

ORDER SHEET

**IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT**

Case No:

W.P. No.23306/12

Aalmi Majlis Tahaffiz-e-Khatam-e-Nabuwat

Versus

F.O.P. 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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19.09.2012.

Ch. Ishtiaq Ahmad Khan, Advocate.

Submits that on account of availability of blasphemous material on various websites, various laws of the country are being violated. Further, the specific directions issued by this Court in the judgment reported as 2012 CLC 1300, have not been implemented, which has resulted in continued availability of blasphemous material on the websites and in the open market, which has deeply distressed the entire nation. Adds that the directions issued in PLD 1991 F.S.C. 10 have not been implemented despite lapse of about 21 years. He maintains that the blasphemous material in the form of CDs relating to the lives of various other prophets are easily available in the market and no action is being taken against persons, who are involved in production and sale of such CDs and other material. Points out that PEMRA being the regulatory authority is required to take action against cable operators, who are televising such material. It has also been noted that the Hon'ble Supreme Court of Pakistan has issued a direction to PTA to block such websites, however, owing to the importance of the issue and the fact that various other reliefs, have

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been sought through this petition. It is submitted that notice is liable to be issued to the respondents.


2. The submissions need consideration. Let notice be issued to respondents No.1, 2, 6 & 7, who shall file parawise comments to reach this Court within 03 weeks. Notice shall also be issued to the Attorney General for Pakistan in terms of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 to assist this Court. To come up on 05.10.2012.

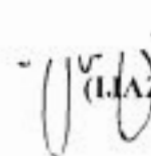
C.M.No.1/2012.

3. Allowed, subject to all just and legal exceptions.

C.M.No.2/2012.

4. Notice for the aforesaid date. In the meantime PEMRA shall ensure that appropriate steps are taken in accordance with law to ensure that CDs of blasphemous material including those involving lives of other prophets of God are not sold in the market. It shall further ensure that cable operators shall not air/display any blasphemous content through cable networks.


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(IJAZ UL AHSAN)
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In Case No. WP 2330/11

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Examiner: JIS (Writ Branch)
Lahore High Court, Lahore.

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Qanun-e-Shahadat Order, 1984

Almi Majlis Tahaffiz-e-Khatam-e-Nabuwat

Federation of Pakistan etc.

05.10.2012. M/s Ch. Ishtiaq Ahmad Khan and Rai Bashir Ahmad, Advocates for the petitioner.
Mr. Faisal Zaman Khan, Addl. Advocate General along with Barrister Mahrukh Jameed for PTA.
Mr. Zia Shahid Waseer, Advocate for PEMRA.

The representatives of PTA and PEMRA have entered appearance. They submit that they have retained counsels and instructed them to file comments in this Court. However a few time is required to draft and submit the parawise comments. Let the needful be done with advance copies to the learned counsel for the petitioners within two weeks.

2. The learned counsel for the petitioner has placed on record a list of internet links, which indicate that there are certain sites where blasphemous material is still available. A copy of the said list has been handed over to the representative of PTA, who shall look into the matter and ensure that such are blocked. The representative of PTA has submitted that PTA has already blocked 19000 sites and is in the process of blocking other sites where blasphemous material is available. In filing their parawise

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comments, the respondents shall also provide information regarding the steps taken so far to implement earlier orders passed by the court. The report shall also provide information as to what technical support, equipments, software, hardware etc. are required for the said purpose and if such support and know how is available presently or can be made available from sources outside the country. The report shall also provide information regarding the technical expertise presently available with PTA in order to achieve the aforesaid objectives. The report shall also apprise this Court all the steps taken to implement the judgment passed by this Court reported as 2012 CLC 1300.

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Lahore High Court, Lahore

3. The learned counsel for the petitioner may also identify and inform PTA about any other sites which according to his information contain objectionable material..


4. The learned counsel for PEMRA submits that PEMRA has not so far been able to identify cable operators, who may be airing blasphemous material.

