

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. Nos.D-656 of 2015, 56, 246, 699, 1625 and 3240 of 2016.

DATE	ORDER WITH SIGNATURE OF JUDGE
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25.05.2017.

Mr. Zaheeruddin Sahito, Advocate for petitioner in C.P. No.D-656/2015.

Mr. Wali Muhammad Jamari, Advocate for petitioner in C.P. No.D-246/2016.

Mr. Hussain Bux Baloch, Advocate for petitioner in C.P.No.D-56/2016.

Mr. Badaruddin Khoso, Advocate for petitioner in C.P. No.D-699 of 2016.

Mr. Ishrat Ali Lohar, Advocate for petitioner in C.P. No.D-3240 of 2016.

Mr. Jango Khan, Special Prosecutor NAB along with Jawwad Hassan Assistant Director NAB.

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By order of this court dated 29.11.2016 the proceedings in respect of Reference No.01/2016 filed by the National Accountability Bureau (NAB) and pending before the Accountability Court at Hyderabad were stayed. The main reason why the proceedings in the aforesaid reference were stayed was on account of the order of this Court in the case of **Amjad Hussain v. Chairman NAB** dated 27-04-2016, whereby the pecuniary jurisdiction of the NAB in terms of cases of less than RS100million had been discussed and that this issue was pending before the Honourable Supreme Court of Pakistan.

2. We have heard learned counsel and considered the record and the case law cited by them.
3. At the outset, learned counsel for the petitioners were asked whether there was any stay order passed by the Honourable Supreme Court in respect of any proceedings concerning any NAB reference in respect of the question of pecuniary jurisdiction. All learned counsel for the petitioners submitted that there was no such stay order in the field which had been passed by the Honourable Supreme Court.

4. The administrative order referred to by one of the petitioners as passed by the Hon'ble Chief Justice of the Sindh High Court does NOT order that any restraining order be kept in place in respect of any NAB reference.

§ This Circuit Court at Hyderabad by order dated 19.04.2017 has already lifted a stay order in respect of a NAB reference pending before the Accountability Court at Hyderabad which had been passed on account of pecuniary jurisdiction which had been passed largely on account of the earlier **Amjad Hussain** case order which had been clarified by the **later order** in the case of **Nawaz Ali Samejo & others v. NAB** dated 08-03-2017 passed by a Divisional Bench of this Court at Sukkur Bench which formed the basis of this Circuit Bench's decision removing the stay of the previously stayed NAB proceedings in another reference pending before the Hyderabad Accountability Court relating to pecuniary jurisdiction in the following terms:

"Special Prosecutor NAB submits that in the view of the Judgment passed by this court at Sukkur Bench in C.P. No.D-3783 of 2016, [**Nawaz Ali Samejo & others v. NAB**] the above quoted order may be recalled. Relevant portion of Judgment of above referred C.P. No.D-3783/2016 dated 8.3.2017 is reproduced as follows:-

"22. In the above circumstances, since no Supreme Court stay order has been produced before us preventing the accountability courts from proceeding with the NAB references filed before them, that the decision of the Supreme Court on the issue does not now appear to be so imminent, that accused may be behind bars while their cases are stayed, the requirement of the preamble of the NAO and especially S.16(a) NAO to provide for expeditious trials under the NAO and the fact that many trials before the Accountability Courts have come to a grinding halt in the Accountability Courts which is not serving the interest of justice we hereby order that any interim restraining/stay order in connection with any of the proceedings related to the above mentioned petitions hereby stands lifted/withdrawn with immediate effect and these proceedings shall continue as per law and as such the restraining/stay orders in any such proceedings, including the hearing of final arguments and announcement of judgments are also hereby lifted in this respect and the Accountability Courts hearing the same are hereby directed to continue to immediately

proceed with any such references pending before them which shall for the avoidance of any doubt include without limitation the hearing of final arguments and announcing Judgments.

After hearing the learned advocate for applicant and Special Prosecutor NAB while relying upon above referred Judgment passed by this Court on the point of pecuniary jurisdiction of NAB and keeping in view the provisions of National Accountability Ordinance, 1999, which require expeditious disposal of references. In the above stated circumstances, interim order dated 7.11.2016 is hereby recalled. Resultantly there is no merit in above Revision Application the same is dismissed. Trial court shall proceed with reference and decide the same expeditiously."

6. Since the case of **Nawaz Ali Samejo and others v. NAB** (Supra) was in effect a reinterpretation/clarification of the case of **Amjad Hussain v. Chairman NAB** (both of which orders had been authored by one of us Mohammed Karim Khan Agha J) and made it clear that **Amjad Hussain's case** did **not** absolutely bar or restrict the NAB from filing a reference below RS100M before the Accountability Courts and currently holds the field, we hereby order that the stay/restraining order in respect of Reference No.01/2016 pending before the Accountability Court, Hyderabad, is hereby lifted/removed with immediate effect and the Accountability Court Hyderabad is hereby directed to proceed with the said reference on a day-to-day basis in view of Section 16(a) NAO 1999. The Additional Registrar of this Court shall immediately today fax a copy of this order and also send by hand today a copy of this order to learned Judge of the Accountability Court at Hyderabad for compliance.