

Scenario 26

Musharraf's NAB Ordinance of 1999

When Gen Musharraf announced to continue the process of 'Ehtesab' by changing name of (Nawaz Sharif's) Ehtesab Cell to 'National Accountability Bureau (NAB)' after his take over on 12th October 1999, the former Chief Justice Sajjad Ali Shah had urged that the judiciary should also be included in the accountability process. However, the then Chairman of NAB, Gen M Amjad had opposed the idea of accountability of the armed forces and judiciary.

Referring to daily '**The News**' of **22nd December 1999**, the justification he forwarded was that:

'The powers given to the NAB's Chairman have made the NAB very powerful. We need to evolve a mechanism for keeping the NAB under check and the only institution that can check the NAB is judiciary. If we start accountability of the judiciary, who will check NAB!'

[**Kashif Aziz** in his essay **dated 14th March 2008** available at **www. Chowranghi.com** has given some interesting facts about Gen M Amjad, 1st Chairman NAB appointed by Gen Musharraf in October 1999. Gen M Amjad was Corps Commander Multan when he was appointed as the first chairman of NAB being a close friend of Gen Mahmood Ahmed.

On 4th April 2002, for the first time in the history of Pakistan Army, a serving General and Corps Commander was posted as Chairman Fauji Foundation, Pakistan Army's business concern, and he was Gen Muhammad Amjad.

In 2003, Qazi Hussain Ahmed, Amir Jamat-e-Islami (JI) alleged that Gen Amjad had been allotted an expensive piece of land (plot 2-A) measuring two kanals in Lahore Cantt at throw away price, on 31st August 2003 through allotment letter No.11-1484RD-Ihr-88 dated 31st August 2003. The plot, situated on Sarwar Shaheed Road, Lahore Cantt, was leased out to the worthy General for 99 years, against an annual lease fee of 50 rupees only. The plot was worth 90 lakhs and Gen Amjad had already sold one kanal for 45 lakhs out of that.

In early 2005 a complaint was filed in NAB against its own ex-Chairman Gen Amjad, Chairman Fauji Foundation, for corruption in sales of Khoski Sugar Mill. The Parliamentary Secretary for Defence, Tanvir Hussain, had admitted in the Assembly that the '**sugar mills had been sold at Rs. 300 million, against the highest bid of Rs. 387 million.**'

But instead of coming clean on the issue, Gen Amjad and the other top Generals of GHQ had decided to challenge the jurisdiction of the Parliament to look into the affairs of Army-run businesses. The Senate Standing Committee on Defence, on 4th June received a communication from the Ministry of Defence stating that the Committee had no jurisdiction to consider affairs of the Fauji Foundation because 'it is a private sector organization.'

On 21st March 2007, KESC appointed Gen (retd) Amjad as the new Chief Executive drawing a salary of Rs. 1.1 million besides perks amounting to Rs. 0.3 million. His appointment was 'directed to be made outside procedure' while he had no technical know-how of running such a sensitive and technical outfit. That is why the KESC is still suffering with Power Crisis.]

Going back to November 1999 when the NAB ordinance was promulgated along with creation of accountability courts to try corruption cases, the NAB was granted extensive powers of arrest, investigation & prosecution. The judicial tribunals were prohibited from

granting bail. The ordinance also allowed for detention periods of up to 90 days without charge and did not allow the accused access to any counsel prior to the institution of formal charges.

Further, the burden of proof at trial continued to rest with the defendant and convictions for violations could result in 14 years' imprisonment, fines, property confiscation and the loss of right to hold public office for a period of 10 years.

[However this prohibition was later modified following a Supreme Court ruling restoring the rights of the accused.]

