

ORDER SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Writ Petition No.67129/2020
Luqman Habib Vs. Federation of Pakistan, etc.

Writ Petition No.3110/2019
Bilal Riaz Sheikh vs. Federation of Pakistan, etc.

Writ Petition No.46684/2020
Liaquat Ali Chohan vs. Director General FIA, etc.

Writ Petition No.67329/2020
Muhammad Saeed Sindhu & another vs. Federation of Pakistan, etc.

Writ Petition No.18311/2021
Nadeem Sarwar vs. Federation of Pakistan, etc.

S.No.of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of Parties of counsel, where necessary.
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09.06.2021 M/s Bilal Riaz Sheikh, Muhammad Azhar Siddique, Safdar Shaheen Pirzada, Muhammad Faizan Maqsood, Muhammad Usman Sheikh, Zubair Janjua, Faisal Nawaz Bhatti, Zahida Ghaffar, Asif Mehmood Khan, Adnan Paracha, Eisa Usman Ghazi and Irfan Akram, Advocates for the petitioner.

All the petitioners in Writ Petition No.3110/2019, Writ Petition No.46684/2020, Writ Petition No.67329/2020 and Writ Petition No.18311/2021 in person.

Mr. Asad Ali Bajwa, Deputy Attorney General with Muhammad Usama, Assistant Director (Software), Waqas Riaz, Inspector CEW, Asad Iqbal, S.I. and Nabeel Hussain, S.I./FIA.

Ch. Sarfraz Ahmed Khattana, Deputy Prosecutor General.

M/s Barrister Raja Hashim Javed, Barrister Ch. Muhammad Umar, Mufti Ahtesham ud Din Haider, Rana Muhammad Ansar, Advocates along with Muhammad Farooq, Director PTA, Shehzada Muhammad Hameed, Assistant Director (Vigilance) PTA.

Through this single order I intend to dispose of
Writ Petition No.67129/2020, Writ Petition
No.3110/2019, Writ Petition No.46684/2020, Writ

Petition No.67329/2020 and Writ Petition No.18311/2021 involving same questions of law and facts as in all these writ petitions precisely grievance of the petitioners is that highly objectionable contents, which are totally against the injunctions of Islam, against the sanctity of Sahaba Ikram and last-hood of the Prophet Muhammad ﷺ is being published in the social media particularly on face-book, therefore, appropriate measures are required to curb such like acts on face-book and blockade of certain web pages, etc.

2. I have considered the arguments advanced on behalf of the petitioners, learned Deputy Attorney General, as well as, learned counsel appearing on behalf of Pakistan Telecommunication Authority (PTA) and gone through the record available on file.

3. Religion plays a vital role in human life and society. Islam as a religion is comprehensive for all human actions. It explains Tauheed and Risalat doctrines effectively. It tells us how to live a virtuous life, how to conduct ourselves in public or at home, how to treat parents, relations, friends, strangers, the poor and orphans; it instructs us about economic and social, educational and political ends. In short, it is complete code of life, which provides guidance in all human situations. The six articles of faith as enunciated in Hadith are: ‘You must believe in Allah, His Angels, His Holy Books, His Messengers, in the Last Day and in Fate (both in its good and in its evil aspects).’ The two main sources of Islamic teachings and rules of Shari’ah are the Qur’an and Hadith. The Qur’an and Hadith are the primary source of guidance. By benefiting from them, man can attain worldly and otherworldly prosperity and success. The Qur’an is the last divine

scripture. The status of Muhammad (PBUH) as per Qur'an is "Seal of the Prophets" (Khatam-un-Nabiyeen). In the Qur'an, He is also known by the term Khatam-ul-Mursaleen (Seal of the Envoys). Muslims take this to mean that Muhammad (PBUH) was the final Prophet and that no Prophet after him would be able to come at all. The following verses contain clear injunctions regarding the end of prophecy. "Muhammad (Blessings of Allah and Peace be upon Him) is not the father of any of your men, but He is the Messenger of Allah and the Last of the Prophets (ending the chain of the Prophets). And Allah is the Perfect Knower of everything." (Al-Quran, Al-Ahzab, 33:40). The chain of Prophet-hood is going to last till the Day of Judgment and the innumerable Muslims who are going to be born till the Day of Judgment will not hold a minute, because the prophets can accomplish this, but all the prophets and messengers will have to worry that the way will be cleared for the people so that they will never be in danger of going astray. "Today I have perfected your Deen (Religion) for you, and have completed My Blessing upon you, and have chosen for you Islam (as) Deen (a complete code of life)" (Al-Quran, Al-Maidah, 5:3).

