JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

F.A.O.No.108/2016
Channel 24
Versus
PEMRA and another

Date of Hearing: 29.09.2017
Appellant by: Mr. Ummar Ziauddin, Advocate
Respondent No. by: Chaudhary Junaid Akhtar, Advocate.

MIANGUL HASSAN AURANGZEB, J:- Through the instant appeal, the appellant, Channel 24, impugns respondent No.1's decision dated 10.10.2016 (based on recommendations dated 20.09.2016 made by the Council of Complaints), whereby a fine of Rs.5,00,000/- was imposed on the appellant.

2. Learned counsel for the appellant submitted that the complainant/respondent No.2 (Miss Maryam Nawaz Shareef) had filed a complaint before respondent No.1 (Pakistan Electronic Media Regulatory Authority) against the appellant; that in the said complaint, it was alleged that in the program called "Khara Such", aired by the appellant on 10.06.2016, it was falsely reported that respondent No.2 had held meetings with Federal Secretaries, and had given them instructions with respect to the running of the affairs of the government, etc.; that the impugned decision dated 10.10.2016 is devoid of reasons; that in giving the said decision, respondent No.1 has blindly followed the recommendations of the Council of Complaints; that the said impugned decision is in violation of Rule 10 of the P.E.M.R.A. (Council of Complaints) Rules, 2010, which requires respondent No.1 to record reasons in writing for approving the recommendations of the Council of Complaints; that the Council of Complaints contravened Rule 8(2) of the said rules by not recording the statements of the appellant's representatives; that at no material stage has respondent No.2 denied holding meetings with the Federal Secretaries; that the information revealed by the appellant in the said program was not false; that even if the picture shown in the said program was not of the meeting between respondent No.2 and the Federal Secretaries,

respondent No.1 could not impose a fine of Rs.5,00,000/- on the appellant.

3. On the other hand, learned counsel for respondent No.1 submitted that there is no infirmity in the impugned order dated 10.10.2016, passed by respondent No.1; that it is an admitted position that the picture used in the program in question was not that of a meeting between respondent No.2 and the Federal Secretaries; that the said picture was of a meeting chaired by respondent No.2 in her capacity as Chairperson of the Prime Minister's Youth Business Loan Program; that respondent No.2 neither held any meeting with Federal Secretaries nor issued any directions to them; that since it was an admitted position that the picture used in the program in question was not of a meeting between respondent No.2 and Federal Secretaries, there was no reason for the Council of Complaints to record the statements of the appellant's representatives; that the appellant failed to show compliance with the Electronic Media Code of Conduct-2015 by not providing to respondent No.2 a fair opportunity to defend the allegations made against her; and that the appellant violated the said Code of Conduct by not presenting information in an accurate and fair manner. Learned counsel for respondent No.1 prayed for the appeal to be dismissed.

4. In rejoinder, learned counsel for the appellant submitted that several newspapers had aired a news item regarding respondent No.2 about respondent No.2 taking important decisions with respect to the affairs of the government; that the members of the political party to which she belongs were not comfortable with her; and that the appellant has annexed copies of several pictures of respondent No.2's meeting with foreign dignitaries.

5. I have heard the contentions of the learned counsel for the contesting parties, and perused the record with their able assistance.

6. Annexed at page-69 of this appeal is the transcript of the first two minutes of the program "Khara Such" aired by the appellant on 10.06.2016. The portion of the transcript which led respondent No.2 to file a complaint before respondent No.1 is as follows:-

"ایک بہت ہی خوفناک بات جو ہوئی ہے اور عام آد می کو اس کا احساس نہیں ہے اور اس کی ایک وجہ یہ ہے کہ اس ملک میں دانشور بہت زیادہ ہو گیے ہیں عوام کم ہیں اور دانشوروں کو بھی شاید احساس نہیں ہے مریم صفدر کی ایک تصویر آپ کو میں دکھاتا ہوں اور ایسی بہت سی تصاویر آ گیء ہیں کہ کبھی وہ وفاقی سیکرٹریز کا اجلاس طلب کر کے ان سے مخاطب ہوتی ہیں اور ان کو انسٹرکشنز دے رہی ہوتی ہیں۔ کبھی وفاقی وزراء کو وہ انسٹرکشنز دے رہی ہو تی ہیں۔۔۔"

7. Respondent No.2 submitted an undated complaint before the Chairman of respondent No.1. In the said complaint, it was alleged that the host/anchor in the said program had carried out respondent No.2's character assassination by displaying respondent No.2's picture, and accusing her of holding meetings with Federal Secretaries and given them instructions. Respondent No.2's stance in the said complaint was that the picture displayed in the said program was of her meeting with the Regional Head of the National Bank of Pakistan, in her capacity as Chairperson of Prime Minister's Youth Business Loan Program. Respondent No.2 also complained against several other accusations hurled in the said program against her including the allegation that she had committed treason.

8. After the said complaint was filed, respondent No.1, on 29.06.2016 issued summons to the appellant, who was also required to submit parawise comments. On 11.08.2016 the appellant filed a reply to respondent No.2's complaint. In the said reply, the excuse put forth by the appellant for displaying respondent No.2's picture while she was being accused by the host/anchor in the said program to have held meetings with Federal Secretaries was as follows:-

> ***"... In response to Pemra Letter and all the allegations leveled by Mrs. Maryam Nawaz Sharif on our Program "Khara Sach with Lucman" now here we want to describe that the picture we used in our program that was just for the reference and it is the common practice in electronic media that if the recent footage or visuals are not available at that time we always use relevant footage and pictures for reference. We never claimed that this is the actual picture of any meeting..."***

9. After hearing the appellant, the Council of Complaints recommended the imposition of a fine to the tune of Rs.500,000/- on the appellant. On the basis of the said recommendations, respondent No.1 vide impugned order dated 10.10.2016 imposed a

fine of the said amount on the appellant. Aggrieved by the said order dated 10.10.2016, the appellant filed the instant appeal.

10. It is not denied that the picture displayed in the said program was not of a meeting between respondent No.2 and Federal Secretaries. The said picture was obviously displayed to add credence to the statement of the host/anchor to the effect that respondent No.2 had held meetings with Federal Secretaries and had given them instructions regarding the running of the affairs of the government. Although under Rule 8(2) of the P.E.M.R.A. (Council of Complaints) Rules, 2010, the Council of Complaints "may" record the statements of such persons as it may deem necessary for the disposal of the complaint, it is not mandatory for the Council of Complaints to record such statements. In view of the reply filed by the appellant before respondent No.1 (in which it was admitted that the picture displayed in the said program was not of a meeting between respondent No.2 and Federal Secretaries), there was no need for the Council of Complaints to have taken the statements of the appellant's representatives.

11. The provisions of the Electronic Media Code of Conduct-2015, requires licensees to ensure that news, current affairs or documentary programs present information in an accurate and fair manner. The display of respondent No.2's picture with the Regional Head of the National Bank of Pakistan, in the said program while the host/anchor was alleging that respondent No.2 had held meetings with Federal Secretaries and had given them instructions regarding the affairs of the government, cannot, by any stretch of imagination, be termed as "accurate" and "fair".

12. In view of the above, I do not find any merit in this appeal, which is accordingly dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2017

Sultan*

(JUDGE)

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