

P L D 2011 Lahore 377**Before Ijaz Ahmad Chaudhry, C J****JAMAL AKRAM---Petitioner****Versus****FEDERATION OF PAKISTAN through Secretary Establishment, Government of Pakistan, Islamabad and 3 others---Respondents**

Writ Petition No.11968 of 2010, decided on 21st March, 2011.

Constitution of Pakistan---

----Art. 199---Constitutional petition---Petitioner had sought a direction to the authorities to ban numerous websites which were showing pornography, sexual videos, printed material, mail addresses etc. as the same was not only against the interest of Muslim community of Islamic Republic of Pakistan but immoral, unholy, illegal and unconstitutional as well and to install firewall and heavy software on Internet to control the communication of pornographic websites through Internet---High Court, in circumstances, formulated guidelines for immediate and strict action by the authorities to the effect that Inter-Ministerial Committee constituted by the Prime Minister in the year 2006 would keep a vigilant eye on the websites and in the eventuality of any objectionable material concerning the religious faith of any group would take prompt action before it reaches to the public-at-large and in case of failure the concerned persons would be taken to task while initiating disciplinary action against them and the Government would also include some members from amongst the private persons in the said Committee; that the Crisis Cell working in the Services Division ICT Directorate and Enforcement Division shall be used as a tool to unearth such material and to block the relevant websites/URL forthwith and in case of failure stern action be taken against the delinquents; that the Government shall also see the viability of permanent blocking of the websites involved in unethical, unIslamic and illegal activities in the event that such material is again presented on Internet; that the Government shall strive for legislation in this regard on the lines already adopted by other Islamic Countries in addition to China; that the Government shall impart awareness amongst the public through different modes e.g. print and electronic media regarding use and misuse of such like websites; and that in case of repletion the Government shall sue concerned authorities before the appropriate forums.

S.H. Shahzad Azmat for Petitioner.

Naveed Inayat Malik, Deputy Prosecutor-General for Respondents Nos. 1 and 2.

Khalid Mian for Respondents No.3 and 4.

ORDER

IJAZ AHMAD CHAUDHRY, C J.---Through this petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 the petitioner has sought a direction to the respondents to ban numerous websites which are showing pornography, sexual videos, printed material, mail addresses, etc. as the same is not only against the interest of Muslim community of Islamic Republic of Pakistan but immoral, unholy, illegal and unconstitutional as well. The petitioner has also sought a direction to the respondents to install firewall and heavy software on Internet to control the communication of pornographic websites through Internet.

2. Precisely the germane events formulating the background of this writ petition are that being a regulatory authority Pakistan Telecommunication Authority (PTA) is controlling and issuing licenses to all the Internet services providers. The most popular and powerful search engines for internet are Google, Yahoo, MSN, Face Book and U-Tube, etc which are being operated from outside the territorial jurisdiction of Pakistan. The said search engines are following different websites all over the world including Pakistan. Apart from the above said websites, there are certain others which are scattering sexual videos, photos, chatting and unlimited downloading of videos facilities etc. in Pakistan due to which our country is figuring amongst the frequent users of such immoral sites. With heavy heart and with the, purpose for the reformation of the Society the petitioner has filed this petition.

3. The learned counsel for the petitioner contends that the said sites are affecting the social norms of our society which are based on the glorious injunctions of Islam; that due to immoral and unhealthy effects, many other Muslim countries like Saudi Arabia, Iran, Egypt, Morocco, Turkey, Indonesia, etc. have permanently banned such websites in their countries, therefore, our Government should put an end to the activities of such websites; that due to said obnoxious websites not only the society in large is being affected but the persons who hale from a noble professions of teaching medical etc. are also being allured by the fascination of such websites which is' ultimately affecting their professional skill; that ours countries badly ridden by foreign debts but these websites are minting money from otherwise poverty thwarted people of the country; that the use of websites in question is causing moral decay amongst the masses of the country; that the institutions responsible for taking action against such like websites/URLs have shut their eyes and they are busy to plunder money from the operators of the said websites instead of blocking the same; that the material being presented on such loathsome websites runs contrary to the injunctions of Islam as well as the commands in the Holy Quran inasmuch as vulgarity, adultery, illegal fornication and other such like acts have been strictly prohibited in the Holy Quran and exemplary punishment has been cattered for the violators of the said commandments; that said websites are not only affecting the thinking of our young generation but also is destroying the threadbare of our social norms viz. the boys of adolescent age go wayward due to the allurements of the said websites and ultimately instead of becoming viable members of the society they preferred to spoil their lives; that according to the Article 2 of the Constitution of Islamic Republic of Pakistan, 1973, Islam has been declared as the State Religion of Pakistan and any act contrary to the injunctions of Islam are to be curbed with irons hands; that very purpose for the creation of separate homeland for the Muslims of the Sub-continent was to provide them an atmosphere wherein they could lead their lives according to the injunctions of Islam and to practically implement the said vision, Article 31(1) of the Constitution casts duty on the Government to provide such an atmosphere to the citizens of the countries so that they may spend their lives according to the commandments contained in the Holy Qur'an and practically adopted by the Holy Prophet Muhammad (peace be upon him); that not only the Muslim Countries but our neighbouring country China has adopted a via media for blockage of such abominable sites and that if the said sites are not permanently banned, our society is bound to total catastrophe.