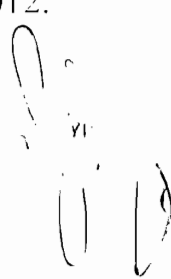
5. The learned counsel for the petitioner states that Piyam T.V. Channel is airing blasphemous

material in its telecasts in violation of the orders of this Court. The PEMRA shall take steps to ensure that blasphemous material is not telecast on any T.V. Channel.


6. The report shall also apprise this Court of the steps taken for the implementation of the earlier judgment of this Court as well as the steps taken since the order dated 19.09.2012 of this Court. The learned counsel for the petitioner may move an appropriate application regarding further steps required to be taken by the law enforcement agencies to ensure that sale of CDs and other material containing blasphemous content is stopped.

7. Adjourned to 22.10.2012.


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Form No:HCJD/C-121

ORDER SHEET

**IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT**

W.P.No.23306 of 2012.

Case No:

Aalmi Majlis Tahaffuz-e-Khatam-eNabuwat

Federation of
Pakistan.

Versus

S. No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties' counsel, where necessary.
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07.11.2012.

Ch. Ishtiaq Ahmad Khan, Advocate for the petitioner
alongwith Rai Bashir Ahmad, Advocate.
Khawaja Abrar Majal, Advocate for the petitioner in
W.P.No.24817 of 2012.
Mr.Azhar Siddique, Advocate for the petitioner in
W.P.No.9635 of 2011.
Mr.Zia Shahid Waseer, Advocate for PEMRA.
Ms. Reema Asad Munir and Mahrukh Hameed, Advocate
for PTA.
Mr. Nasim Kashmiri, Deputy Attorney General.
Malik Karamat Ali Awan, Standing Counsel.

Initial arguments of the learned counsel for the
parties have been heard. Parawise comments have also
been filed on behalf of PTA, PEMRA and Ministry of
Foreign Affairs. Let the learned counsel for the
petitioners examine the same.

2. Since notice has also been issued to the learned
Attorney General for Pakistan Mr.Nasim Kashmiri,
Deputy Attorney General has appeared on behalf of the
Federation. He shall also file parawise comments to the
petition.

3. After hearing the learned counsel for the parties, I
am inclined to issue the following direction at this stage:-

i) *The petitioners shall place all relevant information
and data in the form of a memorandum spelling out the
mechanisms and procedures required to be adopted to initiate
a processes which may ultimately lead to international
legislation in the form of UN/OIC resolutions and*

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international treaties relating to interfaith harmony and declaring the act of blasphemy as an International Criminal Offence.

ii) PTA shall identify the names of Service Providers by way of a Civil Miscellaneous Application whereafter notices shall be issued to said Service Providers to arrange representation before this Court to understand various technical aspects involved in installation of filtration equipment for the purpose of identifying and filtering blasphemous material on the Internet.

iii) It has been pointed out that blasphemous material is still being sold in the form of CDs at different locations and various Television Channels including Payam TV are airing blasphemous material. In terms of order dated 05.10.2012, direction is issued to the Law Enforcement Agencies to take steps to ensure that selling of blasphemous CDs and other material containing blasphemous contents is stopped and airing of offending material is not only stopped but appropriate action under the law is taken against Channels violating the aforesaid order.

iv) Report shall be submitted by the Law Enforcement Agencies on the next date of hearing relating to actions, which have been taken in compliance with various orders passed by this Court from time to time. The Inspector General of Police Punjab and Director General FIA are directed to submit such reports. Duly authorized representatives of IG Police Punjab and D.G. FIA shall attend this Court on the next date of hearing alongwith all relevant record.

v) The learned Deputy Attorney General shall submit a report regarding the stage at which the Bill relating to Prevention of Electronic Crimes has reached in the process of legislation in view of the fact that according to the learned counsel, the said law would be helpful in addressing the issue agitated through this petition.

vi) The learned counsel for PEMRA has pointed out that after order dated 19.09.2012, PEMRA has written to all Cable Operators on 25.09.2012 to desist and refrain from telecasting any blasphemous material and films relating to lives of prophets. It has been pointed out that some of the TV Channels are still telecasting such material. The learned counsel for PEMRA is directed to ensure that the directions issued through letter dated 25.09.2012 are strictly implemented in letter and spirit, failing which appropriate action may be taken in accordance with law.