4. Besides Quranic verses there are number of hadiths regarding the end of Prophethood which are included in the seven books of Hadiths. There are some hadiths in view of the glory of the Prophet (Peace and Blessings of Allah be upon Him). "It is narrated on the authority of Anas ibn Malik that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever deliberately lies to Me, his abode should be Hell." (Ahmad bin Hanbal, Musnade Ahmed, Al-Maktabul-Islami Beirut, page 98/2). It is narrated on the authority of Abu Huraira that the example of the Prophet (Peace and Blessings of

Allah be upon Him) and the Prophets (Peace and Blessings of Allah be upon Them) is as follows: Appreciate the excellent construction but miss the space of a brick. I have replaced this brick. This building has been completed with me and the messengers have been eliminated with me. I am in the brick and I am the last of the prophets. (Bukhari Muhammad bin Ismaeel, Al Jamei, Al-Sahiah, Al-Bukhari, Hadith No.880/2). “It is narrated on the authority of Anasbin Malik that the Prophet (Peace and Blessings of Allah be upon Him) said: The Messenger-ship and Prophet-hood have been completed for Me and now there is no Prophet or Messenger after Me.” (Jamia Termazi, Hadith 1989/2). The third most important position after the Qur’an and Sunnah is the consensus of the Companions. This is proved by all the reliable historical traditions that soon after the era of Holy Prophet, those who claimed Prophethood and those who accepted him, the Companions had fought against all of them in unison. In this regard, the case of Muslima Kadhab is noteworthy. This person did not deny the Prophethood of the Holy Prophet but claimed that he had been associated with the Holy Prophet. The Banu Hanifah believed in it with good intentions. And they were really led into the misconception that Muhammad, the Messenger of God, had made him a partner in the Prophet-hood. But the Companions did not recognize Banu Hanifah as Muslim and killed him. When Muslima Kadhab and her followers were attacked, Hazrat Abu Bakr Siddique said that their women and children should be enslaved and when they were taken captive, they were actually enslaved. Further there is hardly a clearer example of the consensus of the Companions Imam Abu Hanifa’s opinion regarding the end of Prophethood Imam Abu Hanifa. A man in your time claimed Prophethood and

said, “Give me a chance to present the signs of my Prophethood.” Upon this, Imam Azam said: “Whoever asks him for a sign of Prophethood will also become a disbeliever because the Prophet (Peace and Blessings of Allah be upon Him) said: There is no Prophet after me. (Siyouti, Jalal ul Deen, Tabyeezul Sahifah Fi Munaqabe Abi Hanifah, p,129).

5. The Companions (Sahaba) were the individuals whom Allah made a means of connecting the whole Ummah until the Day of Judgement to the time, words, sayings and actions of Prophet. Without this connection, the Qur’an could not be passed to the Ummah. There are many verses of the Holy Qur’an which were only understandable from the words of the Prophet. The Companions were the ones who passed these pearls to us. Every action and saying of the Prophet was meticulously detailed, recorded and narrated to the following generations by these very Companions. The Companions were the close confidants of the Prophet. They were those individuals who in the preservation of the message of the Prophet sacrificed their wealth and lives. It is narrated on the authority of Hazrat Abdullah bin Mughal (may Allah be pleased with him) that the Prophet (Peace and Blessings of Allah be upon Him) said: “Fear Allah about my companions, fear Allah about my companions, do not blame them after me, remember that whoever loves them, loves them because of me, And whoever is hostile to them, he is an enemy to them because they are hostile to me. And whoever persecutes God, then the day is not far when God will seize him.”(Jamia Termazi 169/6)

6. Now coming to the facts of the case on cursory glance to the annexures of this writ petition, this Court was shocked to see that the said material consisting of

text as well as the pics in the shape of caricature, etc., was more than enough to create wide scale public unrest and outrage amongst absolute Muslim majority of our Islamic Ideological State. Therefore, taking notice of significance of the issue, the learned Deputy Attorney General, official of FIA and representatives of PTA were summoned.