The validity of the said draconian NAB ordinance was challenged on various grounds in the Supreme Court of Pakistan by ANP Chief Asfand Yar Wali Khan. The SC on 25th April 2001 announced its unanimous decision signed by a full bench comprising of the Chief Justice Irshad Hasan Khan, Justice Muhammad Bashir Jehangiri, Justice Muhammad Arif and Justice Qazi Muhammad Farooq. The Chief Justice Irshad Hasan Khan had authored the said judgment.

In the petition about 22 issues were raised and the SC bench had given judgment by replying each point raised therein. It was ruled therein that the Accountability Courts were competently established by the Federal Government but the Presiding Officers should be serving District & Sessions Judges qualified to be Judges of the High Court.

The Presiding Officers shall be appointed for a period of three years in consultation with the Chief Justices of the concerned High Courts and shall not be transferred to any other place or removed from service in routine. They shall perform their functions under the supervision and disciplinary control of respective High Courts but necessary funds shall continue to be paid by the Federal Government.

In that 2001's judgment, the Supreme Court held that it was absolutely necessary to create the offence of '**wilful default**' in the back drop of great loss of public revenues due to massive corruption and through huge Bank-loans. The offence of 'wilful default' was made a continuing offence declaring it prospective in nature.

On that issue, the SC believed that 30 days notice should be served upon the defaulter to explain his innocence or cause of guilt whatsoever and then 7 days notice was made mandatory for the financial chiefs to consider the explanations submitted by the accused. Any settlement arrived at with the defaulters by the Chairman NAB or compounding of any offence shall be subject to the confirmation by the respective Accountability Court after re-considering the facts.

Regarding arrest of the accused the Supreme Court held that arrest and detention of an accused for a period of 90-days is *ultra vires* to constitutional provisions. It was held that the accused shall be produced before the Accountability Court within 15 days each time for further orders if considered necessary.

It was also ordered that if sufficient and reasonable cause appears for further remand after the expiry of first 15 days, the accused shall be brought before the Court for appropriate orders. Previously there were provisions that:

'No accused arrested under the Ordinance shall be released without the written orders of the Chairman NAB.'

On the question of bail, the powers of the High Courts of the respective provinces under Article 199 of the Constitution were made available as per law and practice.

[Previously under Section 9(b) of the NAB Ordinance, no court, including the superior courts, were allowed to take bail of the accused charged under NAB ordinance.]

Section 12 of the NAB Ordinance had conferred unchallengeable powers on the Chairman NAB to freeze the property of an accused which order shall not accede 30 days unless

confirmed by the Accountability Court. These powers were considered unjustified being 'excessive delegation' thus the period was curtailed to 15 days. Section 12 (f) provided that:

'Order of freezing mentioned in section 12 (a) to (c) would remain operative until final disposal of case by the accountability Court or the appellate forum.'

It was held unjustified, thus declared that the respective courts would decide about the freezing or releasing of the properties involved in view of available circumstances.

An amendment was also suggested by the SC that in case of acquittal of an accused, the freezing orders shall continue for 10 days to be reckoned from the date of receipt of certified copy of the final order to enable the NAB to file an appeal. If they consider it appropriate. The SC ordered that Section 13 of the NAB Ordinance should also be amended so as to allow right of appeal to the accused against freezing of property if dismissed by the Accountability Court.

The tyranny of the state was reflected through Section 14(d) of the NAB Ordinance under which an accused person was required to bear the burden of proof that:

'He had used his authority, powers or issued any directive or SRO etc. in the public interest fairly, justly etc. In the absence of such proof, he shall be guilty of the offence.'

The SC held that the prosecution would first make out a reasonable case against the accused charged under Section 9 (a)(vi) & (vii) of the NAB Ordinance. If the prosecution succeeded in making out a reasonable case to the satisfaction of the Court, the prosecution would be deemed to have discharged the prima facie burden of proof and then the burden of proof would shift to the accused to rebut the presumption of guilt levelled against him or her.

The SC held that in case of conviction, envisaged by Section 15(a) of the NAB Ordinance disqualification to contest elections or to hold public office for a period of 21 years is too excessive and through an amendment be reduced to 10 years.

