

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No.D-6188 of 2021

Present Before:

Mr. Justice Omar Sial

Mr. Justice Miran Muhammad Shah

- Petitioner** : Pakistan Petroleum Limited having its registered office at PIDC House.
Dr. Zia-ud-Din Ahmed Road, Karachi
through its authorized attorney.
Through Mr. Ijaz Ahmed, advocate.
- Respondent No.1** : Federation of Pakistan through Secretary
Finance Division, Ministry of Finance,
Govt. of Pakistan .
Through Mr. Dur Muhammad Shah,
Deputy Attorney General,
- Respondents 2&3** : National Accountability Bureau (NAB),
through the Chairman, Atta-turk Avenue,
G-5/2, Islamabad.
- Director General, NAB (Karachi) PRCSB
Building 197/5, Dr. Daudpota Road, Karachi.
Through Mr. Moazim Ali,
Special Prosecutor NAB.
- Date of hearing** : **23.10.2025.**
- Date of judgment** : **12.11.2025.**

J_U_D_G_M_E_N_T.

MIRAN MUHAMMAD SHAH, I.- The petitioner being aggrieved by the letter dated 12th July, 2021, issued by respondent No.2, i.e. the National Accountability Bureau (NAB) authorities sent to the Managing Director of the petitioner i.e. Pakistan Petroleum Limited (PPL) has filed this present petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973. In this petition, while challenging the impugned letter, the learned counsel for the petitioner has prayed that the said letter be declared illegal, unlawful and without jurisdiction. The petitioner further seeks a declaration that the impugned deduction of non-release of an amount of Rs.30,10,72,655/- being 25% of total amount recovered is illegal. The counsel has also sought a declaration of that non-transfer of the amount received from the accused within one month of its receipt is

illegal and without jurisdiction. Accordingly, the petitioner prays for a direction to respondents No.2 and 3 to release and transfer the remaining amount of Rs.301072655/- to the petitioner.

2. With such prayer, the learned counsel for the petitioner has built his case on the ground that the NAB filed Reference No.26 wherein an amount of Rs.1,20,42,90,619/- was determined as the principle amount owed by the petitioner to respondent No.2. The aforesaid Reference was assigned to the Accountability Court No.IV at Karachi for trial. During the course of the trial, one of the accused No.6 namely Mr. Kamran Iftikhar Lari, who was serving as the Chief Operating Officer of BPPL (Byco Pakistan Petroleum Limited), filed an application for plea bargaining before NAB. Such application was accepted by the NAB authorities and subsequently it was accepted by the Accountability Court No.IV at Karachi also. Resultantly, a total amount of Rs.1,29,29,66,602/- was received by NAB, which included the petitioner's principle amount of Rs.1,20,42,90,619/- as determined by NAB. However, as per the contentions of the learned counsel for the petitioner, the petitioner's amount of Rs.1,20,42,90,619/- though received by NAB through pay orders, was not released to the petitioner within one month of its receipt of the deposit, as required under Section 25(C) of NAB Ordinance, 1999. After much correspondence, respondent No.2 through its Additional Director (Co-Ordination) Operations vide letter dated 12th July, 2021 (the impugned letter) refused to release the remaining amount. Hence, this Constitutional Petition has been filed by the petitioner's counsel on the grounds that NABs claim that the remaining amount is its share as per rule, which is a contradictory claim, and is baseless, unfounded and therefore is legally untenable.

3. Learned counsel for the petitioner in his arguments has stated that the afore-mentioned amount is deducted without any legal basis. According to him section 25 of the NAB ordinance, the amount deposited by an accused with NAB is required to be transferred to the petitioner within 1 month of the receipt. As per the counsel the section doesn't authorize the NAB to either withhold the amount for more than a month nor it authorizes NAB to deduct any amount by keeping

the amount in NAB's account and by deducting 25% of the amount deposited by the accused. As per his contention NAB acted beyond their authority and the impugned deduction is without jurisdiction and nullified. Lastly he prays that since he has no other alternate adequate remedy available, therefore, the constitutional jurisdiction of this Court has been invoked pleading to allow all the prayer clauses of the petition. He further prays that in light of the case law as envisaged in case law PLD 2016 Balochistan page 69 and unreported order of this court passed in C.P. No. D 1465 of 2024 vide judgment dated 18/12/2024, this petition may be allowed as observations made in the case laws are identical to this case.

4. On the other hand, the learned DAG as well as the learned Special Prosecutor NAB have opposed the contentions raised by the petitioner and relied upon the documents and reports/comments filed on behalf of the respondents. They submit that the amount received by NAB under the ordinance is being deposited with the Ministry of Finance Government of Pakistan, which deducts 25% of the recovery amount for NAB while the remaining amount is delivered to the concerned government department. It is further contended that the 25% of the amount so deducted is being utilized in accordance with the NAB (Recovery and Reward) Rules 2002, for the NAB employees. Therefore, according to them, the said deduction has been made in accordance with law.

