ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

JUDICIAL DEPARTMENT.

Criminal Appeal No. 28 of 2021

Chairman National Accountability Bureau through Prosecutor General NAB.

Vs

Ch. M. Arif.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	20.05.2025	Hafiz Ejaz Mehboob, Special Prosecutor, NAB. M/s Muhammad Arshad Tabrez and Mr. Zohaib Hassan Gondal, Advocates.

MUHAMMAD ASIF, J.- The appellant has challenged the impugned order dated 29.01.2021, pursuant to which the respondent/accused was acquitted by the learned Judge of Accountability Court-1, Islamabad, in Reference No. 13 of 2015.

2. The maintainability of the instant Criminal Appeal has been questioned by the respondent/accused on the ground that under Section 32 of the National Accountability Bureau Ordinance, 1999 **("NAB Ordinance")**, an appeal can only be preferred by the Prosecutor General NAB. It was specifically submitted that since the present appeal has

been filed by the Deputy Prosecutor General, it is incompetent and liable to be dismissed. In support of this contention, the learned counsel placed reliance on authoritative judgments including *"Syed Masroor Shah and others vs. The State"* **(PLD 2005 SC 173)** and *"The State through Chairman, NAB vs. Fazal Ahmed Jat and others"* **(2014 P Cr. L J 758)**, which clearly establish that the right to file an appeal under Section 32 is exclusively vested in the Prosecutor General NAB or a person duly authorized by the Chairman NAB.

3. No satisfactory explanation was provided by Hafiz Ejaz Mehboob, Special Prosecutor NAB to the appellant, regarding the filing of the appeal by the Deputy Prosecutor General without proper authorization. This omission is significant in view of the explicit provisions of Section 32 of the NAB Ordinance, which state as follows:

> *"(a) Any person convicted or the Prosecutor General Accountability, if so directed by NAB, aggrieved by the final judgment and order of the Court under this Ordinance may, within ten days of the final judgment and order of the Accountability Court, prefer an appeal to the High Court of the Province where the Court is situated:*

(Provided that no appeal shall lie against any interlocutory order of the Court;)

(b) All Appeals against the final judgment filed before the High Court will be heard by a Bench of not less than two Judges constituted by the Chief Justice of the High Court and shall be finally disposed of within thirty days of the filing of the Appeal.

(c) No revision shall lie against any interlocutory order of the Court unless the Court has exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction so vested or has acted in the exercise of its jurisdiction illegally:

Provided that where a person makes an application for revision under this subsection, he shall, in support of such application, furnish copies of the reference, documents and order of the Court and the High Court shall dispose of such application within thirty days without calling for the record of the Court:

Provided further that such application shall be made within ten days of the decision of the Court, which shall provide a copy of such decision within three days thereof."

4. The statutory language unequivocally confines the right to appeal to the Prosecutor General NAB or a person authorized by the Chairman NAB. This limitation is designed to

ensure procedural propriety, prevent unauthorized litigation, and maintain the integrity of the accountability process. The Deputy Prosecutor General, lacking such delegated authority, cannot validly institute an appeal, rendering the instant appeal incompetent. The judgments relied upon further reinforce this position. In ***Syed Masroor Shah*** and ***Fazal Ahmed Jat*** cases, the courts emphasized that appeals filed without the requisite authority under Section 32 are liable to be dismissed at the outset. The courts have consistently held that the procedural mandate in the NAB Ordinance is mandatory and jurisdictional, and non-compliance results in the dismissal of the appeal irrespective of its merits.

5. Moreover, the Supreme Court has repeatedly underscored that the NAB's appellate jurisdiction is a special remedy, distinct from ordinary criminal appeals, and must be exercised strictly in accordance with the statutory framework. The apex court has also made it clear that appeals filed without the consent of the Prosecutor General or the Chairman NAB will not be entertained, as such appeals undermine the statutory scheme and judicial discipline.

6. In the present case, the failure to obtain proper authorization before filing the appeal is a fatal defect going to the root of the appellant's *locus standi*. This procedural irregularity cannot be condoned or overlooked, as it would set a dangerous precedent and encourage unauthorized appeals, thereby burdening the courts and disrupting the accountability mechanism.

7. Therefore, in light of the clear statutory provisions and binding precedents, the instant appeal is not maintainable and is hereby ***dismissed*** on this ground alone. The dismissal is without prejudice to any competent authority filing an appeal in accordance with the law.

(ACTING CHIEF JUSTICE)

(MUHAMMAD ASIF)
JUDGE

Shakeel Afzal/-