

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ.
Mr. Justice Jawwad S. Khawaja
Mr. Justice Khilji Arif Hussain

Constitution Petition No.104 of 2012

(Regarding obscene and other objectionable material carried in the media)

For the petitioners: Mr. Muhammad Akram Sheikh, Sr. ASC
Mr. Tausif Asif, ASC with
Qazi Hussain Ahmad

For Pakistan Broadcasters Association : Mr. Abdul Hafeez Pirzada, Sr. ASC
Mian Gul Hassan Aurangzeb, ASC
(in CMA 3521/12)

For Cable Operators Association: Dr. Anja Hussain Bokhari, ASC
Mr. M. S. Khattak, AOR
(in CMA 3522/12)

Mr. M. Hanif Awan, in person
(in CMA 3464/12)

For PEMRA: Hafiz S. A. Rehman, Sr. ASC
Mr. Mahmood A. Sheikh, AOR

Date of hearing: 17.09.2012

ORDER

Learned Attorney General for Pakistan is not in attendance to represent the Federation, despite notice.

2. This petition, under Article 184(3) of the Constitution has been registered in view of the letters received from Mr. Justice Wajih-ud-Din Ahmed, former Judge of this Court and Qazi Hussain Ahmad, prominent citizens and scholars in their own rights. Notices were given, in response whereof orders dated 6th August and 13th August, 2012 were passed. In one of the orders relevant provisions relating to principles of State Policy i.e. Article 37(g) of the Constitution and section 20 (c) of the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (PEMRA) were also mentioned.

ATTESTED

3. It is important to note that the PEMRA, despite the fact that certain Constitutional and Statutory provisions are available, (so far has (no) laid Commonly Accepted Standard of Decency etc.) Although the notices have been issued to some of the Channels but it seems that except issuing notices, no short term and long term measures have been taken. Therefore, under the circumstances, we adjourn this case enabling the PEMRA to:

- (i) First of all lay down Commonly Accepted Standard of Decency keeping in view Article 37(g) of the Constitution and other relevant laws and then take short term and long term measures to control obscenity, indecency etc. This exercise they have to undertake within a period of two weeks.
- (ii) It has also been pointed out to us that there is no permanent Chairman of PEMRA and incumbent is an acting Chairman for the last about two years. Relevant provisions of PEMRA i.e. section 6 of the PEMRA does not contain any such provision, however, it is understandable that temporarily for a shortest possible period acting Chairman can be appointed to find suitable person to be appointed as permanent Chairman. In this behalf notice be issued to the Secretary, Ministry of Information and Broadcasting to appear and explain on behalf of the Government as to why the permanent Chairman has not been appointed so far.

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 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

ATTACHED

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.

CMA 3464 of 2012

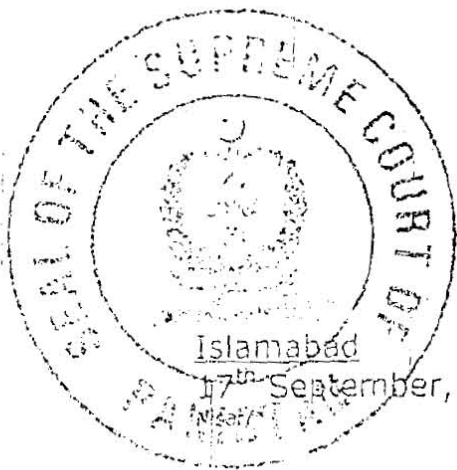
Notice be issued to the Chairman PEMRA and Chairman PTA for the next date of hearing.

Case is adjourned to be fixed after three weeks.

Sd/- Iftikhar Muhammad Chaudhry, HCJ
 Sd/- Jawwad S. Khawaja, J.
 Sd/- Khilji Arif Hussain, J.

Certified to be True Copy

Superintendent
 Supreme Court of Pakistan
 ISLAMABAD



Islamabad
 17th September, 2012

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