5. We have heard the counsel for the petitioner at length and so also, the contentions raised by the counsel of NAB and the learned DAG. We have also gone through the case law submitted before this court minutely. Before placing our observations, the relevant portions of the case law is reproduced as under for the brevity of the case. The relevant portion of case law PLD 2016 Balochistan 69 is as under:-

“9. After going through the above provisions of the NAB Ordinance which deals with the recovery of the amount voluntary or through plea bargaining, there is no Provision in the Ordinance allowing NAB or any other authority to retain any portion of the recovered amount. According to Section 10 of the Ordinance, the property moveable or immovable proved to be obtained through corruption, shall be forfeited to the appropriate

Government. With regard to the amount of corruption recovered through voluntary return or on account of plea bargaining, shall be transferred to the Federal Government or as the case may be, the Provincial Government etc., as provided by sub-clause, "C" of section 25 of the Ordinance. The Constitution provides financial procedure wherein, any amount received by or on behalf of the Federal Government or the Provincial Government shall be deposited in the public account of the Federation or the Province as the case may be. Thus it is very much clear that neither the Constitution nor the NAB Ordinance allows the Federal Government or the NAB to deduct any portion of the recovered amount. Rather there, is direction in Articles 78 and 188 of the Constitution, and in sub-clause "C" of Section 25 of the Ordinance to deposit the entire amount recovered on behalf of the concerned Government in its respective accounts, on whose behalf, the amount is recovered. Once the amount is deposited as per directions of the Constitution, the procedure for disposal of such amount has been elaborated in Articles 79, 80 and 81 of the Constitution with regard to Federation, whereas, in Articles 119, 120 and 121 of the Constitution with regard to Provinces. Any deduction out of such amount according to the directives and procedur  made by the Federal Government is therefore, contrary to the provision of the Constitution and the NAB Ordinance, hence the NAB authorities or the Ministry of Finance, Government of Pakistan are not authorized to deduct any amount from the amount so recovered in lieu of voluntary return or plea bargaining."

6. That reliance is also placed upon the unreported judgment of this Court vide judgment dated 18.12.2024 passed in Constitutional Petition No. D-1465 of 2024. The relevant portion of the said judgment is reproduced as under:-

"40. From the perusal of the above, the NAB Reward Rules are very much silent about when NAB authority can deduct a share from the recovered amount, however, Rule-4 is expressing only NAB will have the share in recovered amount approved by the Chief Executive. It means the NAB has no autonomous authority to deduct the amount directly from the recovered amount, whereas in accordance with statutory law NAB has to deposit the

whole recovered amount in National Exchequer. Hence, Section 25 (c) of NAO (supra) is very much clear in this regard.

41. Besides, Articles 77 & 78 of the Constitution of the Islamic Republic of Pakistan, 1973 provide that:-

Article 77. LEVY OF TAXES ----DELEGATION OF POWERS---
Legislature merely delegates powers to Federal Government so as to enable it to work out certain details and exercise its discretion in order to achieve object of the stature. Legislature, by no stretch, by no stretch of imagination abdicates its power and authority expressly provided under Article 77 of the Constitution.

Article-78. FEDERAL CONSOLIDATED FUND AND PUBLIC ACCOUNT ----(1)All revenues received by the federal government, all loans raised by that Government and all moneys received by it in repayment of any loan shall form part of a consolidated fund, to be known as the federal Consolidated Fund. (2) All other moneys (3) Received by or on behalf of the federal Government; or (4) received by or deposited with the Supreme Court or any other Court established under the authority of the Federation shall be credited to the public account of the federation.

42. Article 77 of the Constitution states that no tax shall be levied for the purpose of the federation except by or under the authority of the Act of Parliament. In such eventuality, if any, such levy by any organization or other entity is authorized by the government to receive or collect any such amount is to be considered without any legal backing rather could be by the enactment of law promulgated through Parliament or Provincial Assembly. According to Articles 78, 79, and 118 of the Constitution any recovered amount, if any, should be deposited in the public account of the Federation or Provincial Government. NAB authorities or the Ministry of Finance are not authorized to deduct amounts recovered through plea bargains."

7. In light of the case law cited above, wherein it has been diligently specified that deductions at source constitute a form of taxation. It is pertinent to refer to Article 77 of the Constitution of the Islamic Republic of Pakistan, which prohibits the levy or collection of any form of tax without any provision of law. According to this provision of the Constitution, no authority, department, organization or any Government is authorized to receive or collect any amount for any purpose from any person, or body corporate or business entity, etc. except by enactment promulgated by the authority of the Parliament or by the Provincial Assembly. Since the instruction and

the procedure provided by the Finance Department Government of Pakistan for deduction of 25% out of the recovered amount has no statutory backing, therefore, such deduction is contrary to Article 77 of the Constitution, hence is illegal on this score as well. The learned Superior Courts have held and restrained the NAB authorities from deducting any amount recovered on account of voluntarily returns or plea bargains as provided under Section 25(c) of the National Accountability Ordinance, 1999. It has been further held that the entire amount received by NAB on behalf of any concerned bank, financial institution, body corporate, societies, statutory body or authority shall be transferred to such entity in full without any deduction.

8. Since the law points raised by the petitioner in his prayer clauses have already been decided by the Benches of this Court as well as by other High Courts, hence, the instant constitution petition is hereby allowed in terms of the petitioner's prayer clauses. Consequently, the letter dated 12th July, 2021 (the impugned letter) is set aside, being illegal and without lawful authority. The requisite amount should be reimbursed within ninety days of this order.

9. The instant constitution petition stands disposed of in the above terms.

JUDGE

JUDGE

Manthar Brohi