4. Let this matter be listed for hearing on 28.11.2012.

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IN THE LAHORE HIGH COURT, LAHORE

For Private Use

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Lahore High Court, Lahore

Writ Petition NO. 23306 /2012

Aalmi Majlis Tahaffuz-e-Khatam-e-Nabuwat, 5 Hussain Street Muslim Town Lahore, Secretary Information Mr. Aziz Ur Rehman Sani.

PETITIONER

VERSUS

1. Federation of Pakistan through its Secretary Establishment, Government of Pakistan, Islamabad.
2. The Secretary, Ministry of Foreign Affairs, Government of Pakistan, Islamabad.
3. The Secretary, Ministry of Interior, Government of Pakistan, Islamabad.
4. The Secretary, Ministry of Information and Technology (IP & Telecom Division), Islamabad.
5. The Secretary Cabinet Division, Government of Pakistan, Islamabad.
6. Pakistan Telecommunication Authority (PTA) through its Chairman PTA Headquarter, F-5, Islamabad.
7. Pakistan Electronic Media Regulatory Authority through its Chairman, Islamabad.
8. The Zonal Director Enforcement, Pakistan Telecommunication Authority, Regional office at Lahore.



RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973

Respectfully Sheweth:-

1. That the addresses of the parties given in the title of the this petition are true and correct for the purposes of effecting their services through the process of this Hon'ble Court.

2. That the brief facts giving rise to file the instant writ petition are that Aalmi Majlis Tahaffuz-e-Khatam-e-Nabuwat is working for welfare and uplift of the constitution along with the Islamic Injunctions as enshrined in Quran and Sunnah and the instant petition is being filed through Mr. Aziz Ur Rehmani Sani, duly authorized by the forum and is well versed with the facts of the case.

3. That the core issue involved in this matter is the publication and advertisement of blasphemous material which is viewed as a deliberate and reckless attempt to malign the very Holy and Sanctimonious stature of Prophet of Islam, Hazrat Muhammad (PBUH) on the facebook and production of a movie namely "Innocence of Muslims" which has deeply hurt and emotionally injured individuals and collective sentiments of hundreds of millions of Muslims not just living in the geographical territory of Islamic Republic of Pakistan. Keeping in



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view, this deeply sensitive and emotional attachment the majority population of Islamic republic of Pakistan experiences toward the Prophet of Islam. A large number of protests and processions are lodged throughout Pakistan and whole of the Islamic World is much worried about the blasphemous material which is put upon the facebook and the movie as mentioned earlier produced, published and made available on the facebook and other websites. The copies of the blasphemous material are enclosed with this petition and is expected to be kept secret not to hurt the sentiments of the Muslims as Annexure 'A'.



4. That earlier to this, an effort was made by Terry Jones an American SHATAM-E-RASOOL to float a competition (تعوذ بالله) to destroy and damage the honour, respect and greatness of the Holy Prophet (PBUH) and against the said blasphemous material, writ petition No.10392/2010 titled as Islamic Lawyer Movements VS Federation of Pakistan and others was filed wherein this court issued the direction to block the said facebook permanently and also directed the respondents to monitor, control and implement, guidelines regarding access to search blasphemous and objectionable contents available over the internet

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should be submitted to this court in a detailed, comprehensive and written format and further measures be opted to stop permanently such type of publications. Copy of the order dated 31.05.2010 is attached as Annexure 'B'.

