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PESHAWAR HIGH COURT PESHAWAR
ORDER SHEET

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
<i>1</i>	<i>2</i>
03.04.2018	<p data-bbox="618 468 1073 506"><u>Writ Petition No. 886-P of 2018.</u></p> <p data-bbox="643 549 1393 632">Present: Syed Ghufanullah Shah, advocate for the petitioner alongwith petitioner.</p> <p data-bbox="805 670 1300 708">Mr. Umar Farooq, ADPG for NAB.</p> <p data-bbox="805 745 927 771">*****</p> <p data-bbox="618 859 1393 897"><u>WAQAR AHMAD SETH, J:-</u> Khalid Saleem</p> <p data-bbox="618 960 1393 1703">Marwat, hereinafter called the petitioner has invoked the writ jurisdiction of this Court under Article-199 of the Constitution of Islamic Republic of Pakistan, 1973 with the prayer of issuing a writ directing the respondents not to harass, humiliate and arrest the petitioner and to declare the call up notice dated 12.01.2018, as illegal, void ab initio and to exonerate him from the inquiry, so initiated by the respondents.</p> <p data-bbox="618 1766 1393 2207">2. On 16.02.2018, the case was fixed before the Court and petitioner was granted interim bail in the sum of rupees five lacs with two sureties and comments were called from respondents with the direction to the petitioner to join inquiry / investigation proceedings,</p> <p data-bbox="545 2169 594 2245"><i>h</i></p>

however, today, learned ADPG for NAB states that no warrant of arrest against the petitioner has been issued till date and only call notice in pursuance of inquiry was issued and that petitioner will not be arrested unless and until proper warrant of arrest is issued; and that too would be executed at his residence. Learned counsel for petitioner when confronted, he conceded.

3. Perusal of record suggests that respondents/NAB authorities in pursuance to investigation against Officer / Officials of Settlement Department & Revenue Department (KP) and other regarding misuse of authority in allotment of Land through RL-II No. 167 has taken cognizance of the matter and petitioner being Ex-DOR, Peshawar, has been issued call up notice dated 12.01.2018, under section 19 of the National Accountability Ordinance, 1999 for production of certain record and recording of statement regarding transfer / mutation of land measuring 5K-7M in khasra No. 166 Mouza Arazi Tukra No.1.

4. Section 19 of the NAO, 1999, whereunder notice has been issued to petitioner authorized the



Chairman NAB or an officer of the NAB duly authorized by him to call for information, which is reproduced for reference as under:-

“The Chairman NAB or an officer of the NAB duly authorized by him may, during the course of an inquiry or investigation of an offence under this Ordinance:-

- a). call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Ordinance or any rule or order made thereunder;
- b). require any person to produce or deliver any document or thing useful or relevant to the inquiry or investigation.
- c). examine any person acquainted with the facts and circumstances of the case,
- d). require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person whatsoever, including copies of entries made in a bank's or a financial institution's books such as ledgers, day books, cash books and all other books including record of information and transactions saved in electronics or digital form, and the keepers of such books or records shall be obliged to certify the copies in accordance with law and;
- e). where there is reasonable suspicion that any person is involved in or is privy to an offence under this Ordinance, the

Chairman NAB may, with the prior approval in writing of the High Court concerned, direct that surveillance of that person may be carried out through such means as may be necessary in the facts and circumstances of the case and the chairman NAB, may in this regard seek the aid and assistance of any Government agency and the information so collected may be used as evidence, in the trial under this Ordinance;

5. It is the power and prerogative of the NAB Chairman or for that matter an authorized officer to call for anyone, possessing the record or having certain information regarding inquiry / investigation, taken cognizance by the NAB and none should absolved their-self from such proceedings / providing information on the plea of harassment.

6. Even otherwise, the NAB Ordinance provides for the setting up of a National Accountability Bureau so as to eradicate corruption and corrupt practices and hold accountable all those persons accused of such practices and matters ancillary thereto. The National Accountability Bureau has also the power to intervene where it is expedient and necessary to provide for effective measures for the detection, investigation, prosecution and speedy disposal of cases involving corruption, corrupt



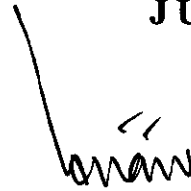
practices, misuse or abuse of power or authority, misappropriation of property, taking of kickbacks and commissions. In the cases of Shehnaz Begum vs The Hon'ble Judges of the High Court of Sindh and Baluchistan and another (PLD 1971 SC677), Brig: Imtiaz Ahmad vs Government of Pakistan through Secretary Interior Division and two others (1994 SCMR 2142) Muhammad Latif ASI Police Station Sadar, Sheikhupura vs Sharifan Bibi and another (1998 SCMR 666) and Anwar Ahmad Khan vs The State (1996 SCMR 24), the Hon'ble apex Court declined and even deprecated interference, when the case is in its investigative phase. This court or for that matter any other Court cannot step into stifle such proceedings which is primarily aimed to collecting data to find out the nature of liability. When the persons proceeded against shall have the maximum chance to put across their point of view before the NAB authority, it is neither fair nor legal to interfere during its analytical phase, that too; when there is nothing so far on the record to show any malice or mala fide on the part of the NAB. Therefore, we do not feel inclined to interfere with the inquiry proceedings initiated against the

petitioners in its initial stage.

7. For the reasons recorded hereinabove this writ petition is disposed of in above terms. Interim order dated 16.2.2018, is hereby recalled / withdrawn.



JUDGE



JUDGE