

**IN THE SUPREME COURT OF PAKISTAN**

(Original Jurisdiction)

**Present:**

**Mr. Justice Jawwad S. Khawaja  
Mr. Justice Dost Muhammad Khan**

**CMA No.1656 of 2015 in Civil Petition No.2133 of 2014**

(Application of Asad Kharal against NAB)

Applicant: In person.  
For the Federation: Mr. Aamir Rehman, Addl. AGP  
For NAB: Mr. Waqas Qadeer Dar, PG  
Mr. Akbar Tarar, Addl. PG  
Mr. Fauzi Zafar, DPG  
Date of hearing: 22.07.2015

**ORDER**

**Jawwad S. Khawaja, J.-** We have given a lengthy hearing to this matter today. At the very outset the learned Additional Prosecutor General, NAB acknowledged that 29 major scams (details of which have been mentioned in CMA-4619/15) involving an amount of approximately rupees 500 billion were not reported to the Court earlier. The learned Additional Prosecutor General states that through a letter No.108/Cn. Misc./14/2015/01 dated 27.07.2015 the competent authority in the NAB Headquarters has taken a serious view of the lapse on the part of the four senior functionaries of NAB and has sought a report within seven days. In view of the importance of this letter, the same is reproduced as under:-

*"Subject: Submission of List of 150 Mega Corruption Cases in Supreme Court of Pakistan*

*The subject list was submitted in the SCP vide CMA No.4366 dated 10<sup>th</sup> July, 2015. The list was prepared from the cases provided by the Regional NABs who are the custodians of the cases in their respective jurisdictions. A detailed scrutiny of the list indicated that some major cases in the categories of Financial Scams. Land grab & Misuse of Authority were not reported. Conversely some cases of insignificant values have been provided. A supplementary CMA had to be submitted to give a fuller picture in the honourable Court.*

- 2. The competent authority in the NAB HQ has taken a serious view of the lapse on your part. An inquiry be carried out regarding the omission at your end.*
- 3. Report be submitted in 7 days for information of Competent Authority*

-Sd-

(Syed Khalid Iqbal),  
Director General (Operations)

1. Col. (R) Siraj ul Naeem  
Director General, RNAB, (Karachi)
  2. Syed Burhan Ali,  
Director General, RNAB (Lahore)
  3. Major (R) Tariq Mehmood Malik,  
Director General, RNAB (Balochistan)
  4. Mr. Zahid Shah, Director General, RNAB (Rawalpindi)"
2. The federal government was asked previously as to the action, if any, it proposes to take and also to state if the government has knowledge/information about the workings of NAB. Mr. Aamir Rehman, the learned Additional Attorney General for Pakistan has firstly stated that the federal government was unaware of any shortcomings or absence of due diligence within NAB. The reason given by him was that NAB is an independent statutory body and is not required to report to the federal government. We have found this submission to be strange. Firstly, it is to be noted that NAB has been created through legislation called the National Accountability Ordinance, 1999. Section 6(b)(i) of the same stipulates that "*there shall be a Chairman NAB to be appointed by the President in consultation with the Leaders of the House and the Leader of the Opposition in the National Assembly...*".
3. What we understand from the submissions of the learned Additional Attorney General is that after making the appointment of Chairman NAB it is not for the government to keep a tab on the workings of NAB. The learned Law Officer, however, stated that it is the Parliament which could take action. The Parliament we note can amend and if thought appropriate, even repeal the statute so we are not impressed by this submission made by the learned Law Officer. We may add that the leader of the House and the leader of the Opposition are heading the treasury and opposition in Parliament, and it is for them to firstly ascertain if NAB is performing its functions in accordance with the statute and if considered appropriate take further action including, where necessary, or propose an amendment in the statute.
4. Secondly, it became evident from the submission of the learned Additional Attorney General that in the government there was no feeling that it was necessary to gather information about the workings of NAB. At this point, the learned Law Officer stated that it was for the people to take action against NAB and they can do so through their chosen

representatives. We may add that the chosen representatives of the people are members of the two Houses and the consultees of the President in the matter of appointment of Chairman NAB which are the leaders of the House and of the Opposition in the National Assembly. The learned Law Officer acknowledged that the said leaders were also the chosen representatives of the people who could initiate such action.

5. Thirdly, after hearing the learned Additional Attorney General and the learned Additional Prosecutor General NAB, we gather that there appears to be satisfaction on the part of the federation that nothing further is to be done including possible amendment in the National Accountability Ordinance (NAO). He should confirm if this indeed is the case and file a report on the basis of instructions from the government and its senior most/responsible functionaries.

6. Fourthly, we may mention that we had asked NAB to provide a breakdown of the amount of rupees 262 billion which had been statedly recovered by NAB on the basis of voluntary return (VR) or plea bargain (PB). We have been informed by the learned Addl. PG NAB that these details for the cases relating to the year 2008 till date have been uploaded on the website of NAB during the preceding night. We, however, have pointed out to the learned Additional PG that there should be two further columns in the given chart; one mentioning the total amount given in the complaint and the other column indicating the amount determined after investigation. The learned Addl. PG stated that this also shall be done if some time is allowed.

7. The applicant Mr. Asad Kharal drew the attention of the Court to NLC Scam of rupees four billion which is pending with NAB since 2011. The learned Additional Prosecutor General states that he shall submit a separate comprehensive report on this scam and other scams before the next date of hearing.

8. Re-list on **10.08.2015**.

**Judge**

**Judge**

Islamabad, The  
29<sup>th</sup> July, 2015  
M. Azhar Malik/\*