

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Ejaz Afzal Khan
Mr. Justice Ijaz Ahmed Chaudhry
Mr. Justice Gulzar Ahmed
Mr. Justice Muhammad Ather Saeed

Criminal Miscellaneous Application No. 486 of 2010 in Criminal Appeal No. 22 of 2002

<i>Adnan A. Khawaja</i>	<i>versus</i>	<i>... Appellant</i>
<i>The State</i>		<i>... Respondent</i>

Suo Motu Case No. 4 of 2010, Civil Miscellaneous Application No. 1080 of 2010, Civil Miscellaneous Applications No. 1238 and 1239 of 2010

(Suo Motu action regarding appointment of convicted person namely Ahmed Riaz Sheikh (NRO Beneficiary), as Additional Director General, Federal Investigation Agency)

Civil Miscellaneous Application No. 1253 of 2010 in Sua Motu Case No. 4 of 2010

(Report submitted in Court by Attorney-General regarding Fact Finding Inquiry in the case of Missing Letter No. PS/DG/FIA/2009/5047-49 dated 17.11.2009)

Civil Miscellaneous Application No. 1254 of 2010 in Sua Motu Case No. 4 of 2010

(Additional Documents comprising of Interim Report filed by Secretary Law dated 04.04.2010, pointes formulated by Secretary for Hon'ble Court, Advice of Former Attorney-General and Authorization letter in favour of Mr. Hassan Wasim Afzal, Joint Secretary of Ehtisab Bureau dated 20.05.1998)

Civil Miscellaneous Application No. 3222 of 2012 in Sua Motu Case No. 4 of 2010

(Application filed by Mr. Muhammad Ismail Qureshi)

Civil Miscellaneous Application No. 3242 of 2012 in Sua Motu Case No. 4 of 2010

(Application filed by Muhammad Ahsan Raja)

**Civil Miscellaneous Application No. 3545 of 2012 in Suo Motu
Case No. 4 of 2010**

(Application for impleadment as party)

On behalf of National Accountability Bureau:	Mr. Shaiq Usmani, Sr. ASC, Mr. K.K. Agha, Prosecutor-General, Accountability Mr. Akbar Tarar, Addl. PG. NAB Mr. Fauzi Zafar, Addl. PG. NAB Mr. Ilyad Qamar, Dy. Director Sheikh M. Shoaib, Dy. Director Mr. Mohsin Ali Khan, Asst. Director
For the respondent:	Mr. Wasim Sajjad, Sr. ASC Mr. Muhammad Ibrahim Satti, Sr.ASC (<i>in Cr.M.A. 486 of 2010</i>) Mr. Wasim Sajjad, Sr. ASC (<i>in CMA No. 3222 of 2012</i>)
For the applicant:	Mr. S.M. Zafar, Sr. ASC Ch. Akhtar Ali, AOR (<i>in CMA No. 3222 of 2012</i>) Mr. Muhammad Ibrahim Satti, Sr. ASC (<i>in CMA No. 3462 of 2012</i>) In person (<i>in CMA 3545 of 2012</i>) Nemo. (<i>in CMA 1253 of 2010</i>) Nemo. (<i>in CMA 1254 of 2010</i>) Mr. Shahid Kamal Khan ASC on behalf of the applicant. (<i>in CMA 3873/2012</i>)
For Ahmad Riaz Sheikh:	Dr. A. Basit, Sr. ASC
Date of hearing:	18.09.2012

ORDER

The learned Prosecutor-General Accountability has informed that separate References have already been filed before the Registrar of the Accountability Court, Rawalpindi/Islamabad in the matters pertaining to Mr. Ahmed Riaz Sheikh and Mr. Adnan A. Khawaja. He has also informed that in the matter of Malik Muhammad Qayyum the circumstances of the case showed that only an offence under section 9(a)(vi) of the National Accountability Ordinance, 1999 could be said to have been attracted but in his

opinion no such case is made out which opinion, after a detailed discussion, was agreed with by the Executive Board Meeting held on 17.09.2012.

2. We note that in this Court's judgment handed down in the case of Dr. Mubashir Hassan this Court had expressly concluded that the letters written by Malik Muhammad Qayyum to the Swiss and other authorities were "unauthorized and illegal" and, thus, we have been intrigued by the fact that the National Accountability Bureau has decided to take no action against him for such unauthorized and illegal action. In this view of the matter the learned Prosecutor-General Accountability is directed to produce before the next date of hearing a copy of his opinion as well as a copy of the decision taken by the Executive Board Meeting on 17.09.2012 in the matter of Malik Muhammad Qayyum. In the matters pertaining to Mr. Ahmed Riaz Sheikh and Mr. Adnan A. Khawaja we note that the beneficiaries of the illegal appointment/promotion as well as the persons directing such illegal appointment/promotion have *prima facie* been screened and no Reference has been filed against them whereas References have been filed only against those who had implemented the directions so issued. We would like to know the reasons which prevailed with the National Accountability Bureau for not filing any Reference against the beneficiaries and the persons directing the illegal appointment/promotion and for singling out merely those who had acted upon the said directions. Let, therefore, the learned Prosecutor-General Accountability submit separate reports in the matters of Mr. Ahmed Riaz Sheikh and Mr. Adnan A. Khawaja

pointing out the reasons, factual or legal, prevailing with the National Accountability Bureau for not filing any Reference against the beneficiaries and those who had directed the illegal appointment/promotion. The requisite reports should be filed with the office of this Court before the next date of hearing and copies of the same may be supplied to the learned counsel representing the concerned persons.

3. Mr. Shaiq Usmani, Sr. ASC has been representing the Chairman, National Accountability Bureau in the present proceedings and he has stated that his job has been accomplished and he has no further assistance to render in this regard and, therefore, he may be relieved of his duties of representing the Chairman, National Accountability Bureau henceforth. We note that the National Accountability Bureau is already being represented in the present proceedings through various officials of the said Bureau including the learned Prosecutor-General Accountability and his team. In these circumstances the request made by Mr. Shaiq Usmani, Sr. ASC is acceded to and he is relieved of his duties as counsel for the Chairman, National Accountability Bureau.

4. Adjourned to 25.09.2012.

Civil Miscellaneous Application No. 3873 of 2012

5. Let a copy of this miscellaneous application be sent to the learned Prosecutor-General, Sindh who is directed to submit a

report in respect of the allegations made in this miscellaneous application. The requisite report should reach this Court by or before the next date of hearing. Adjourned to 25.09.2012.

Judge

Judge Judge

Judge Judge

Islamabad
18.09.2012
Arif