With regard to 'rule of holding of open trial', the apex court held that it would remain within the discretionary power of the Accountability Court; no hard or rigid rule can be taken in consideration on either side.

Section 17(c) had empowered the Accountability Court to dispense with any provision of CrPC and to follow such procedure as it might deem fit in the circumstances of the case. The SC held that such provision was also contained in the Ehtesab Act 1997 but was not held *ultra vires* previously (**PLD 2000 SC 26**). However, it should not go uncontrolled thus if it deemed fit to make departure from the provisions of CrPC reasons would be recorded in writing.

Section 23 of the NAB Ordinance had imposed a total ban on transfer of property by an accused or his relatives and associates etc where an investigation got initiated into an offence. It was observed that Section 23 be suitably amended so as to provide that transfer of property by accused or his relatives would not be void if made with the prior approval of the judge of the Accountability Court in writing subject to such terms and conditions as deemed fit.

Plea bargaining, envisaged by the NAB Ordinance was approved being an established method of out of court settlement of disputes in several developed societies, but the court held that firstly; it should not be in cases opposed to public policy, secondly; it should be approved by the Accountability Court and thirdly; should not be the outcome of pressure or threats from private persons or state sponsored bodies.

Section 25A of the NAB Ordinance had given an unfettered discretion to the Chairman NAB to reject recommendations of a duly appointed Committee and refuse to recognise a settlement arrived at between a creditor and a debtor. It was held by the SC that the provisions of Section 25A (e) and (g) suffer from the excessive delegation of powers and should be

amended as to provide that the recommendations made by the Governor State Bank of Pakistan would be binding on the Chairman NAB except for valid reasons to be assigned in writing subject to approval of the Accountability Court to be accorded within a period not exceeding 7 days.

NAB Ordinance's section 32(d) provided that no stay of proceedings before Accountability Court be granted by any Court on any ground nor prosecuting thereof be suspended or stayed by any Court on any ground whatsoever. It was held on the strength of case laws that constitutional jurisdiction vesting in High Courts under Article 199 of the Constitution cannot be taken away or abridged or curtailed by subordinate legislation. The provision was, therefore, declared *ultra vires* the Constitutional provisions on the subject thus the said Section was ordered to be amended accordingly.

In connection with reference of Section 31B of the NAB Ordinance, empowering the Chairman NAB to direct the Prosecutor General to withdraw from prosecution of any accused, it was held that withdrawal of cases could only be resorted to if the Accountability Court so permitted. Suitable amendment in Section 31B was ordered.

Regarding appointment of the Chairman NAB, there had been much hue & cry from all corners and still it continues. Section 6 (b)(i) of the Ordinance said that the '*Chairman NAB shall hold office during the pleasure of the President*' was held to be *ultra vires* the Constitution. Section 6 was directed to be amended in a suitable way like:

- The Chairman NAB shall be appointed by the President in consultation with the Chief Justice of Pakistan.
- The Chairman NAB shall hold office for a period of three years.
- The Chairman NAB shall not be removed from office except on the grounds of removal of a Judge of the Supreme Court.
- The Chairman NAB shall be entitled to such salary, allowances and privileges and other terms and conditions of service, as the President determines for this assignment and these terms shall not be varied during the term of or his stay in office.
- The Chairman NAB may, by writing under his own hand, resign from his office anytime before his mandatory period.

The SC also held that Section 8(a) of the NAB Ordinance, regarding the Prosecutor General Accountability, should be amended as:

- The Prosecutor General shall hold an independent office on whole time basis and shall not hold any other office concurrently.
- He shall be appointed by the President in consultation with the Chief Justice of Pakistan and Chairman, NAB on such terms and conditions as may be determined by the President. His remuneration and benefits shall in no case exceed those of the Attorney General for Pakistan; the Principal Law Officer of the country and holder of a constitutional office.
- He shall hold a tenure post of not less than two years.
- His services shall not be dispensed with except on the grounds prescribed for removal of a Judge of the Supreme Court.
- He shall not be permitted to conduct private cases and in lieu thereof he may be allowed a special allowance.
- Prosecutor General may, by writing under his own hand, resign from his office anytime before conclusion his stay.

