obscene or pornographic.*
- f) contains abusive comment that incites hatred and contempt against any individual or group of persons, on the basis of race, caste, nationality, ethnic or linguistic origin, color, religion, sect, gender, age, mental or physical disability;*
- g) is in violation of copyrights or other related property rights as protected under any law for the time being in force;*
- h) is likely to incite, aid, abet, glamorize or justify violence, commission of any crime, terror or leads to serious public disorder;*
- i) is known to be false; or there exist sufficient reasons to believe that the*

same may be false beyond a reasonable doubt;

j) contains aspersions against the judiciary or armed forces of Pakistan.

k) amounts to intimidation, blackmail or false incrimination of any person;

l) is defamatory as defined in the law for the time being in force; or

m) depicts behaviour such as smoking, alcohol consumption, narcotics and drug abuse as glamorous or desirable:

Provided that where showing of smoking, alcohol consumption, narcotics and drug use is necessary for dramatic or educational purposes, a clear warning as to injurious effects of the same shall also be shown simultaneously.

2. Without prejudice to any other restrictions in this regard, while reporting the proceedings of the Parliament or a Provincial Assembly, such portion of the proceedings as the Chairman of Senate, the Speaker of National Assembly or, as the case may be, Speaker of the Provincial Assembly may have ordered to be expunged, shall not be broadcast or distributed and every effort shall be made to release a fair account of the proceedings.

3. Statements of proscribed organizations or their

representatives or members shall not be aired unless such statement is an admission which maybe in the larger public interest for exposing ideology, abuse of religion or barbarianism provided always that such broadcast does not in any way aid, abet, glorify or give excuse to their means and ways in any shape or form.

4. Private behavior, information, correspondence and conversation should not be brought into public domain unless there is a public interest that outweighs the protection of privacy.

Under clause 17 licensee is bound to comply with the code of conduct and shall appoint an in house monitoring committee under intimation to PEMRA to ensure compliance of the code.

13. Under clause 7.2 of license granted to M/s Independent Media Corporation (Private) Limited, Karachi dated 22.05.2008, it is allowed to air 10% foreign content, the breakup of 10% is as follows:-

- i) 40% of the 10% (4% of the overall) may be English content.**
- ii) 60% of the 10% (6% of the overall) may be Indian or other content.**

14. It is pertinent to observe that the terms of license generally to all broadcast media are the same with little variance.

15. Television Broadcast Station Operations Regulations 2012 have been issued pursuant to sub section 3 of section 4 of the Ordinance and notified vide SRO No. 360 (i) of 2012 to regulate the operations of Television Broadcast. Under Regulation 18 in addition to the Code of Conduct prescribed the licensee shall comply with inter alia of following:-

g. The licensee shall comply with the guidelines and directives issued by the Authority/PEMRA from time to time.

16. Ministry of Information and Broadcasting issued notification dated 12.12.2009 vide SRO No. 1120 (i)/2009 and notified Pakistan Electronic Media Regulatory Authority Rules 2009, the purpose of the said Rules again is to regulate the Media Broadcasting.

17. In addition to the above Rules, Regulations and Code of Conduct PEMRA issued guidelines on 04.05.2008 in order to regulate the Media Broadcasts for the holy month of Ramzan.

18. The examination of above law including the Ordinance, Rules and Regulations and directives shows that a comprehensive regulatory

network exists under the umbrella of PEMRA as well as Council of Complaints to ensure that the concept of Islamic way of life and the maintenance of moral standards as enshrined in objectives resolution as well as Articles 19 and 31 of the Constitution of Islamic Republic of Pakistan 1973 are duly protected and adhered.

19. The system of Governance in Pakistan is based on trichotomy of power i.e. legislature, executive and judiciary. The segregation between each organ of the State is distinct with the role of each organ provided in the Constitution. This trichotomy of power was further deliberated upon and highlighted by the august Apex Court in case **"The State Vs. Zia Ur Rehman"** (PLD 1973 SC 49). The relevant portion of judgment as follows: _

"In the case of a Government set up under a written Constitution, the functions of the State are distributed amongst the various State functionaries and their respective powers defined by the Constitution. The normal scheme under such a system, with which we are familiar, is to have a trichotomy of powers between the executive, the Legislature and the Judiciary. But each of these organs may itself be fashioned in a variety of different shapes and forms. Thus the Legislature may be unicameral or bicameral; the legislative subjects may be divided between the federating units and the federation in a federal system or even the legislative power may be divided between the executive and the Legislature as in our present system.

