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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5792/2020

SYED MUJTABA ATHAR & ORS. Petitioners
Through Mr.Shadan Farasat, Mr.Bharat
Gupta, Mr.Shourya Dasgupta, Advs.

versus

THE UNION OF INDIA THR. THE SECRETARY, MINISITRY
OF INFORMATION AND BROADCASTING & ORS.

..... Respondents
Through Mr.Anurag Ahluwalia, CGSC, UOI
with Mr.Abhigyan Siddhant, Adv. for
R-1.
Mr.Bijender Singh, Ms.Vriddhi
Arora, Advs. for R-3-4.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **29.08.2020**

This hearing has been held by video conferencing.

WP(C) 5792/2020 & CM 21140/2020 (for vacation of stay order dated 28.08.2020 on behalf of R-3-4)

1. The present application has been filed seeking vacation of the interim order passed by this Court on 28.08.2020 restraining the telecast of the programme titled 'Bindas Bol' which was scheduled to be telecast on 28.08.2020 at 8.00 p.m. by the respondent no 3.
2. The application is premised on the order dated 28.08.2020 passed by the Supreme Court in WP(C) No.956/2020 titled, *Firoz Iqbal Khan vs. Union of India & Ors.* The learned counsel for the respondent no. 3 and 4 submits that in the above petition filed on similar allegations, the Supreme

Court had refused to restrain the telecast of the programme, observing that a prior restraint on publication or airing of views cannot be granted.

3. I have considered the submissions made by the learned counsel for the respondent nos.3 and 4.

4. From a reading of the order passed by the Supreme Court, it appears that the petitioners therein had placed only a transcript of a clip of forty-nine seconds before the Supreme Court. The Supreme Court observed that the same having remained unverified, the Court has to be circumspect in imposing a prior restraint on publication or the airing of the views. The observations of the Supreme Court are found in paragraph 8 of the order, which is reproduced hereinunder:

“8. At this stage, we have desisted from imposing a pre-broadcast interlocutory injunction on the basis of an unverified transcript of a forty nine second clip. The Court has to be circumspect in imposing a prior restraint on publication or the airing of views. We note that under statutory provisions, competent authorities are vested with powers to ensure compliance with law, including provisions of the criminal law intended to ensure social harmony and the peaceful coexistence of all communities.”

5. In the present application, however, the respondent nos.3 and 4 admit the veracity of the video clip that was played before this Court. *Prima facie*, I find the same to be in violation of the Programme Code set out under the Cable Television Networks (Regulation) Act, 1995 (hereinafter referred to as the ‘Act’).

6. As noted in the order dated 28.08.2020 of this Court, the Central Government has already issued a Notice to the respondent nos.3 and 4

seeking clarification on the program in the context of the Programme Code.

7. The Supreme Court in its order dated 28.08.2020 has further observed that under the statutory provisions, competent authorities are vested with powers to ensure compliance with law. One such law would be the Cable Television Network Act.

8. Section 5 of the Act prohibits any person from transmitting or re-transmitting, through a cable service, any programme which is not in conformity with the prescribed Programme Code.

9. Section 19 of the Act empowers the Authorised Officer to prohibit any cable operator from transmitting or re-transmitting any programme if it is not in conformity with the prescribed Programme Code referred in Section 5 of the Act.

10. Similarly, Section 20(2) of the Act empowers the Central Government to prohibit the transmission or re-transmission of any channel or programme, if it thinks it necessary or expedient to do so, in the interest of 'public order, decency or morality'.

11. Section 20(3) of the Act empowers the Central Government to prohibit the transmission or re-transmission of any programme, which is not in conformity with the prescribed Programme Code referred to in Section 5 of the Act.

12. As the Central Government has already initiated an exercise to consider, by issuing a Notice to the respondent nos.3 and 4, whether the program in question violates the Programme Code, this Court refrains itself from making any further observations on the merits of the claim made by either party.

13. The present application and the petition are therefore, disposed of

directing as under:

- a) The respondent nos. 3 and 4 shall file their reply to the Notice with the Central Government. The learned counsel for the respondent nos.3 and 4 submits that the reply will be filed by 01.09.2020;
- b) The Central Government shall decide on its Notice within 48 hours of the receipt of the reply from the respondent nos.3 and 4, after giving them an opportunity of hearing in this regard;
- c) The Central Government shall decide on the Notice remaining uninfluenced by any observations made by this Court in the present order.
- d) Either party shall be entitled to challenge the order passed by the Central Government, if aggrieved thereby, in accordance with law.
- e) Till such decision by the Central Government, the respondent nos.3 and 4 shall not telecast/transmit the programme 'Bindas Bol' that was scheduled to be transmitted/telecasted on 28.08.2020 at 8.00 p.m.;

The date of 07.09.2020 shall stand cancelled.

There shall be no order as to costs.

A copy of this order shall be provided to the learned counsels for the parties on the e-mail addresses provided.

NAVIN CHAWLA, J

AUGUST 29, 2020
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