

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1587-12-2021

Abdullah Malik

Versus

1. Ministry of Interior
2. Cabinet Division
3. Ministry of Human Rights
4. Ministry of Information & Broadcasting
5. Ministry of Religious Affairs and Interfaith Harmony

Date: 2-3-2022

Fawad Malik: Information Commissioner

A. APPEAL

1. The Hon'ble Supreme Court of Pakistan in a Suo Moto Case No. 7/2017 regarding Islamabad-Rawalpindi sit-in/dharna at Faizabad announced the judgement dated 6th February, 2019 with certain declarations and directions. The conclusion part of the judgement is reproduced here under:

“Conclusion

53. For the reasons mentioned above this case is disposed of with the following declarations and directions:

(1) Subject to reasonable restrictions imposed by law, citizens have the right to form and to be members of political parties. SMC. No. 7/2017 39

(2) Every citizen and political party has the right to assemble and protest provided such assembly and protest is peaceful and complies with the law imposing reasonable restrictions in the interest of public order. The right to assemble and protest is circumscribed only to the extent that it infringes on the fundamental rights of others, including their right to free movement and to hold and enjoy property.

(3) Protestors who obstruct people's right to use roads and damage or destroy property must be proceeded against in accordance with the law and held accountable.

(4) The Constitution earmarks the responsibilities of the Election Commission which it must fulfill. If a political party does not comply with the law governing political parties then the Election Commission must proceed against it in accordance with the law. The law is most certainly not cosmetic as contended on behalf of the Election Commission.

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(5) All political parties have to account for the source of their funds in accordance with the law.

(6) The State must always act impartially and fairly. The law is applicable to all, including those who are in government and institutions must act independently of those in government.

(7) When the State failed to prosecute those at the highest echelons of government who were responsible for the murder and attempted murder of peaceful citizens on the streets of SMC. No. 7/2017 40 Karachi on 12th May, 2007 it set a bad precedent and encouraged others to resort to violence to achieve their agendas.

(8) A person issuing an edict or fatwa, which harms another or puts another in harm's way, must be criminally prosecuted under the Pakistan Penal Code, the Anti-Terrorism Act, 1997 and/or the Prevention of Electronic Crimes Act, 2016.

(9) Broadcasters who broadcast messages advocating or inciting the commission of an offence violate the PEMRA Ordinance and the terms of their licences and must be proceeded against by PEMRA in accordance with the law.

(10) Cable operators who stopped or interrupted the broadcast of licenced broadcasters must be proceeded against by PEMRA in accordance with the PEMRA Ordinance, and if this was done on the behest of others then PEMRA should report those so directing the cable operators to the concerned authorities.

(11) Those spreading messages through electronic means which advocate or incite the commission of an offence are liable to be prosecuted under the Prevention of Electronic Crimes Act, 2016.

(12) All intelligence agencies (including ISI, IB and MI) and the ISPR must not exceed their respective mandates. They cannot curtail the freedom of speech and expression and do SMC. No. 7/2017 41 not have the authority to interfere with broadcasts and publications, in the management of broadcasters/publishers and in the distribution of newspapers.

(13) Intelligence agencies should monitor activities of all those who threaten the territorial integrity of the country and all those who undermine the security of the people and the State by resorting to or inciting violence.

(14) To best ensure transparency and the rule of law it would be appropriate to enact laws which clearly stipulate the respective mandates of the intelligence agencies.

(15) The Constitution emphatically prohibits members of the Armed Forces from engaging in any kind of political activity, which includes supporting a political party, faction or individual. The Government of Pakistan through the Ministry of Defence and the respective Chiefs of the Army, the Navy and the Air Force are directed to initiate action against the personnel under their command who are found to have violated their oath.

(16) The police and other law enforcement agencies are directed to develop standard plans and procedure with regard to how best to handle rallies, protests and dharnas, and ensure that such plans/procedures are flexible enough to attend to different situations. It is clarified that though the making of such plans/procedures is not within the jurisdiction of this Court however we expect that in the maintenance of law and SMC. No. 7/2017 42 order every effort will be taken to avoid causing injury and loss of life.

(17) We direct the Federal and provincial governments to monitor those advocating hate, extremism and terrorism and prosecute the perpetrators in accordance with the law.

54. It would be apt to conclude this judgment by quoting Quaide-Azam Muhammad Ali Jinnah:

I consider it my duty to call upon the Muslims to temper their resentment with reason and to beware of the dangers which may well overwhelm their own State. Should they allow their feelings of the moment to gain mastery over their actions. 121

It is of utmost importance that Pakistan should be kept free from disorder, because the outbreak of lawlessness... is bound to shake... its foundation and cause irreparable damage to its future. 122

I pray to God that He who has bestowed on us this great boon of a sovereign State, may now give our people courage to... preserve intact the peace of Pakistan for the sake of Pakistan.123

55. The office is directed to send copies of this judgment for information and compliance to the Government of Pakistan, through the Cabinet Secretary, Secretary Defense, Secretary Interior, Secretary Human Rights, Secretary Religious Affairs and Interfaith Harmony, Secretary Information, the Chief Secretaries of the provinces, the Election Commission of Pakistan, the Pakistan Electronic Media Regulatory Authority, the Pakistan Telecommunication Authority and the Chief Commissioner of Islamabad. The Secretary Defence is directed to forward the judgment to the heads of the Armed Forces, the Director General Inter Services Intelligence, the Director General Inter Services Public Relations and the head of the Military Intelligence. Secretary Interior is directed to forward the judgment to the Director General Intelligence Bureau, Director General Federal Investigation Agency, Inspector Generals of Police of the provinces and the Islamabad Capital Territory. Secretary Information is directed to forward the judgment to the directors of all press and information departments, who in turn are directed to forward it to all newspapers published in their territories. Pakistan Electronic Media Regulatory Authority is directed to forward this judgment to all television channels and all its licensed broadcasters and operators.