There is no cavil to this proposition that when an act is declared to be an offence, it is responsibility of the state to adopt all legal measures firstly to prevent such crimes and secondly if the said offence is committed then bring the culprits to book and put them before the court for ultimate decision. In the same context Article 5 of the Constitution of Islamic Republic of Pakistan, 1973 deals with loyalty to state and obedience to the constitution and law, hence, it becomes constitutional duty of the state functionaries to perform their duties to curb the crimes as defined in different statutes of the country. With reference to these petitions, the material appended with it clearly disclosed commission of offences as detailed in Chapter XV of the Pakistan Penal Code. This Court cannot oversight that the legislator had laid down specific provisions i.e. Section 295-A, 295-B and 295-C P.P.C, to cater similar situations where any person uses derogatory remarks, etc., in respect of the Holy Prophet ﷺ, by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, and thus defiles the sacred name of the Holy Prophet ﷺ, the name of any Wife (Ummul Mumineen), or members of the family (Ahlebait) of the Holy Prophet ﷺ, or any of the righteous Caliphs (Khulafae-Rashideen) or companions (Sahaaba) of the Holy Prophet ﷺ.

7. This is quite a sensitive issue and the referred material clearly discloses that visible intent behind such posts was to hurt the feelings of Muslims all over the world and we also have the history that whenever such unholy attempts were made, it worked as an explosion for the whole of our society. This Court would remind the state agencies of preamble of the Constitution of Islamic Republic of Pakistan, 1973 which provides that the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed; the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set down in the Holy Quran and Sunnah, protection shall be provided to the fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality.

8. Preamble of our Constitution straightway discloses that the rights of every community have been delicately balanced and freedom of speech/expression and information is also hallmark of our Constitution, but the term “right of expression” cannot be stretched to such an extent that it be used as a tool to defy the religious thoughts or sacred personalities of one’s religion. This Court is of the clear view that under the umbrella of “freedom of speech and information” not only the Muslim community, in fact the followers of all the religions have been made to suffer immensely.

9. There can be no second opinion that advancement and use of technology has brought whole of the universe into one global village while social

media is now considered to be the most productive element in spreading and sharing knowledge and ideas, ultimately benefiting the public at large. Having observed that, this Court is conscious of the fact that despite all above pointed benefits, comparatively a few of the social media users have resorted to use it for destructive purpose. In this context we are aware that the social forums unfortunately are being used, by some of the elements, negatively, and by their such nefarious activities, the laws of the countries are being violated, religious feelings of all kinds of communities are being hit, let it be said that all this is being done under the cover of “freedom of expression” and “freedom of speech”.

10. At this juncture it is important to mention here that some individuals are of the view that Article 19 and 19-A of the Constitution of Islamic Republic of Pakistan, 1973, has granted uninterrupted right of freedom of speech and information, therefore, no action can be taken against any such material, as is part of this writ petition. But, they are totally ignorant of the fact that Article 19 of the Constitution of Islamic Republic of Pakistan, 1973 in clear terms provides that said liberty should be subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of Court or incitement to an offence. The Court is cognizant that freedom of expression is considered to be a foundational human right of the greatest importance. Yet it is important to remember that freedom of expression, speech, tolerance and respect go hand in hand. Perhaps some wrongdoers are not aware of the

fact that protecting the prestige of Hazrat ﷺ is the first and foremost duty of all Muslims on earth. Muslims would not allow any one, on the basis of any slogan, either that of “freedom of expression” or “freedom of speech” to undermine the dignity of Hazrat ﷺ. During the course of arguments, the authorities were further enlightened on the rights and responsibilities of the users as uploaded by the Facebook administrator. Clause-3(6) of the *ibid* Rights and Responsibilities of the Facebook Users available on internet clearly provides that its user will not post content that is hate speech, threatening, or pornographic; incites violence, or contains nudity or graphic or gratuitous violence. Further, its clause 5(1) and (2) provides that the user would not post content or take any action on Facebook that infringes or violates someone else’s rights or otherwise violates the law, and Facebook could remove any content or information which is posted on Facebook and it is believed that same violates the statement or policies of the Facebook and similarly the respectful behaviour would be encouraged.