In the interest of continuity of accountability, the then incumbent Chairman NAB and Prosecutor General were allowed to carry on with NAB with the service conditions already designated for them. With regard to the Deputy Chairman NAB it was held that he would hold office for a minimum period of two years and would not be removed except on the grounds of misconduct as defined under Section 2(4) of the Government Servants (Efficiency & Discipline) Rules, 1973.

The following directions were also issued for an independent prosecution:

- A panel of competent lawyers of experience and impeccable reputation would be prepared in consultation with the Law and Justice Division. Their services would be utilized as Prosecuting Counsel in cases of significance at reasonable fee on case to case basis. Even during the course of investigation of an offence, the advice of a lawyer chosen from the panel could be taken by the NAB.
- Every prosecution which resulted in the discharge or acquittal of the accused, must be reviewed by a lawyer on the panel and on the basis of the opinion given; responsibility should be fixed for dereliction of duty, if any, of the concerned officer. In such cases, strict action would be taken against the officer found guilty.
- Steps would be taken for the constitution of an able and impartial agency comprising persons of unimpeachable integrity to perform functions of investigation and inquiry, etc.

On the subject of '**Accountability of Armed Forces**' the SC had observed that notwithstanding the constitutional safeguards provided in Articles 8(3)(a), 63(1)(g) and 199(2)(3) members of the Armed Forces would be better dealt under the Pakistan Army Act 1952 and the Pakistan Army Rules 1954 which expressly provide for prosecution and punishment in cases involving corruption, corrupt practices and illegal gratification etc.

At that moment, the apex court had forgot that for civil bureaucracy there existed Efficiency & Discipline Rules 1973, then why they were twisted, picked up, arrested and sent behind the bars in the name of 'Accountability' under NAB.

Similarly, on the subject of Accountability of Judiciary, the SC held that Article 209 of the Constitution relating with the Supreme Judicial Council, the Code of Conduct for the Judges and the law declared in *Malik Asad Ali vs Federation of Pakistan (PLD 1998 SC 161)* were sufficient to deal with the judges. Though it was held in *Zafar Ali Shah Case* that the Judges of the Superior Courts were not immune from accountability but even then they were only referred to the Article 209 in which it is for the President only to make a reference nothing more.

The said system flawed in disaster in 2001 when the malafide and corruption charges were proved on Malik Qayyum and the then CJ LHC Rashid Aziz but simply they were sent home smilingly. Whereas when bureaucrats were handled under NAB Ordinance, their careers gone OK but rest of their lives ended in jail.

Numerous examples are available in Nawaz Sharif's days when Saif ur Rehman, the Ehtesab Lord then, had published a list of 87 officers and half of them were sent to jail because they had dealt with Income Tax of Ittefaq Group, Customs duty of Ittefaq Foundary's scrap; Loans raised on Hudaibya Sugar Mills, Hudaibya Paper Mills, Raiwind Palace, Phalia Sugar Mills, Ramzan Sugar Mills, Brother Sugar Mills Sahiwal and many fraudulent loans up to Rs:212 billion taken by Sharif's and got them washed through Judges like Malik Qayyum.

The whole nation ponders that if in our society only bureaucrats and politicians are corrupt, not the judges or army Generals. Why so that:

- The intelligent white collared criminals prefer to engage 'judges' instead of going to expensive lawyers.

- The intelligent people like to send their sons in forces instead of making them doctors or engineers because an army officer's ending years ensure billions in fortune.

