

ORDER SHEET**IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT**

Case No:

W.P. No.958/2013

Bytes for all

Versus

Federation of Pakistan, etc.

S.No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary.
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18.	13.05.2014	<p>M/s. Yasir Latif alongwith Sheeraz Zaka, Advocates for the petitioner.</p> <p>M/s. Naseer Ahmad Bhutta, Additional Attorney General for Pakistan.</p> <p>M/s. Muhammad Mahmood Khan and Mian Irfan Akram, Deputy Attorney Generals for Pakistan.</p> <p>Mr. Nadeem Mahmood Mian, Standing Counsel.</p> <p>Mr. Aamir Rehman, Advocate for the respondents.</p> <p>Mr. Talib Hussain, Advocate for the petitioner in connected W.P. No.2580/2014.</p> <p>Ch. Ishtiaq Ahmad Khan, Advocate for the petitioner in connected W.P. No.23306/2012.</p> <p>Mr. Zia Shahid Waseer, Advocate for the PEMRA.</p> <p>Syed Muhammad Iqtidar Haider, applicant in person in C.M. No.2016/2013.</p> <p>Mr. Salman Akhtar, Chief Executive Officer, Techlogix Pakistan (Pvt.) Ltd.</p> <p>Mr. Nasir Ayyas, Member (Legal) Ministry of I.T.</p>
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Arguments of the learned counsel for the petitioners, as well as, some other parties have been elaborately heard, however, before proceeding with the adjudication of this case, we thought it fit to make one last effort to find out if a technical answer to the problem is possible.

2. Vide order dated 13.03.2014 Ms Anusha Rahman Khan, Minister of State, Ministry of Information Technology, was directed to hold a meeting at Islamabad or Lahore with information technology experts from private sectors and the technical team of PTA, to evolve a joint strategy for blocking controversial websites from YouTube.

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3. The report of the Ministry, as well as, technical experts has been placed on the record today. The conclusion given by the Minister of State, Ministry of Information Technology is as follows:-

"The matter regarding evolving "a joint strategy for blocking controversial website from the YouTube" was discussed. There was consensus among the private sector technical experts, technical experts of PTA and MOIT that currently no known technical solution is available that can ensure 100% blocking of the controversial content form the YouTube."

While three options were given by the Committee of Experts, which are as follows:-

"In view of the foregoing facts following three options to block objectionable movie were discussed:

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- a) *Bar all access to YouTube (the status quo)*
- b) *A solution, as proposed by the private sector technical experts, which bars YouTube access on https platform while keeping access on the http platform. On the http platform, access to the objectionable video would be blocked by continuous and rigorous monitoring of YouTube for the purpose of identifying http URLs containing objectionable video for blocking. However, blocking http access to YouTube will result in compromising important aspects of YouTube usage such as creation and uploading of local content. As such, this option only offers a partial solution. Finally, the technical solution will take some time to develop on a national scale.*
- c) *Display of 'Interstitial warnings' on the pages containing the objectionable video. This quires PTA to continue monitoring and surveillance for flagging known copies of the objectionable video and communicate to Google for displaying such warnings on those copies, with the possibility of certain "un-flagged" copies of the objectionable video still being available on YouTube. Even "flagged" copies are not "blocked" as such."*

4. In addition to the above the Senior Member of the Committee of Experts namely Salman Akhtar, CEO, Techlogix Pakistan Pvt. Ltd., present in Court, submitted that the only option available is to introduce 'Interstitial warnings' on the pages containing the objectionable video and turning on full access to YouTube. It is also pointed out that no other Muslim country has banned YouTube and recourse has been made to the introduction of 'Interstitial warning pages' to achieve the said purpose.

5. From the reports of the Ministry, as well as, experts it appears that most feasible option that requires consideration is the introduction of 'Interstitial warning' with full access to YouTube. Like this a person will have to consciously and deliberately ignore the warning page and make an effort to obtain access to controversial site. Like this, thousands of Pakistanis can again access YouTube both in terms of viewing and uploading videos, which has educational, social and cultural benefits, besides strengthening the exercise of this democratic right.

6. We were minded to proceed and conclude the matter after hearing all the parties, however, we were informed that interim relief has been granted vide order dated 17.09.2012 by the august Supreme Court of Pakistan in the following terms:-

"4. M/s. M. Akram Sheikh and Taufiq Asif, learned counsel have filed Civil Misc. Application No.3908/2012, wherein attention of the Court has been drawn towards anti Islamic film under title, "innocence of Muslim". They stated that in Pakistan this film, which contains disrespectful material regarding the Holy Prophet (Peace Be Upon Him), injurious to the feelings of every Muslim is still available on website. Therefore, the PTA is under legal obligation to control such like

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matter but it has failed to perform its statutory duties, as such direction be issued to the PTA to block the above said film on U-Tube website and refrain in future as well for allowing such material to be displayed.

5. Office has inquired from the office of PTA and has gathered information that the Chairman, PTA is out of town and is likely to be back to Islamabad today. Be that as it may, on having seen the material, which has been published in newspapers i.e. The News, Dawn etc. and the material, which is going on as per the reporting, we direct the Chairman PTA to immediately block the offending material on U-Tube website and on any other website, referred to hereinabove. This order be communicated to the Chairman PTA during course of the day. He is directed to submit report to the Registrar today positively for our perusal in Chambers. (emphasis supplied)

7. In this view of the matter, it is best, if the petitioners approach the august Supreme Court of Pakistan for clarification of the aforesaid order, so that the instant matter can be concluded.

Ed
(Atir Mahmood)
Judge

Ed
(Syed Mansoor Ali Shah)
Judge

Iqbal*

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In Case No. *23/6/14*
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Court Branch
Lahore High Court, Lahore
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24-6-14
Authorized Under Article 177
Quarun-e-Billah Order, 1986

13P372

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