5. That the movie (innocence of Muslims) is supported by the US and is aimed for igniting the sentiments of the Muslims using different tactics. The Ummat-ul-Muslimeen lodged a range of protest and processions against the US Ambassador and other Western countries taking part for publication of such blasphemous materials and production of the Movie and demanded the expulsion of US Ambassador from the Muslim Countries specially from Pakistan or to be tried under Chapter 5 of PPC which deals with the offences relating to Religion. It is worth mentioning here that after defeat in Afghanistan & Iraq, this is the reactions of the Western who want to take a revenge from Muslims through such things for which so called civilized society should be ashamed of going to lowest ebb to achieve its nefarious goals.



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6. That it is the time of test, especially for the Muslims and generally the so-called non government organizations (NGOs) which always raised the issue of

interfaith harmony, they should come forward and ask America and other western countries involved in such type of pathetic issues, either it is interfaith harmony or creating hatred among different religions.

7. That the production of film (innocence of Muslims) and publication of blasphemous material available on the websites and facebook clearly comes within the ambit of the offences relating to religions and amounts to derogatory remarks in respect of the Holy Prophet (PBUH) for which section 295-C inserted by the Act III of 1986 which deals with the use of derogatory remarks in respect of Holy Prophet Muhammad (PBUH) which is reproduced as under:-



Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine".

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It is further added that by virtue of section 298-B, prohibition is given to misuse of description entitle, other than a Caliph or Companion of the Holy Prophet who are also liable for the punishment within imprisonment.

8. That the contempt of Holy Prophet (peace be upon him) being an intentional or reckless wrong in which the mensria amounted to intention, purpose, designs or at-least foresight, would attract the penalty of HADD and accused of such offences are liable to death sentence as mentioned earlier.

9. That it is held by the Honourable Federal Shariat Court in case of Muhammad Ismail Qureshi VS The Federation of Pakistan through Secretary Law and Parliamentary Affairs etc in Shariat Petition No.6/L/1987 reported as PLD 1991 FSC 10 that use of derogatory remarks etc in respect of Holy Prophet Muhammad (Peace Be Upon Him) even the alternate punishment of life imprisonment as provided in section 295-C PPC being repugnant to the injunctions of Islam as given in Holy Quran and Sunnah and it was directed that word life imprisonment be deleted from section 295-C with the further direction that a clause may further be added to section 295-C so as to make the same acts or things when said or done about other Prophets also offence with the same punishment on 30th April 1991.



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10. That as mentioned in verse No.13 of Surah ANFAAL and verse No.65 of Surah Al-Nisaa and verse No.61 of Surah Ahzaab,

یعنی اللہ اور اس کے رسول ﷺ کے گستاخ ملعون جہاں پائے جائیں پکڑ لیے جائیں اور
برے طریقے سے ٹکڑے کر دیئے جائیں

In this context, reference may be made the event of KAAB BIN ASHRAF a Jew, at the time of Madni Life, the Holy Prophet (Peace Be Upon Him) ordered for the murder of KAAB BIN ASHRAF a Jew, and said that he has not only violated the agreement but also abuses to the Holy Prophet (PBUH) and used derogatory words in the honour of Holy Prophet Muhammad (Peace Be Upon Him) and now the time come to curb the activities of the Western Worlds and USA who are continuously publishing the blasphemous material on the websites, facebook and using the publication in print media as well.



It is worth mentioning here that the person who have already produced, published the movies upon the other prophets (AS) like Hazrat Yousaf (AS), Hazrat Suleman (AS), Hazrat Esa (AS) are also liable to be tried under section 295-C PPC and their productions, publications, spreading throughout the world specially in Pakistan be banned and any cable operator, tv channels and any website publishing the same in Pakistan are to be tried in the competent court of Law. The such movies made upon the Prophets through actors

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and actresses showing them as Prophets and by using derogatory remarks comes within the ambit of KUFR. Copies of published material are attached as Annexure 'C'.