Coming back; persons charged with corruption by Gen Musharraf's NAB then included former Prime Ministers Benazir Bhutto and Nawaz Sharif. In April 1999 during PML era, Benazir Bhutto and her husband, former Senator Asif Ali Zardari, were sentenced to five years imprisonment by a stooge judge of the Lahore High Court named Malik Qayyum on corruption charges to please Nawaz Sharif.

In April 2001, the Supreme Court overturned those convictions following revelations concerning the political manipulation of above named judge, the then Chief Justice of LHC named Rashid Aziz and the then Federal Law Minister Khalid Anwar.

Various tape recordings surfaced which demonstrated that the then head of Accountability Bureau, Saifur Rehman, had directed High Court Judges to impose the maximum sentence convicting Ms Bhutto and Mr Zardari. Thus the Accountability Bureau & courts were mostly determined to deny due process and fair justice.

An article written in Urdu by a celebrated columnist Irshad Haqqani, appeared in *Daily Jang of London of 4th October 2003*, captioned as: '**A Test Case for Election Commission and NAB**' gave a factual start by saying that:

'If we don't betray ourselves then should we admit that there prevail no basic values of supremacy of law in Pakistan?'

Historically speaking Pakistan is a country where the constitution remained either suspended or mutilated or subjected to emergencies floated by various rulers or implemented under the hammer of Army Rule since its independence in 1947. This situation prevailed amidst flavours of militarized [and mostly coerced] slogans of democracy for more than three decades since then and after.

Educationists understand that a nation can be labelled as cultured only if there is rule of law. Those countries where these values exist and where the notions of 'equal justice for all' prevails and where the law is bound to earn respect at all echelons and where the courts are able to deliver decisions without fears or favours can be called civilized or cultured. The remaining stuff can be taken as a group of living people in given geographical boundary but cannot be called a 'nation'.

Each time when a new ruler took over reigns of control in Pakistan, there was some person to challenge his illegal action in the apex courts. These challenges were granted acceptance and the writ petitions were heard in length each time by panels of senior judges. But it is also a history that each time the superior courts gave a decision in favour of the sitting rulers; invariably to all the army adventurers.

No body was ever punished, no ruler dethroned and no military General made angry rather they all were blessed with certificates of approval in the name of '**doctrine of necessity**'. It is a known fact that in Pakistan any powerful tycoon of political or financial status can twist any law in one's favour, at all levels and in all circumstances.

Ijaz Hussain, professor of International Relations in Qaid e Azam University Islamabad also holds the same opinion (conveyed through *South Asia Tribune of 13th September 2003*) that:

'The judiciary in Pakistan does not have an edifying history. Most jurists agree that its weak-kneed response to the excesses of the executive early in the country's history have gone a long way in impeding the progress of democracy in Pakistan.'

Thus, in this context Pakistan has a shameful position because here the law and judiciary are not the strongest institutions rather these are the weakest. Ministry of Law & Parliamentary Affairs exists at the Federal level but it is considered to be the most unattractive slot in the cabinet. Secretariats of Law & legislation are there at all federal and provincial levels but no

bureaucrat, officer or subordinate, wants to be posted there happily. That is why there exists no real or fair institution for 'practical accountability' who would deal the matters on merits.

On the other hand, it is also a fact that the people of Pakistan are really scared of Accountability Bureau or NAB, an organisation always remained under the direct command of the Chief Executive, whether a politician like Nawaz Sharif or a military ruler like Gen Musharraf. It always enjoyed tremendous special powers (mostly above constitution & general law) of arrest, investigate and prosecute any person on any reference pertaining to any time in the past.

No court has any jurisdiction to interfere in their activity, no procedural code is applicable to them, practically no rules of physical or judicial remands are followed by them and they do not bother for any thing. It is all because the NAB members have no agenda as their own. They only deal cases of those political and bureaucratic high profiles for which the orders are conveyed by their civil or military commanders.