The executive may take the Presidential or the Parliamentary form. The judiciary also may consist of various types and grades of Courts with the highest at the apex either as an ultimate Court of appeal or a Court of Cessation. There may also be other administrative tribunals outside the judicial pyramid.

In all such cases, it will also be the function of the Constitution to define the functions of each organ or each branch of an organ, as also specify the territories in which, the subjects In respect of which and sometimes even the circumstances In which these functions will be exercised by each of these organs or sub-organs. Limitations would, therefore, be inherent under such a system so that one organ or sub-organ may not encroach upon the legitimate field of the other. Thus, under a written Constitution, the Legislature of a federal unit will not be able to legislate in respect of a subject which is within the field of the federal Legislature, nor will a federal Legislature be able to legislate upon a subject which is within the exclusive field of the Legislature of the federating units. It cannot, therefore, be said that a Legislature, under a written Constitution, possesses the same powers of "omnipotence" as the British Parliament. Its powers have necessarily to be derived from, and to be circumscribed within, the four corners of the written Constitution.

There is a distinction between "judicial power" and "jurisdiction" of Courts. In a system where there is a trichotomy of sovereign powers, then ex necessitate rei from the very nature of things the judicial power must be vested in the judiciary. "Judicial Power" has been defined in the Corpus Juris Secundum, Vol. XVI, para. 144, as follows :-

"The judiciary or judicial department is an Independent and equal co-ordinate branch of Government, and is that branch thereof which is intended to interpret, construe, and apply the law, or that department of Government which is charged with the declaration of what the law is, and its construction, so far as it is written law."

This power, it is said, is inherent in the judiciary by reason of the system of division of powers itself under which, as Chief Justice Marshall put it, "the Legislature makes, the executive executes, and the judiciary construes, the law." Thus, the determination of what the existing law is in relation to something already done or happened is the function of the judiciary while the pre-determination of what the law shall be for the regulation of all future cases falling under its provisions is the function of the Legislature.

It may well be asked as to what is meant by "jurisdiction"? How does it differ from "judicial power"? Apart from setting up the organs the Constitution may well provide for a great many other things, such as, the subjects in respect of which that power may be exercised and the manner of the exercise of that power. Thus it may provide that the Courts set up will exercise revisional or appellate powers or only act as a Court of a cessation or only decide constitutional issues. It may demarcate the territories in which a particular Court shall function and over which its writs shall run. It may specify the persons in respect of whom the judicial power to hear and determine will be exercisable. These are all matters which are commonly comprised in what is called the jurisdiction of the Court. It expresses the concept of the particular res or subject-matter over which the judicial power is to be exercised and the manner of its exercise. Jurisdiction is, therefore, a right to

adjudicate concerning a particular subject-matter in a given case, as also the authority to exercise in a particular manner the judicial power vested in the Court.

In exercising this power, the judiciary claims no supremacy over other organs of the Government but acts only as the administrator of the public will. Even when it declares a legislative measure unconstitutional and void, it does not do so, because the judicial power is superior in degree or dignity to the legislative power; but because the Constitution has vested it with the power to declare what the law is in the cases which come before it. It thus merely enforces the Constitution as a paramount law whenever a legislative enactment comes into conflict with it because, it is its duty to see that the Constitution prevails. It is only when the Legislature fails to keep within its own Constitutional limits, the judiciary steps in to enforce compliance with the Constitution. This is no doubt a delicate task which has to be performed with great circumspection but it has nevertheless to be performed as a sacred Constitutional duty when other State functionaries disregard the limitations imposed upon them or claim to exercise power which the people have been careful to withhold from them.

On the other hand it is equally important to remember that it is not the function of the judiciary to legislate or to question the wisdom of the Legislature in making a particular law if it has made it competently without transgressing the limitation of the Constitution. Again if a law has been competently and validly made the judiciary cannot refuse to enforce it even if the result of it be to nullify its own decisions. The Legislature has also every right to change, amend or clarify the law if the judiciary has found that the language used by the

Legislature conveys an intent different from that which was sought to be conveyed by it. The Legislature which establishes a particular Court may also, if it so desires, abolish it.