11. That the petitioner in this respect approached to Mufti of every sect like Bralvi, Deobandi and Ahl-e-Hadith who categorically issued FATAWAs that the persons involved in producing the films upon the life of ANBIYA (AS) making dramas, pictures through the actors and the actresses comes within the ambit of TAUHEEN ANBIYA (جو کہ کفر ہے) and the persons involved in publishing through cable and television are also required to say KALMA for re-embarrassing the ISLAM and the persons involved in making films and dramas upon the companions of the Holy Prophets are required to TAUBA and in the next be restrained from such things. The copies of the FATAWAs issued are attached herewith for ease of reference and necessary directions as Annexure 'D'.



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12. That the respondents although have constituted inter ministerial committee for the evaluation of websites at the receipt of an information to evaluate the report for blocking of the websites either at IP level or URL but it is much shameful for them that all the above

mentioned blasphemous material are available on the websites and facebook and nothing has been done by them to block the same or to take stern action against the persons involved, hence, the kind indulgence of this Honourable Court is required to pronounce an authoritative judgment upon such sensitive issue.

13. That it is the primary duty / responsibility of the respondents to take care, respect and regards the sentiments and religious emotions of the users of the facebook and websites including Muslim and Non Muslims and to ensure that no one should be allowed to insult the religious believes of others but the production of such movie and blasphemous material on the websites and facebook is in utter violation of the injunctions of Islam as enshrined in Quran and Sunnah along with the International Regulations regarding the publication of blasphemous contents and the United National Resolution on Combating defamation of religions'' No.62/154 as per the official data available regarding this resolution on the United Nation Portal came into force on 18.12.2007. This resolution came into final structure vide a resolution ''A/C 3/62/L.35, available at the United Nation Portal dated 20th November 2007'' and thus passing the



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Chief Executive Officer
Lahore High Court, Lahore

resolution and making it part of International Law Regime. The genesis of this resolution, combating of defamation of religion, which deals with laws governing the effective control of Anti Religious Materials publication in the individual countries had its origins in the year 1999 of the organization of Islamic Countries (OIC) Conference which has been highlighted in the General Assembly of United Nation as well for the enlightenment to the world regarding the deeply sentimental and sensitive perspective of the majority population regarding publications of anti religious and blasphemous contents. Copies of the resolutions are attached herewith as Annexure 'D'.



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14. That it is pertinent to mention here that at present a number of Muslim Countries, like Saudi Arabia, UAE have already imposed complete ban on such type of website due to their immoral and illegal activities and even China a Non Muslim Country has also imposed complete ban upon such type of websites facebook and printing, publishing thereof.

15. That the Aalmi Majlis Tahaffuz-e-Khatam-e-Nabuwat is working as safeguard to protest, Unholy, Unconstitutional and unlawful activities towards the Constitution, the laws of the country and Islamic Injunctions and values

represented to the respondents to stop the such websites working against the feelings and emotions of the Muslims in Pakistan but the respondents failed to do the needful.

16. That the petitioner has got no other alternate, efficacious, speedy and adequate remedy available to him under the law except to invoke the constitutional jurisdiction of this Honourable Court.

P R A Y E R

In view of the above submission it is most humbly prayed that the respondents be directed:-



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Lahore High Court, Lahore

1. To block the anti Islamic contents on websites and all the blasphemous materials available on the websites be confiscated so that the sentiments of the petitioner and Ummat-ul-Muslimeen be not heard.

2. To impose complete ban on the publication of movie (innocence of muslims) showing the life of our Holy Prophet Muhammad (PBUH) in an illegal manners hurting the sentiments of muslims.

3. To take punitive action as per law of the country against the persons involved in such type of the activities and the

respondent No. 2 may kindly be directed to incorporate the names of other Prophets in Section 295-C as directed by the Federal Shariat Court and the persons involved in producing, publishing and making films showing on television and cables upon the life of all the prophets and companions of the Holy Prophet be tried under section 295-C and 298-B PPC.