A press statement issued by the PPP on 1st October 2003 is referred here which said that:

'..... we strongly condemn the continued victimisation of Pir Mukarram ul Haq, the spouse of Ms. Farzana Raja MPA in a bid to pressurise her to succumb to the regime. Pir Mukarram has been shifted to the Adiyala jail from Federal Services Hospital in Islamabad yesterday, the 30th September, where he was under treatment of his illness. Immense pressure was exerted on the hospital authorities to relieve him from the hospital.'

Makhdoom Amin Fahim of PPP then told the media that the NAB authorities had arrested Pir Mukarram, the former Managing Director, Printing Corporation of Pakistan on 21st June 2003. The references against him were not filed till that moment. It should be recalled that at the time of his arrest, the protest against the LFO and the president in uniform was at its peak in the Punjab Assembly. Ms Farzana Raja MPA, being a PPP stalwart was vocal against the military regime and they wanted to strangulate her voice.

Makhdoom Amin Faheem abhorred the heavy handedness of the regime and said that:

'..... to use NAB as a weapon against political opponents is not only contemptible but also a grave violation of human rights.'

Another statement published in media on 3rd October 2003 from a spokesman of the Pakistan Peoples Party (PPP):

"..... welcomed the requirement of declaration of assets and liabilities by the legislators as an element of transparency, public scrutiny and good governance. The Party has accordingly directed its legislators to comply with the law and submit to the Chief Election Commissioner a statement of their assets and liabilities as on 30th June 2003.

The Party has also noted with deep concern the media reports that at least two sitting ministers of the government namely Finance Minister Mr Shaukat Aziz (afterwards the Prime Minister of Pakistan) and Education Minister Ms Zubeda Jalal have failed to submit the required declarations by the due date.

This is a matter of grave concern as it shows the scant respect the ministers have for the laws of the land and also that the law is intended to be another coercive instrument against opposition.

*The Party (PPP) also believes that transparency, public scrutiny as elements of good governance and accountability should not be confined to the 1170 legislators alone. For the law to have some measure of credibility and equity, it must also require the **Generals** and **senior civil servants** to make public every year their assets. If the assets of 1170 legislators can be advertised every year in the name of transparency*

and public scrutiny what is the justification to exempt the 400 odd generals and senior bureaucrats from the ambit of such a law?

The people of Pakistan have a right to know how many residential and commercial plots, agricultural lands, plazas and bank balance was owned by an officer upon entry into the defence service and how much was owned at the time of exit as a General and the magic of the multiplication of their wealth beyond known mathematical formulae.

The Party hopes that the Chief Election Commissioner would also make public his assets and liabilities. There may be no law requiring the CEC to make public his assets. However, the CEC's call to the legislators to declare assets will have great moral force if he were to also declare his assets and no minister of the cabinet would be able to flout the law with impunity as it seems is the case at present."

[The point to ponder remains that whether the PPP itself adhered to the above maxims of judicial advice when it assumed power in 2008 and how its members behaved during subsequent 3.5 years of rule at least.]

On 18th June 2002, Nayyer Bokhari, of the Pakistan People's Party sent a letter to the Chief Justice of Pakistan, then Sh Riaz Ahmed, on the basis of published reports in media that the Chairman of Evacuee Trust Property Board (ETPB) named Lt Gen (rtd) Javed Nasir had extended a loss of three billion rupees during his six years stay in the organization; it was not a military related assignment.

The Chief Justice of Pakistan was requested to take *suo moto* notice of the matter but the Supreme Court did not bother and no action was initiated even on PPP's written complaint to the Apex Court. The matter was also brought in the notice of NAB vide Complaint no: 9 of 2002 but no action was taken because the accused was a senior military officer.

