

Attempt to Reside from PB
NOL for reporting

1250

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-2117 of 2018.

DATE	ORDER WITH SIGNATURE OF JUDGE
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FRESH CASE.

1. For order on Misc. No. 9401/18. (U/App).
2. For order on office objection no.19 & 24.
3. For order on Misc. No. 7835/18. (Exp/App).
4. For order on Misc. No.9402/18 (Stay/App)
5. For hearing of main case.

26.03.2018

Mr. Munawar Alam Khan, Advocate for Petitioner.

1. Granted.
2. Deferred for the time being.
3. Exemption granted subject to all just exceptions.

4&5. By this petition, the petitioner (Mushtaq Ahmed Rajpoot) has prayed that the show cause notice dated 25.01.2018 issued to him by Government of Sindh, Public Health Engineering and Rural Development Department (the impugned notice) be declared without lawful authority.

6. Briefly stated the facts of the case are that the petitioner was serving as Executive Engineer, PHE Divn, Tando Allahyar when the National Accountability Bureau (NAB) conducted an inquiry under the National Accountability Ordinance, 1999 (NAO) against the petitioner and other contractors concerning 21 development schemes whereby whilst carrying out such schemes various acts of corruption were carried out which caused a loss to the exchequer. The petitioner entered into voluntarily return (V.R.) with the NAB for misappropriation amount of Rs.32,31,600/= under section 25 (a) of the NAO which was duly accepted by the NAB on account of his acts of corruption.

7. Learned counsel for the petitioner mainly submitted that the petitioner has not entered into V.R. of his own free will and that he had been coerced into doing so by the NAB as he was in the custody of the NAB and as such his VR should be set-aside and as such the impugned notice which had been issued to him on account of his alleged VR should also be set-aside.

8. On the other hand, learned Special Prosecutor NAB present in court in other cases contended that the petitioner had entered

inducement on the part of the NAB and that the petitioner was only now trying to wriggle out of his VR since it had now led to disciplinary proceedings being launched against him and as such his petition should be dismissed.

9. We have considered the submissions of learned counsel for the parties and scanned the record.

10. The signature of the petitioner on his VR is not disputed by the petitioner. What is disputed is the manner in which he had entered into the VR. According to him he was pressurized to do so by the NAB whilst according to the NAB this was not so and that the petitioner had entered into his VR of his own free will, without any coercion or undue influence on the part of NAB. We would like to initially point out that this seems to be a factual controversy which this court cannot resolve in its constitutional jurisdiction and on this count alone the petition can be dismissed. Even otherwise, it appears from the record that the petitioner was discharged from his liability on account of entering into his VR on 18.2.2016, however, he made no complaint to the NAB about his VR being made on account of coercion by NAB until 06.03.2018 which was over two years **after** he had entered into his VR with NAB and **after** he had received the impugned notice. In our view this chain of events clearly indicates that the petitioner entered into his VR with NAB on account of his own free will and without any influence or coercion by NAB and is only now attempting to resile from the same because departmental action has been taken against him, and other Government officials, who entered into VR based on the orders of Hon'ble Supreme Court of Pakistan. As such we find no merit in this petition which is hereby dismissed in limini. We would however observe that in reply to the impugned notice the petitioner would be free to raise any reason which he deems fit.

11. This petition stands disposed of in the above terms.