4. A direction may also be issued to the concerned authorities for registration of the case against the persons involved in such type of activities in Pakistan, in the interest of justice, equity and fair play.

5. The respondent PTA may further be directed to block the websites either at IP level or URL permanently and monitor the same continuously so that such type of blasphemous be not made available on the said websites and a joint investigation Team be constituted to probe into the issue and to take necessary action against the culprits involved in this issue.

6. The Chairman PTA and PEMRA be summoned in the court and to be penalized for violating the directions already issued in writ petition No.10392/2010 and they are to be proceeded under article 204 of the constitution and section 3&5 of the Contempt Ordinance 2003.

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It is further prayed that any other relief this Honourable Court deems fit and proper may also be granted to the petitioner.

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PETITIONER

Through

[Handwritten Signature]

CH. ISHTIAQ AHMAD KHAN
Advocate Supreme Court
13-Fane Road, Lahore
C.C.NO.P-LH-15102

CERTIFICATE:

As per instruction of the client this is the first writ petition in this Honourable Court by the petitioner.

That the petitioner has no other efficacious remedy except to invoke of the constitutional jurisdiction of this Honourable Court.

[Handwritten Signature]

ADVOCATE



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Petition No..... *24706*

Case No.....

Date of Presentation of Application..... *13/10/12*

Copy Fee.....

Urgent Fee.....

Registration Fee.....

Court Fee in Application.....

Total.....

Name of Copies.....

Date of Receipt of File.....

Date of Completion of Copy.....

Date of Delivery of Copy..... *13/10/12*

13.10.12

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IN THE LAHORE HIGH COURT, LAHORE.

C.M. No. _____/2012

IN

Writ Petition No. _____/2012

Aalmi Majlis Tahaffuz-e-Khatam-e-Nabuwat

VERSUS

Federation of Pakistan etc

APPLICATION UNDER SECTION 151 CPC FOR
DISPENSATION.

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Lahore High Court, Lahore

Respectfully Sheweth:-

1. That the petitioner has today filed the accompanying writ petition in this Hon'ble Court.
2. That presently certified copies of annexures are not available. However uncertified copies of the same are being appended for kind perusal of this Hon'ble Court.
3. That the petitioner undertakes to provide certified copy of Annexures as the same become available.

It is, therefore, humbly prayed that the petition may kindly be entertained in the interest of justice without certified copies of the Annexures.

PETITIONER

Through

CH. ISHTIAQ AHMAD KHAN

Advocate Supreme Court

13-Fane Road, Lahore

C.C.NO.P-LH-15102

IN THE LAHORE HIGH COURT, LAHORE

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C.M. No. _____ 2 / 2012
IN

Writ Petition No. _____ / 2012

Aalmi Majlis Tahaffuz-e-Khatam-e-Nabuwat
VERSUS
Federation of Pakistan etc

APPLICATION UNDER SECTION 151 CPC
FOR THE GRANT OF STAY

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Lahore High Court, Lahore

Respectfully sheweth:

1. That the accompanying writ petition is being filed before this Hon'ble Court in which no date of hearing has been fixed so far.
2. That the contents of the accompanying writ petition may kindly be read as integral part of this petition.
3. That the petitioner has prima facie a very good arguable case in his favour and there is every likelihood of her success.
4. That the balance of convenience also lies in favour of the petitioner.



5. That if the respondent PTA is not directed to block the websites either at IP level or URL permanently and not monitor the same continuously, the petitioner shall suffer an irreparable loss and injury.

It is therefore, most respectfully prayed that the respondent PTA may further be directed to block the websites either at IP level or URL permanently and monitor the same continuously so that such type of blasphemous be not made available on the said websites and a joint investigation Team be constituted to probe into the issue and to take necessary action against the culprits involved in this issue, in the interest of justice, equity and fair play.



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Petitioner

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Through

[Signature]
CH. ISHTIAQ AHMAD KHAN
Advocate Supreme Court
13-Fane Road, Lahore
C.C.NO.P-LH-15102