The main allegations were that:

- Lt Gen Javed Nasir the Ex-ISI boss, following his retirement from the Army, was appointed Chairman of Evacuee Trust Property Board where the controversial 20 land deals resulting in a loss of three billion rupees was caused to the state exchequer.
- One deal involved land on main Ferozepur Road Lahore. The land was sold at Rs: 3,48,000 against the market price of Rs: 4.5 m.
- In another deal in Karachi, a plot of market value of Rs: 267m was sold at Rs: 5.6m only for no reason on record.
- In a sale to 11 persons, another estimated loss of Rs: 243 million was caused. A plot on Super Highway Karachi was disposed of at Rs: 48m against its actual price of Rs: 240m.
- A plot on main Raiwind Road Lahore, was sold at Rs: 46m against market price of about Rs: 90 million.
- Land between Lahore Airport and Defence Housing Society was sold for Rs: 8.01m against market price of Rs: 91.85m.
- Further allegations relate to the leasing out of PASSCO godown in Lahore and construction of the ETPB complex and Trust Plaza in Islamabad. It was alleged that a loss of Rs: 320m was caused in the civil works alone.

According to a leading editorial in the ***Daily Times of 25th August, 2002*** captioned "**Another blot on the ISI**". Gen (Retd) Javed Nasir was a born-again Muslim who converted from a playboy to a "pious" man of the reactionary variety. He nursed a flowing beard and ran the biggest *Deobandi* congregation in Pakistan, the *Tableeghi Jamaat* annual "jalsa" at Raiwind. He was placed atop the ISI on the request of another ISI officer, Imtiaz Billa, who

was also later tried for build up a private empire of properties when in office. He was also the man who facilitated the aides of Osama bin Laden to build terrorist bases in Afghanistan.

After Gen Javed Nasir was removed from the ISI in 1993, it was discovered that he had pared off big sums of money by buying property for the ISI at inflated rates. It was also discovered that he had taken the entire ISI foreign exchange budget and placed it in Mehran Bank, which later collapsed. Although he was an engineer in the army, he steadily advanced in career because of his "Islamic" guise.

Another interesting scoring game played during the last week of July 2005, when one Shah Khawar Advocate on behalf of PPP had filed an application under section 5 & 18(B)(II) of the NAB Ordinance 1999, referring to a news item published in media on 14th June 2005.

It was revealed that in 1989 during the government of PPP, the ISI had given the respondent Sh Rashid Ahmed MNA of Rawalpindi, the then a Member of Opposition, hundreds of acres of prime land in the Rawalpindi areas. Totally wrong accusation it was. When the then PPP government took up this matter with the ISI, it was informed that the land was given for support to the Kashmiri groups. Later, Gen Musharraf had stopped training of Kashmiris.

The baseless question raised in the petition was that under what circumstances, huge piece of land was given to the respondent by ISI and after the change in the policy regarding Kashmiris, under which authority the respondent was retaining the said land worth billions of rupees and why the lands were not being taken back. The then ISI authorities and the respondent were termed responsible for causing financial loss to the nation but the enquiries told that the blame was unfounded.

Chairman NAB was called upon to initiate investigation in the matter but he declined; the petition brought enough shame for the originators.

A news clipping from The Dawn dated 26th May 2006, saying that despite insistence of the audit department, the Public Accounts Committee (PAC) showed reluctance to refer the '**Kamra grid station scam**', in which an army brigadier was allegedly involved, to the NAB. The retired brigadier had allegedly paid Rs: 20.278 million extra (original contract was of Rs: 60.50 million in 1995) to a private company for the installation of grid station and in return received Rs:12 million in kickbacks.

Ruling party's MNA, Col (Rtd) Ghulam Rasool Sahi, who headed the two-member sub-committee on defence production, with PPP MNA Chaudhry Qamar uz Zaman Kaira as member, met to investigate the Aeronautical Complex Kamra Grid Station scam, did not differ with the viewpoint of the audit people but did nothing except giving sarcastic smiles; a retired army officer was in dock.