(Emphasis Added)

20. The functions of judiciary traditionally is to adjudicate disputes between the parties and decide the matters according to law and as per above noted judgment of the august Apex Court judiciary cannot legislate. The role of judiciary in Islamic society was highlighted by 14th century Arab scholar Ibn Khaldun in his treatise "the Muqaddimah" where it was observed as follows:-

(The office of judge)

The office of judge is one of the positions that come under the caliphate. It is an institution that serves the purpose of settling suits and resolving disputes and dissensions. It proceeds, however, along the lines of the religious laws laid down by the Qur'an and the Sunnah. Therefore, it is one of the positions that belongs to the caliphate and falls under it generally.

At the beginning of Islam, the caliphs exercised the office of judge personally. They did not permit anyone else to function as judge in any matter. The first caliph to charge someone else with exercise of this office was 'Umar. He appointed Abu d-Darda' to be judge with him in Medina, he appointed Shurayh as judge in al-Basrah, and Abu Musa al-Ash'ari as judge in al-

Kufah. On appointing Abu Musa, he wrote him the famous letter that contains all the laws that govern the office of judge, and is the basis of them. He says in it:

"Now, the office of judge is a definite religious duty and a generally followed practice.

Understand the depositions that are made before you, for it is useless to consider a plea that is not valid.

Consider all the people equal before you in your court and in your attention, so that the noble will not expect you to be partial and the humble will not despair of justice from you.

The claimant must produce evidence; from the defendant, an oath may be exacted.

Compromise is permissible among Muslims, but not any agreement through which something forbidden would be permitted, or something permitted forbidden.

If you gave judgment yesterday, and today upon reconsideration come to the correct opinion, you should not feel prevented by your first judgment from retracting; for justice is primeval, and it is better to retract than to persist in worthlessness.

Use your brain about matters that perplex you and to which neither Qur'an nor Sunnah seem to apply. Study similar cases and evaluate the situation through analogy with them.

If a person brings a claim, which he may or may not be able to prove, set a time

limit for him. If he brings proof within the time limit, you should allow his claim, otherwise you are permitted to give judgment against him. This is the better way to forestall or clear up any possible doubt.

All Muslims are acceptable as witnesses against each other, except such as have received a punishment provided for by the religious law, such as are proved to have given false witness, and such as are suspected (of partiality) on (the ground of) client status or relationship, for God, praised be He, forgives when sworn testimony is rendered and postpones (punishment) in face of the evidence.

Avoid fatigue and weariness and annoyance at the litigants.

For establishing justice in the courts of justice, God will grant you a rich reward and give you a good reputation. Farewell."

21. The Hon'ble Supreme Court of Pakistan in case reported as ***"Dossani Travels Pvt. Ltd and others Vs. Messers Travels Shop Pvt. Ltd and others"*** (PLD 2014 SC 1) summarized by laying down the principles of the nature of jurisdiction to be exercised by a High Court under Article 199 of the Constitution which is as follows:-

While exercising powers under Article 199(1) of the Constitution, Courts should always keep in view the following three parameters of their jurisdiction;

(i) A High Court is the apex court in the province or in the case of Islamabad, of the capital territory, but they are the creatures of the Constitution and they have only that jurisdiction which has been conferred by the Constitution or under any law for the time being in force. Article 175(2) specifically mandates "no court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law."

(ii) The power of the High Court under Article 199 is "subject to the Constitution" and it can make any of the, following orders, "if it is satisfied that no other adequate remedy is available,"

(i) "directing a person performing, within the territorial jurisdiction of the Court, functions in connection with the affairs of the Federation, a Province or a local authority, to refrain from doing anything he is not permitted by law to do, or to do anything he is required by law to do; or

(ii) declaring that any act done or proceeding taken within the territorial jurisdiction of the Court by a person performing functions in connection with the affairs of the Federation, a Province or a local authority has been done or taken without lawful authority and is of no legal effect; or

(b) on the application of any person, make an order-

(i) directing that person in custody within the territorial jurisdiction of the Court be brought before it so that the Court may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner; or

(ii) requiring a person within the territorial jurisdiction of the Court holding or purporting to hold a public office to show under what authority of law he claims to hold that office, or

(c) on the application of any aggrieved person, make an order giving such directions to any person or authority; including any Government exercising any power or performing any function in, or in relation to, any territory within the jurisdiction of that Court as may be appropriate for the "enforcement of any of the Fundamental Rights conferred by Chapter 1 of Part II" (Fundamental Rights as interpreted by the Supreme Court of Pakistan).

