

PRESS RELEASE

“Karachi: Wednesday May 31, 2017: The two-member bench of the Supreme Court today heard the appeals filed by the Pakistan Broadcasters Association (PBA), represented through Barrister Syed Ali Zafar, against the Directives issued by PEMRA regarding dramas, morning shows, advertisements and Ramazan transmissions.

Through order dated 17th March 2017, IHC Justice Shaukat Aziz Siddiqui had appointed a committee comprising the Secretary, Ministry of Information and Broadcasting, the Chairman PEMRA and DG Technical PEMRA, the Additional Attorney General, Mr. Afnan Karim Kundi, and Mr. Ansar Abbasi, a journalist, to submit a report on the contents of TV shows, dramas and advertisements.

Barrister Syed Ali Zafar argued that the directions had been issued as a result of various orders passed by the High Court. He contended that the High Court does not have jurisdiction, under Article 199 of the Constitution, to act as a regulator of broadcast media content and under the PEMRA Ordinance 2002, it is only PEMRA, which has been designated as the regulator. He pointed out that under the PEMRA Ordinance, the High Court is the appellate authority and if a Judge starts acting as the regulator then the provision of appeal provided in the law is totally negated. He further submitted that a Judge may have personal views about culture and may even be against entertainment or may have his own religious views, but he is to leave all such personal opinions at home when he adorns the gown of a Judge and sits in court. While acting as a High Court Judge, Barrister Zafar submitted that no one can impose his views on what content is to be broadcast and when and how the media should air its shows. He pointed out that the High Court has to act as a Judge only when the dispute arises between the regulator, namely PEMRA, and the licensee, and in this case, by acting as a regulator and directing PEMRA to issue directions, the Court has nullified its role as an appellate court. Barrister Zafar pointed out that in this case, PEMRA, acting under the garb of High Court orders, has passed directions that

there can be no entertainment in Ramazan before 9 PM. Reading the provisions of the PEMRA Ordinance, he pointed out that the action of PEMRA in issuing such directions is ultra vires its powers under the PEMRA Ordinance.

Barrister Syed Ali Zafar pointed out that a Code of Conduct 2015 had been voluntarily agreed upon between PEMRA and the PBA, under the auspices of the Apex Court. He contended that PEMRA had breached the Code of Conduct 2015 and issued regulations to control and censor the media, in contravention of fundamental rights guaranteed in the Constitution, particularly under Articles 19 and 19A of the Constitution.

Barrister Zafar reminded the Court that such regulation and morality policing was reminiscent of the tenure of General Zia-ul-Haq, in whose time, censorship of TV shows, plays, etc. was common. He further stated that show cause notices had been issued to members of the PBA on the grounds that they had broadcast entertainment and quiz shows before 9 PM, in violation of Paragraph 5(p) of the Ramazan Directives. Mr. Zafar contended that PEMRA does not have the authority, under the PEMRA Ordinance, to engage in such arbitrary exercise of its regulatory powers. The Court also inquired as to why the PEMRA has decided to stop entertainment programs till iftaar.

The two-member bench then asked if anyone was present from the side of the Respondents, and called Chairman PEMRA, Mr. Absar Alam, who claimed that he was coincidentally present there. The Judges of the Supreme Court asked Mr. Absar Alam why the High Court is exercising jurisdiction when PEMRA is the sole regulator of broadcast media content under the PEMRA Ordinance 2002. Mr. Absar Alam, however, stated that PEMRA was bound by the directions of the High Court upon which Justice Ejaz Afzal remarked that every authority should know its powers and work within the confines thereof.

The Supreme Court, after hearing the parties, decided that there are genuine grievances put forth by the PBA, and directed the High Court to

decide the grievances of the PBA on Monday, 5th June 2017. The Court also directed PEMRA that until such time, no adverse action shall be taken against the channels".

Sincerely for,

Pakistan Broadcasters Association

Muhammad Ali Butt

Executive Director