

Qamar Hasnain

From: Muhammad Ali Butt [alibutt@pba.org.pk]
Sent: Saturday, May 04, 2013 10:04 AM
To: info@pba.org.pk
Cc: secretarygeneral@pba.org.pk
Subject: Circular - Court order on PPP's Political Advertisement (Malik Qayyum/Shahbaz Sharif)
Attachments: image001.jpg; wp11197.13 mushraf 001.jpg; wp11197.13 mushraf.jpg

All Members / Associate Members
Pakistan Broadcasters Association,

Dear All,

Please find attached herewith scanned copy of the order passed by the full bench of Honorable Lahore High Court this evening on a petition that has been filed by Shahbaz Sharif today whereby the Honorable Court has restrained all TV Broadcasters from showing PPP's (Malik Qayyum/Shahbaz Sharif) impugned political advertisement immediately.

The Honorable Court has directed PEMRA 'immediately and forthwith to ensure that the aforesaid material/paid content advertisement is not aired on television channels till the next date of hearing'. The hearing has been adjourned till 12.30 tomorrow (Saturday). ECP, PEMRA and PBA are Respondent Nos. 1, 2 and 3 in the said Petition.

All PBA members, in order to comply with the orders of the Honorable Court and to avoid any adverse action by PEMRA or EC or LHC itself, are therefore advised to immediately stop airing the said advertisement.

Best Regards,

Muhammad Ali Butt
Executive Director



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Through this petition, the petitioner has sought various reliefs including the relief that a "paid content" advertisement being telecast on the electronic media on behalf of respondent No.4 be declared illegal, unlawful and in violation of the provisions of the Constitution. It is urged that the advertisement in question is violative of the law and infringes the fundamental rights of the petitioner.

2. The matter was taken up in the earlier part of the day by a learned Single Bench of this Court. In view of the urgency expressed, notices were issued to the respondents for 4.00 p.m., today. At 4.00 p.m, we were informed by the learned Standing Counsel that the matter has been placed before the learned Member of the Election Commission of Pakistan, who was going to take it up for hearing. Therefore, the matter was adjourned for 5.00 p.m.

3. The matter was taken up again at 5.00 p.m. Representative of the Election Commission of Pakistan submits that Deputy Director of the Election Commission of Pakistan, namely, Mr. Asif Ali Yaseen has informed him on the telephone that the matter was taken up for hearing by a learned Member of the Election Commission of Pakistan. He has reportedly passed the following orders:-

- i) Notice has been issued to PEMRA, with the direction to file report and parawise comments, and
- ii) a direction has been issued to PEMRA directing PEMRA to prevent further telecast of the impugned "paid content advertisement".

4. Representative of Election Commission of Pakistan is however not able to place anything in writing on the record. He undertakes to place on record a copy of the order passed by the learned Member of Election Commission of Pakistan, tomorrow i.e. 04.05.2013. In this view of the matter, learned counsel for the petitioner prays for an interim relief from this Court.

C.M.No.01 of 2013

5. Despite notice, no one has entered appearance on behalf of respondent No.4. Let fresh notice be issued for service of respondent No.4 through courier service, special messenger and under the provisions of Section 14(7) of the Representation of People Act, 1976, for tomorrow i.e. 04.05.2013 at 12.30 p.m.

6. Learned counsel for the petitioner has drawn our attention to the judgment of the august Supreme Court of Pakistan reported as **Syed Zafar Ali Shah and others vs. General Pervez Musharraf, Chief Executive of Pakistan and others** (PLD 2000 SC 869). In paragraph # 251, (at page # 1169) of the aforesaid judgment, the Hon'ble Supreme Court of Pakistan has held as follows:-

"... We have also seen the material placed on record relating to tapping of telephones and eavesdropping which clearly establishes that the telephones of the Judges of the Superior Court and other personalities were tapped. It is indeed very

shocking particularly, because this Court in the case of Mohtarma Benazir Bhutto (supra) declared such acts as most detestable, immoral, illegal and unconstitutional."

7. We have also gone through the contents of the Code of Conduct issued by the Election Commission of Pakistan vide Notification dated 28th January, 2013, which clearly and categorically states that:-

"(1) The political parties and candidates shall not propagate any opinion, or act in any manner prejudicial to the ideology of Pakistan or the sovereignty, integrity or security of Pakistan or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan, as provided under Article 63 of the Constitution".

8. Likewise item # 17 provides that "political parties shall only criticize the other political parties and opposing candidates regarding their policies and programmes, past record and work. Parties and candidates shall refrain from criticism of any aspect of private life, not connected with the public activities of the leaders or workers of other parties. Criticism based on unverified allegations and distortion of facts shall be avoided".

9. Learned counsel for the petitioner has pointed out that the content of the aforesaid material, which is being aired through most television channels is specifically denied by the petitioner and has not been confirmed or verified through any independent source. It is, therefore, submitted that it is a fit case for interference by this Court where state functionaries including Election Commission of Pakistan and PEMRA have failed to do what they are by law required to do, with special reference to protection and enforcement of fundamental rights of the petitioner, including but not limited to infringement of right of privacy and right to contest elections.

10. In view of foregoing, we are inclined to direct respondent No.2 immediately and forthwith to ensure that the aforesaid material/paid content advertisement is not aired on television channels or through broadcasting systems till the next date of hearing.

11. A copy of this order shall be dispatched/ transmitted by the Registrar of this Court to Pakistan Electronic Media Regulatory Authority (PEMRA), Pakistan Broadcasting Corporation and Election Commission of Pakistan.