11. During arguments this Court repeatedly posed questions to the Chairman PTA that if the Facebook refuses to block such pages or some new pages are opened for the purpose of spreading hatred material which is otherwise against the law and the Constitution of the Islamic Republic of Pakistan, 1973, and it may even result in damaging the integrity and sovereignty of the state, whether the state agencies would remain silent spectators, Chairman PTA came out with the plea that if within a reasonable time decisive steps are not taken by the concerned information system providers/administrators for removal of all such content, then as a

last and final resort, the authority would block all such sites at once without any space.

12. Having taken into account the importance of the issue, which admittedly can augment the sentiments of general public particularly illiterate people, this Court is persuaded to hold that the actions taken by the government functionaries so far in this regard are straightway deficient, therefore, the matter requiring imminent intention appropriate measures are essential. Hence, while taking into account all the aspects, this Court deems it appropriate to pass the following directions:-

- Government shall establish a cell under PTA wherein I.T. Experts and Islamic Scholars must be included as members. The said cell shall keep an eye on websites as well as social media programs. Wherever any objectionable content is observed as defamatory the same shall be referred to the Islamic Scholars and if it is found that any act or omission in the said content violates any provision of law within Pakistan, is against the beliefs of the Muslims and against the integrity of State, adequate steps shall be taken for blockage of the relevant website/social media page, etc. and simultaneously legal proceedings against the delinquent be initiated.
- Under Article 2-A of the Constitution protection and protection of Islam is duty of the Government and for this purpose the Government shall establish an official website/portal where authentic copy of Holy Book (Qura'n) with translation by known scholars along with 'Ahadith books, all laws relating to Khatam-e-

Nabuwat, articles written on the subject and decisions of the superior courts on this specific issue shall be made available on the same website for awareness of the general public. A window/portal shall also be established where the known Islamic scholars shall answer the queries raised by anyone about the injunctions of Islam and Khatam-e-Nabuwat.

The Government of Pakistan shall establish a specific portal on the said website where details of all authentic Islamic websites/pages shall be introduced for guidelines for the whole world especially the Muslim Ummah.

- As per Rule 5(1) of Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2020, the Authority has been empowered to initiate proceedings only if a complaint is filed before it in terms of Section 5(2) and 5(3). While if there is any material in violation of Pakistani Law especially PPC, which itself is a cognizable offence in view of Section 154, Cr.P.C. this Court is of the view that filing of complaint is not mandatory rather it is the duty of the Authority to initiate proceedings at its own motion. In this respect it is suggested that relevant rules may be amended accordingly.
- Whenever any complaint is lodged about the offence involving Islamic Injunctions/Khatam-e-Nabuwat and Namooos-e-Sahaba, proceedings on such complaint shall be made available on the website/portal and updated step by step so that the public must know that adequate and proper measures are being taken at highest level to

procure Islamic injunctions. This will ultimately result in controlling the sentiments of general public.

- Hazrat Muhammad Mustafa ﷺ is the last Prophet and to highlight this aspect, specific chapter shall be inserted in Textbooks of Urdu and Islamiyat from primary to master levels.
- When such website is established by the Government, it must be advertised on media and also on notice boards of Higher Education Commission, Public and Private Universities, Colleges and other officially run institutions so that maximum publicity is made in order to achieve the all-out benefit out of it.
- Social media providers must be compelled to establish their sub offices within the country (Pakistan) so that timely interaction could be made in case of any violation of Islamic injunctions or of any Article of Constitution of Pakistan is observed/found, simultaneously enabling our institutions to lay hands on them in case they are directly or indirectly found responsible for such violation.

13. The instant writ petition stands disposed of in the above terms.

(CHIEF JUSTICE)

Approved for Reporting

*Javed***