(iii) The ambit and scope of the power of High Court under Article 199 of the Constitution is not as wide, as of the Supreme Court under Article 187 of the Constitution to pass any order or issue any direction or decrees for doing "complete justice".

22. The upshot of the above discussion and position of law is that the legislature in order to regulate the Electronic Media constituted a regulatory body i.e PEMRA under the Ordinance which framed rules, regulations and guidelines spelling out the scope of power of PEMRA as well as terms and conditions of license of broadcast media and the principles, which they need to conform. The principles laid down in the Ordinance/License/Rules and Regulations are primarily for ensuring adherence to the Islamic way of life and concept of decency in the society. The afore-noted laws provide vast powers to PEMRA to take action against any licensee, which violates the terms of license, the provisions of Ordinance or the rules and regulations and even

the directives issued by PEMRA. The consequence of violation ranges from suspension of license to imposition of fine by the competent authority. Moreover, in light of judgments of august Apex Court in PLD 1973 SC 49 and PLD 2014 SC 1 supra the function of the High Court under Article 199 of the Constitution is not to legislate and the position is also affirmed in terms of the opinion of Islamic Scholar Ibn Khaldun and reproduction of letter written by Hazrat Umar.

23. In the above backdrop the Hon'ble Judge in Chambers issued certain directions and made observations qua ensuring the Islamic way of life in light of Articles 9 and 31 of the Constitution. Most of the directions which have been issued already exist in law i.e. either the Ordinance; Rules and Regulations; Code of Conduct or by way of directives. In presence of law on the subject the directions issued by Judge in Chambers makes the law redundant/superfluous. Reliance is placed on cases reported as **"Messrs Dewan Petroleum Pvt. Ltd vs. Executive Director, Secp and another"** (2017 CLD 1237) as well as **"Shabnam Arshad Ahmed Vs. Muhammad Munir"** (2017 PLC (C.S) 1263).

24. There is no legal backing for the directions made by the Judge in Chambers in Paragraph

2(i) and (ii). Likewise, directions issued in Paragraphs No. 4 to 6 also do not have any support of the laws mentioned above.

25. Since the directions issued in paragraph 2 (i) and (ii) (in case of 2(ii) to the extent of Constitution of Committee) as well as paragraphs 3 to 6 of the impugned order are without backing of any law, therefore, the same shall remain inoperative/stayed till the decision of the appeal by this Court. However, channels shall be at liberty to follow the same on their own. In so far as other observations and directions are concerned, since, they already exist in various laws mentioned above and the stay or suspension of the same shall amount to suspending the law, therefore, the compliance of the same is to be ensured by PEMRA. It was argued by the learned counsel for the appellants that directive issued by PEMRA on 04.05.2018 was pursuant to proceedings before the Judge in Chambers. Prima facie under regulation 18 (g) *ibid* PEMRA has the power to issue directions and the appellants if are aggrieved of the same can challenge them before the competent forum. It is reiterated that to ensure the concept of Islamic way of life under Article 31 of the Constitution and promotion of Islamic culture is the foremost duty of PEMRA as is evident from the Ordinance, Rules, Regulations

and Directives noted above. Any Channel/Media Broadcast operator if flouts the above is to be dealt with in accordance with law. Likewise, the sanctity of month of Ramzan is to be maintained and in case, if there is any violation vis-a-vis directives issued by PEMRA action is to be taken against violators in accordance with law.

26. The above applications are allowed, in the above terms.

(MOHSIN AKHTAR KAYANI)
JUDGE

(AAMER FAROOQ)
JUDGE

Announced in open Court on 23.05.2018.

JUDGE

JUDGE

Approved for Reporting

Shakeel Afzal

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