56. This case and all pending applications are disposed of in the aforesaid terms.”

2. The appellant in his request has desired the information pertaining to the steps taken by the concerned authorities to implement the judgement passed by the Hon’ble Supreme Court of Pakistan in the SMC. No. 7/2017 39. Feeling aggrieved of the non-provision of the information he has invoked the right of appeal before the Pakistan Commission on access to information under the Right of Access to Information Act, 2017 read with Article 19A of the Constitution of Islamic Republic of Pakistan 1973.

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B. PROCEEDINGS

3. The notices were issued to the Ministry of Interior, Cabinet Division, Ministry of Human Rights, Ministry of Information & Broadcasting and Ministry of Religious Affairs and Interfaith Harmony.
4. Reply of Ministry of Interior.

“I am directed to refer to your Appeal No. 1587-12/2021 dated 11-01-2022 to state that the Supreme Court’s judgment in Suo Moto case No. 7/2017 was forwarded to the Director General Intelligence Bureau, Director General Federal Investigation Agency, Inspector Generals of Police of the provinces and the Islamabad Capital Territory, as directed by the Honorable Court, for compliance and necessary action pertaining to their relevant jurisdiction. The relevant information pertaining to these Agencies may be solicited from them.”

Reply of Ministry of Human Rights vide letter No. F. No. 2-76/2021-Admin (Pt) dated 26th January, 2022.

“I am directed to refer the Pakistan Information Commission, Islamabad D.O. No. 1587-12/2021 dated 11th January, 2022 on the subject above and to say that the information that was sought vide the application referred in the above mentioned letter was not covered under section 6 of the said Act therefore the same was not provided. However the subject applicant has now been informed accordingly.”

Reply of Ministry of Human Rights vide letter No. F. No. 236-Dir (IC)/2019 dated 7th February, 2022.

“The review of judgment in Suo Moto Case No. 7 of 2017 entails that the Honorable Court disposed of the matter by issuing 17 declarations and directions. Non of the directions was passed with respect to the Ministry of Human Rights, however; the judgment was only shared with Ministry of Human Rights for information purposes. Therefore, there are no pending actions on behalf of MOHR to comply with the judgment in the aforementioned case.”

Reply of Ministry of Information & Broadcasting.

Pakistan Electronic Media Regulatory Authority vide letter No. F. No. 13(01)/2022/OPS-BM/3539 dated 16th February, 2022.

“The judgment dated 06.02.2019 passed by the Hon’ble Supreme Court of Pakistan in Suo Moto Case No. 07/2017, was forwarded to all Satellite TV Channels Licensees for compliance in letter and spirit, vide PEMRA’s letter No. 13(14)/OPS/2018/1247 dated 08.04.2019. Moreover, a review petition filed by PEMRA in the matter is also pending before the Hon’ble Court.”

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Pakistan Electronic Media Regulatory Authority vide letter No. 13(14)/OPS/2018/1247 dated 8th April, 2019 to all Satellite Channel Licensees.

“Reference may please be made to judgment passed by the Hon’ble Supreme Court in the Captioned matter dated 06.02.2019. The operative part of the judgment is reproduced hereunder:

“9. Broadcasters who broadcast message advocating or inciting the commission of an offence violate the PEMRA Ordinance and the terms of their licenses and must be proceed against by PEMRA in accordance with law.

55. Pakistan Electronic Media Regulatory Authority is directed to forward this judgment to all television channels and all its licensed broadcasters and operators.

Complete judgment is available on the following address:

http://www.supremecourt.gov.pk/web/user_files/File/S.M.C_7_2017_06022019.pdf

All Satellite TV Channels are requested to comply with the judgment of Hon’ble Supreme Court of Pakistan, in letter and spirit.”

C. COMMISSION’S VIEW

5. The appellant wants to know the steps taken by the concerned authorities towards the implementation of verdict of Hon’ble Supreme Court of Pakistan in a Suo Moto Case No. 7/2017 regarding Islamabad-Rawalpindi sit-in/dharna at Faizabad announced on 6th February, 2019 with certain declarations and directions to the Government of Pakistan, through the Cabinet Secretary, Secretary Defense, Secretary Interior, Secretary Human Rights, Secretary Religious Affairs and Interfaith Harmony, Secretary Information, the Chief Secretaries of the provinces, the Election Commission of Pakistan, the Pakistan Electronic Media Regulatory Authority, the Pakistan Telecommunication Authority and the Chief Commissioner of Islamabad.. He has desired the information under the fundamental right enshrined in Article 19A of the Constitution of Islamic Republic of Pakistan, 1973 and the statutory right provided under the Right of Access to Information Act, 2017.
 6. By virtue of Articles 189 & 190 of the Constitution the judgment of the Supreme Court is binding on each and every organ of the state. All the declarations and directions passed by Supreme Court were to be followed in letter and spirit by all the departments of the Government.
 7. Article 19A provides every citizen right to have access to information in all matters of public importance. If the requested information is available with any of the attached department, head of the public body
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is legally bound under the Act to arrange the provision of the requested information from the said department, instead of informing the appellant to solicit it from the attached department.

D. ORDER

8. The appeal is allowed. The Designated Officers/Secretaries of the Ministry of Interior, Cabinet Division, Ministry of Human Rights, Ministry of Information & Broadcasting and Ministry of Religious Affairs and Interfaith Harmony are directed to provide the appellant the desired information and record forthwith but in any case not later than seven days of the receipt of this order.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 14.3.2022

Certified that this order consists of 06 pages, each page has been read and signed.