4. The learned Deputy Attorney-General for-Pakistan submits that to have a check and balance on the immoral activities on the Internet an Inter Ministerial Committee, consisting of representatives of different Ministries has been functioning since the year 2006 and in the event of any complaint a prompt action is taken. Thus, the petitioner instead of voicing his grievance before the said Committee directly approached this Court by filing this petition, which in presence of alternative remedy is not maintainable. Further the Government is taking all possible measures to avoid such like material to be viewed in Pakistan. Despite all out efforts it is not possible for the Government to hundred per cent scan such material from the Internet as more than hundreds sites are not only available on the Internet but some cellular companies are also facilitating such a material to be presented on their specific servers. Moreover in this era, there is nobody denying the viability of the use of Internet by the people almost from all walks of life, therefore, it is not benefited to permanently block the Internet services in Pakistan rather it is the need of the hour to impart awareness amongst the public regarding the use and misuse of Internet.

5. The learned counsel appearing on behalf of Pakistan Telecommunication Authority, in furtherance of the arguments advanced by the learned Deputy Attorney-General for Pakistan states that a Crises Cell has already been established in the Services Division ICT Directorate and Enforcement Division and the same is working round the clock to unearth the objectionable material on different websites and then to block the same. For instance by quoting an action by the said Cell wherein hundreds of sites were block which are involved in publishing the objectionable material qua the personality of Holy Prophet

Muhammad (peace be upon him). Even in future the said Cell would be operated with more vigour and efficiency so that the output being delivered by the Cell on the point of ponder be enhanced reasonably.

6. After hearing the learned counsel for the parties at great length and perusing the documents appended with this petition as well as the report and parawise comments submitted by the respondents I have observed that the material being presented by different websites in the field of pornography are not only objectionable but illegal, unethical, immoral; unIslamic and scandalous as well. It is also a hard fact that our young generation is derailing from the track due to use of such offensive material on websites inasmuch as after viewing such movies etc. their minds are polluted and they instead of proving themselves to be a viable members of the society chose to lead a life of vulgarity and waywardness. In view of such sensitive nature of the issue, with acute pain in my heart, I venture to observe that the steps taken by the Government towards the blocking of such websites are deficient in nature and there is ample opportunity of improvement. Although different authorities/institutions have been established to have a check and balance on the material being presented on the Internet and then to scan the objectionable part thereof yet the output being delivered by the said institutions is not up to the mark, proof positive whereof is that hundreds of sites are presenting immoral, vulgar and objectionable material for the users in Pakistan. It is very sorry state of affairs that the said sites are being given easy access on cheaper rates on the pretext that due to blockage of said sites the users of Internet would be deprived of the benefits being availed by them. I may observe here that there is no denying of the advantages of the Internet but the same should not be at the cost of religious norms.

7. As necessary corollary to the discussion in the foregoing paragraphs the following guidelines are formulated for immediate and strict action by the respondents:--

- (i) that Inter Ministerial Committee constituted by the then Prime Minister in the year 2006 would keep a vigilant eye on the websites and in the eventuality of any objectionable material concerning the religious faith of any group would take prompt action before it reaches to the public-at-large and in case of failure the concerned persons would be taken to task while initiating disciplinary action against them and the government would also include some members from amongst the private persons in the said committee;
- (ii) that the Crisis Cell working in the Services Division ICT Directorate and Enforcement Division shall be used as a tool to unearth such material and to block the relevant websites/URL forthwith and in case of failure stern action be taken against the delinquents;
- (iii) that the government shall also see the viability of permanent blocking of the websites involved in unethical, unIslamic and illegal activities in the event that such material is against presented on Internet;
- (iv) that the government shall strive for legislation in this regard on the lines already adopted by other Islamic countries in addition to China;
- (v) that the government shall impart awareness amongst the public through different modes e.g. print and electronic media regarding use and misuse of such like websites; and
- (vi) that in case of repetition the government shall sue concerned authorities before the appropriate forums.

With the observations made above this writ petition is disposed of.

M.A.K./J-13/K Order accordingly.

;