

# Making electronic media impartial

Dawn<sup>n</sup> 7-7-96 By Justice Dr Nasim Hasan Shah

WITH the normal general elections due not in the too distant future, it is appropriate to consider the role envisaged in the election process of the state-controlled media, by the law of the land.

This question arose during the run-up to the general elections of March 1977. It will be recalled that the main contest was between the Pakistan People's Party (PPP) and the Pakistan National Alliance (PNA), Mr Mohammad Aslam Saleemi, an Advocate, a tax-payer and an office-bearer of the Jamaat-i-Islami, which was one of the nine members of P.N.A, filed a writ petition in the Lahore High Court alleging that the radio and television stations, which were run and controlled by the Government of Pakistan, had not been acting impartially and fairly in projecting the news with regard to the election campaign of the alliance and had been evidently discriminatory and biased in favour of the ruling party, the PPP. The petitioner's prayer included issuance of direction to the respondent, to give equal time to the spokesman for the alliance, televise the names of the candidates of the alliance and refrain from expressing any views through their own commentators on the conduct of the election or on related issues.

The case was heard by a full bench of five judges and all of them expressed their opinions on the points raised. This writer, who was also a member of the bench, observed, inter-alia:

"The provisions of Section 10(1)(e) of the Pakistan Broadcasting Corporation Act (XXXII) 1973 and clause (2) of Article III of the Memorandum of Association of the Pakistan Television Corporation, are relevant in this context and require consideration. Section 10(1)(e) of the Pakistan Broadcasting Corporation Act provides that the function of the corporation shall be:

"To bring to public awareness the whole range of significant activities and to present news or events in as factual, accurate and impartial a manner as possible.

"Clause (2) of Article 3 of the Memorandum of Association of Pakistan Television Corporation Ltd, is in the following terms:

"To ensure that programmes telecast by the company from its each television station maintain a high general standard in all respects and in particular in respect of their content, quality, balance and wide range of the subject-matters, having regard to

However, the Federal Communications Commission dismissed the petition and, without a hearing, granted a conditional renewal of licence for one-year period. The protestors appealed and the Court of Appeals held that responsible representatives of the listening public have a standing as parties in interest to contest the renewal of a broadcasting licence.

"The court further held that the commission must hold an evidentiary hearing to resolve the public interest issue raised by claims of the broadcaster's racial discrimination, religious discrimination, oppressive over-commercialisation by advertising announcements, and violation of the fairness doctrine.

"The specific complaint of discrimination was to the effect that Black American individuals and institutions were given very much less television exposure than others and, that programmes were generally disrespectful towards the Black Americans. In other words, it was urged that the TV stations did not give a fair and balanced presentation of controversial issues.

"The court, accordingly, held that the grant of a renewal of a licence for one year was erroneous and remanded the case to the commission for decision afresh after allowing the protestors an opportunity to lead evidence.

"The judgment of the court was largely based on the fairness doctrine promulgated in 1949. The doctrine is explained in note 5 in the report of the above-mentioned case at page 999 in the following words:

"5. In promulgating the Fairness Doctrine in 1949 the commission emphasised the 'right of the public to be informed, rather than any right on the part of the government, any broadcasting licensee or any individual member of the public to broadcast his own particular views on any matter...' The commission characterised this

---

A bench of Lahore High Court had directed the PBC & PTV to maintain balance and fairness in their coverage of election campaign in 1997. It has not been upset or modified by any other court. It

balance and wide range of the subject-matters, having regard to programme as a whole.

"The perusal of the above provisions indicate that they enjoin on the two media that they should maintain impartiality and balance in the discharge of their functions.

"The question that arises is whether this obligation requires the said media to provide 'equal time' to the activities of the two major participants in the elections and otherwise require them to

any other court. It is high time the media started paying heed to the directions.

---

as 'the foundation-stone of the American system of broadcasting'. Editorialing by Broadcast Licensees. 13 F.C.C. 1246, 1249