Col Sahi had also directed Maj Gen Tariq Saleem, additional secretary of the ministry of defence production to pursue Brig Shah to refund the embezzled amount as directed by the AGP and court of inquiry but who cares in Pakistan; Pak Army Zindabad.

The contractors had completed the same grid station at Heavy Mechanical Complex Taxila for just Rs: 40 million. The court of inquiry had found that two officers, Brig Zulfiqar Ali Shah and Section Officer M Younus were involved in awarding the contract to the private company, AEG International, and had received Rs: 8.950 million and Rs: 3.838 million respectively in kickbacks from the contracting company.

The inquiry also directed departmental action besides recovery of Rs: 2.53 million of tax evasion against seven other officers including one Maj Basir Ali Sadiq but the matter was kept shelved deliberately. The court of inquiry and AGP had also recommended GHQ to initiate disciplinary action against the culprits besides recovering the embezzled money but the GHQ expressed its inability stating that since the officers had been retired from the army service, it could not take any action against them; reasons unknown whatsoever.

Nayyar Bokhari once concluded his letter to the CJP with the words:

'Dear Chief Justice, I hope you will look into the matter with a view to provide relief to the Pakistani people from injustice, corruption and abuse of office by those who claim to be defenders of the law and the state; the superior courts remained mum.'

Eight years after, when PPP came in government, the situation was seen in a different way. He remained silent when on 16th September 2010, President Zardari issued a secret NAB Ordinance and placed before both the houses of parliament in a sudden gesture, forcing an opposition walkout from the Senate and splitting the PPP, with Senator Raza Rabbani joining the opposition walkout. Nayar Bokhari was the leader of the House in Senate then. The ordinance was kept hidden for two weeks and was suddenly placed before the Parliament on the last day of that session; a very calculated move it was.

Enraged members of both the houses blamed the government for playing tricks with parliament and PM Gilani was *'caught unaware'* though was sent to the president for promulgation under his own signatures two weeks' back. He was confused and rattled by the unexpected manipulation by his Law Ministry and promised to rectify any wrong done. PM's Advisor Senator Mian Raza Rabbani had joined the opposition benches and walked out without uttering a word on the secret NAB law amendment to take away the powers of the NAB chairman.

PM Gilani had rightly mentioned then that under the law, the president had to consult leaders of the House and the opposition for appointment of chairman NAB and he had proposed two names of Mukhtar Junejo and Syed Deedar Ali Shah for this post to the opposition leader, who did not agree on any of them. However, Minister for Law, Justice and Parliamentary Affairs Babar Awan said neither the powers of the NAB chairman were being curtailed nor the Law Ministry would get the powers to shift cases to any accountability court.

Mr Babar Awan further told that:

'We are not bringing a NAB chairman like Saifur Rehman to target a particular party like the PPP and create a jail for Asif Zardari and other leaders at the Attock Fort.'

Without naming the Sharif brothers, he said the National Accountability (Amendment) Ordinance was not a document like the one which facilitated leadership of a political party to leave the country along with seven boxes. He admitted that some amendments had been made in the National Accountability Ordinance 2010, which would allow transfer of cases to new accountability courts and protection to the prosecutors and judges of the Accountability courts.

On 14th February 2011, the Lahore High Court (LHC) was moved to take notice of closure of 60 corruption cases against various politicians by the Chairman NAB. The writ petition was filed by Advocate Rana Ilamudin Ghazi who contended that the NAB Chairman had no power to close a reference on his own.

It was alleged that many references involving serious allegations were filed against different political figures and other bigwigs but the bureau's chairman ordered closure of 60 cases without any lawful authority. The petitioner had pleaded that only the Accountability Courts had the power to close such references.

In our country all *Ehtesabs*, accountabilities, sanctions and law enforcements are for the poor people and middle order civil servants who do not belong to an in-government political stalwart like PM Gilani or Ch Shuja'at or a Marshall raced army General or a senior bureaucrat like Afzal Kahut.